

OFFICE OF POLICE AND CRIME COMMISSIONER FOR NORTH YORKSHIRE


Record of decision made by the Commissioner and Chief Constable

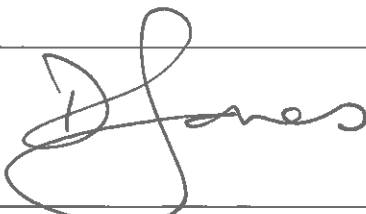
Decision Notice Number/Date (006/2014)

Please note – ALL text added by Authors to be in Aerial 11 font

Title/Description: Local Government Pension Scheme Employer Discretion Policies
Executive Summary and recommendation: The purpose of this report is to inform the Executive Board of the proposed amendments to the North Yorkshire Police (NYP) Employers Discretions policies. These amendments are made in line with the Local Government Pension Scheme (LGPS) Regulations 2013. The changes to the LGPS have necessitated new Employers Discretions policies to reflect the changes to the pension scheme. The 2013 Regulations state that Employers Discretions relating to these regulations must be published by 30 June 2014. The Executive Board is asked to note and approve the attached draft NYP LGPS Employers Discretionary policies (appendix 1 and 3).

Police and Crime Commissioner and Chief Constable decision: Approved

Signature 	Date 25.06.14
Title POLICE AND CRIME COMMISSIONER	

Signature 	Date 26.06.14
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Title CHIEF CONSTABLE

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Part 1 – Unrestricted facts and advice to the PCC

1. Introduction and background

The purpose of this report is to inform the Executive Board of the proposed amendments to the North Yorkshire Police (NYP) Employers Discretions policies. These amendments are made in line with the Local Government Pension Scheme (LGPS) Regulations 2013.

The changes to the LGPS have necessitated new Employers Discretions policies to reflect the changes to the pension scheme. The 2013 Regulations state that Employers Discretions relating to these regulations must be published by 30 June 2014.

In line with Decision Notice 099/2014 'Stage 2 Core Regulatory Instruments' these policies apply to the Chief Constable's corporation sole and the Police & Crime Commissioner corporate sole. When referring to North Yorkshire Police (NYP) the stage 2 agreed definition is used i.e. 'collectively the Police and Crime Commissioner and the Chief Constable in their respective corporate capacities as the employer of staff (or, in the case of the Chief Constable in so far as Police Officers are concerned, deemed or de jure employer'.

The Executive Board is asked to note and approve the attached draft NYP LGPS Employers Discretionary policies (appendix 1 and 3).

2. Matters for consideration

The LGPS is a statutory scheme, that governs the way in which the Police Staff Pension Scheme is administered. There are, however, some areas of the Scheme that are left to be decided by employers. These are collectively referred to as 'Employer Discretions' and NYP is required to determine how they will be operated within the LGPS. The last update was in 2009 in line with the then changes to the LGPS.

In 2010, Lord Hutton was commissioned to chair the Independent Public Service Pensions Commission to review public service pensions, including the LGPS, to make recommendations on how they could be made sustainable and affordable in the long term. Lord Hutton's final report was published in 2011 and work to review the LGPS commenced at that point.

On 1 April 2014 the LGPS changed from a final salary scheme to a Career Average Revalued Earnings (CARE) scheme. Due to these changes it has been necessary to create a new list of discretions to ensure they are fit for purpose. The Local Government Pension Scheme Regulations 2013 also states that the Employers Discretions are required to be published and provided to the pension fund Administration Authority, North Yorkshire County Council, by 30 June 2014.

In reviewing the existing NYP employer discretions comparisons have been undertaken with other employers of similar size and sectors regarding employers discretions. It is noted that the draft employer discretions suggested are generally consistent with the compared organisations.

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The draft NYP LGPS Employer Discretion policy 1 deals with pensionable pay, flexible retirement, employee contribution rates, ill health retirement and injury awards discretions (appendix 1). To assist with the consideration of the draft policy a comparison of the 2009 NYP discretions is provided at appendix 2.

There are a number of new employer discretions regarding the waiving of reductions for flexible or voluntary retirement. If a reduction to a pension is waived the member of the scheme will receive a higher pension and the employer will pay an amount to the pension scheme to fund 'the gap' - the pensions contribution which will no longer be made as the member has retired. This potential gap is also known as the 'strain on the pension fund'. Previous examples within NYP have shown that this can, potentially, be a substantial amount i.e. over £50,000 for an individual.

It is proposed that NYP make the decision that any reduction will not be waived for flexible or voluntary retirements. This position is in line with previous decisions made for flexible retirements. In considering flexible retirement applications any potential strain on the pension fund has always been taken into account. Flexible retirements have previously been agreed with no strain on the pension fund. Therefore the recommendation that NYP will not waive a reduction, in whole or part, reflects the practise of NYP.

The draft NYP LGPS Employer Discretion policy 2 deals with redundancy and efficiency departures discretions (appendix 3). The Local Government Pension Scheme Regulations 2013 do not require any major changes to these discretions. This policy has been refreshed in line with the NYP Stage 2 transfer. The suggested employer discretions remain the same as the previous discretions.

3. Other options considered, if any

As these policies contain employer discretions, NYP could make the decision to waive reductions or to make compensatory payments. These options have been discounted as they would potentially cost NYP substantial amounts of money. This may not demonstrate NYP as good value for money or the best use of taxpayers money.

4. Contribution to Police and Crime Plan outcomes

The suggested position regarding the employer discretions will mean that NYP funds will not be diverted from our stated mission, vision and values. This will assist in maintaining number of Police Officers and PSCOs as well as assisting in the investment in IT and infrastructure. Ensuring NYP remains good value for money for the public, our partners and the communities we serve.

5. Consultations carried out

Following an initial briefing from the Pension Administrators the Corporate HR team have worked together with Payroll and Finance to review the previous discretions in line with the new Regulations. As a result of this exercise, draft documentation was produced and initial consultation took place with the Chief Constable's Chief Finance Officer and the Chief Executive Officer.

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UNISON have been advised of the overall approach taken, with regard to the review the discretions. This is to retain existing discretions and to ensure that they are effectively mapped across to the new Regulations when considering the current policies, procedures and practices in operation across NYP.

The comparison of the draft discretions and the 2009 discretions has been discussed with UNISON. They have made no comment on the 2009 discretions which have been updated to reflect the 2013 LGPS regulations. In respect of the new discretions regarding the waiving of actuarial reduction for voluntary retirement and flexible retirement, UNISON have suggested that NYP should consider each case on its own merits. They have also stated that NYP should remain open and transparent on these issues.

Considering each case on its own merits would require a criteria to follow including consideration of the Equality Act. As stated above the potential cost to NYP to waiving all or part of the actuarial reduction in any particular case could be considerable.

If the decision is made that NYP will not waive the actuarial reduction as an employer discretion, this is open and transparent as the employer discretion policy will state clearly the position of NYP in these matters. The policies will be also be published, on the internet and intranet, as required by regulations.

6. Financial Implications/Value for money

The draft NYP LGPS Employer Discretion policies has been assessed by the Chief Constable's Chief Finance Officer and Chief Executive Officer. The policies provides an equitable approach whilst providing the necessary financial controls regarding the impact to NYP of the use of these discretions.

7. Legal Implications

As stated above the Local Government Pension Scheme Regulation 2013 require all employers to formulate, publish, and provide to the pension fund Administrating Authority, their Employer Discretion policies by 30 June 2014. In discussion with Legal Services this is the legal consideration taken into account for this report and amended policies.

Having read this report and having considered such information as has been provided at the time of being asked to express this view, the Acting Force Solicitor and Head of Legal Services is satisfied that this report does not ask the PCC for North Yorkshire to make a decision which would (or would be likely to) give rise to a contravention of the law.

8. Equality Implications

In the formulation of the Local Government Pension Scheme 2013 Regulations, the Equality Act 2010 was taken into account. The draft NYP Employer Discretion policies reduce the potential impact regarding equality issues as it is suggested that there is no

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waiving of reductions. Equality Assessments have been undertaken as part of both policies.

Public Access to information

The Police and Crime Commissioner wishes to be as open and transparent as possible about the decisions he/she takes or are taken in his/her name. All decisions taken by the Commissioner will be subject to the Freedom of Information Act 2000 (FOIA).

As a general principle, the Commissioner expects to be able to publish all decisions taken and all matters taken into account and all advice received when reaching the decision. Part 1 of this Notice will detail all information which the Commissioner will disclose into the public domain. The decision and information in Part 1 will be made available on the NYPCC web site within 2 working days of approval.

Only where material is properly classified as restricted under the GPMS or if that material falls within the description at 2(2) of The Elected Local Policing Bodies (Specified Information) Order 2011 will the Commissioner not disclose decisions and/or information provided to enable that decision to be made. In these instances, Part 2 of the Form will be used to detail those matters considered to be restricted. Information in Part 2 will not be published.

Is there a Part 2 to this Notice – NO (please delete as appropriate) If Yes, what is the reason for restriction –

Originating Officer Declaration

Author: Sarah Mekins

- Collar number: 4881

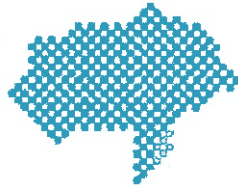
	Name (Collar Number)	Name, Collar Number and Date
Head of Department has reviewed the request and is satisfied that it is correct and consistent with the NYPCC's plans and priorities.	Joanna Carter, 3594,	09/06/14
Legal Advice Legal advice has been sought on this proposal and is considered not to expose the PCC to risk of legal challenge <u>or</u> such risk is outlined in Part 1 or Part 2 of this Notice.	Jane Wintermeyer 3840	19/06/14
Financial Advice The CC CFO has been consulted on this proposal, for which budgetary	Jane Palmer, 4364	18/06/14

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provision already exists or is to be made in accordance with Part 1 or Part 2 of this Notice.		
Equalities Advice Either there is considered to be minimal impact or the impact is outlined in Part1 or Part2 of this Notice. Author to complete as Equalities matters are mainstreamed within departments.	Sarah Mekins 4881	04.06.2014

I confirm that all the above advice has been sought and received and I am satisfied that this is an appropriate request to be submitted for a decision	
Signature Sarah Mekins Author to complete at all times	Date 04.06.2014

Part 2 – Information supplied to the OPCC considered to be restricted



NYP LGPS Employer Discretion Policy 1 (with effect from 1 April 2014) (Police Staff)

POLICY STATEMENT

All North Yorkshire Police Personnel must adhere to this policy. This policy applies to Police Staff who are members of the Local Government Scheme (LGPS) or ex Police Staff members of North Yorkshire Police who have deferred benefits within the LGPS.

The LGPS is a statutory pension scheme, which governs the way in which the Police Staff pension scheme is administered. There are, however, some areas of the scheme that are decided by employers. These are collectively referred to as 'Employers Discretions'.

LINKAGES

Strategy:

[Add hyperlinks to overarching strategy which this policy supports.](#)

Subsidiary Linked Procedures :

[Add hyperlinks to all related procedures under this policy.](#)
[Staff Retirement Policy](#)

Other Documents:

[Add hyperlinks to all related documents to this policy or acknowledgement to texts used from other sources.](#)

[Guidance on pensionable and non pensionable pay](#)

POLICY STATEMENT *This policy statement is open to public viewing.*

This document incorporates North Yorkshire Police (NYP) policies under the following LGPS Regulations as at 1 April 2014. For ease of reference, each discretion in this document is marked 'Ref R', 'Ref TP' etc. to correspond with the relevant Regulation.

Ref 'R' The Local Government Pension Scheme 2013

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- Ref 'TP'** The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014
- Ref 'A'** The Local Government Pension Scheme (Administration) Regulations 2008
- Ref 'T'** The Local Government Pension Scheme (Transitional Provisions) Regulations 2008
- Ref 'B'** The Local Government Pension Scheme (Benefits, Membership and Contributions Regulations (as amended) 2007 (to include amendments contained in the Local Government Pension Scheme (Miscellaneous) Regulations 2012)
- Ref 'L'** The Local Government Pension Scheme Regulations 1997 (as amended)
- Ref 'OT'** The Local Government Pension Scheme (Transitional Provisions) Regulations 1997 (as amended)
- Ref 'I'** The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

The following is a statement of NYP policy on the exercise of discretions under the Local Government Pension Scheme Regulations (as detailed above). The policy represents clear guidance on the exercise of any particular discretion. The policies confer no contractual rights. The policy in force at the time of a relevant event occurring will be the one that is applied.

Regulation	Discretion	Policy
20(1)(b) (Ref R)	<p>An employer can specify in an employee's contract what other payments or benefits, other than those specified in regulation 20(1)(a) and not otherwise precluded by regulation 20(2), are to be pensionable.</p> <p>The employee's pay is "all the salary, wages, fees & other payments paid to him/her for his/her own use in respect of his/her employment". The employer may opt to specify in an employee's contract any other payment or benefit that may be pensionable, excluding the following items which are not deemed pensionable under the Regulation:</p> <ul style="list-style-type: none"> ◆ Expenses (travel, subsistence, other expenses allowances) ◆ Payments in lieu of notice of termination ◆ Payment in consideration of holidays ◆ Payments made as an inducement not 	<p>NYP reserves the right to specify what, if any, other payments or benefits are to be pensionable in accordance with the Regulations.</p> <p>See NYP guidance on pensionable and non pensionable pay</p>

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	<p>to terminate employment Any amount treated as the money value for the provision of a motor vehicle or any amount paid in lieu of such a provision</p>	
30(8) (Ref R)	<p>Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement</p>	<p>NYP will not waive any actuarial reduction on benefits paid on flexible retirement. All applications for flexible retirement will be considered in line with the process and criteria set out in the Staff Retirement Procedure.</p>
30(8) (Ref R)	<p>Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age</p>	<p>NYP will not waive any actuarial reduction on benefits paid which a member voluntarily draws before normal pension age.</p>
Sch 2 Paras 1(2) and 2(2) (Ref TP)	<p>Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>NYP will not switch on the 85 Year Rule for any employee voluntarily drawing benefits on or after age 55 and before age 60</p>
3(1), Sch 2, paras 2(1) and 2(2) (Ref TP) 30(5) and 30A(5) (Ref B)	<p>Whether to waive any actuarial reduction on pre and/or post April 2014 benefits on compassionate grounds</p>	<p>NYP will not waive any actuarial reduction and pay any pension strain costs arising out of voluntary early retirement or flexible retirement</p>
30A and 30(5) (ref B)	<p>To waive, on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits paid early.</p> <p>The employer may determine on compassionate grounds that a members’ retirement pension and grant should not be reduced if paid early under Regulation 30(A)</p> <p>NOTE: This discretion only applies to those members who have left employment on or after 01.04 2008 and before 01.04.2014. A deferred pension</p>	<p>Applications from deferred Pensioners will only be considered on compassionate grounds, taking into account the costs of waiving any reduction. All applications will be considered by the Chief Constable / Chief Executive Officer.</p>

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	<p><i>brought into early payment on compassionate grounds cannot be reduced.</i></p> <p>Where a tier 3 ill health retirement pension has been paid and subsequently ceased, LGPS member becomes a 'deferred Pensioner' who has ceased to be employed by NYP and is not receiving payment of benefits. He or she may seek early release of pension benefit from age 55 (as preserved benefits into payment) on compassionate grounds.</p>	
22(7)(b) (Ref R)	<p>Where an active member has previous LGPS service, they may elect to aggregate this with their ongoing service within twelve months of becoming an active member, or "such longer period as their employer may allow".</p>	NYP will permit aggregation beyond 12 months.
31 (Ref R)	<p>From 1 April 2014, the employer has the authority to grant additional pension to a member by up to £6,500 per annum.</p>	NYP will not grant additional pension to a member
15(1)(b) (Ref TP) 66(8) (Ref L) 66(9)(b) (former Ref L)	<p>A scheme member who wishes to elect to convert In House AVCs into a period of scheme membership must do so within 30 days of ceasing to be an active member "or such longer period as the employer may allow".</p> <p>The legislation states that an employee must make an election within 30 days of retiring if he wishes to transfer his AVC benefits into the LGPS. The employing authority may allow the member to make this election beyond 30 days of retiring.</p>	NYP will extend the 30 day deadline if there is evidence of administrative shortcomings.
16(2)(e) and 16(4)(b) (Ref R)	<p>Whether, how much, and in what circumstances to contribute to a shared cost APC / AVC scheme</p> <p>If a scheme member wishes to buy more pension, he/she can do this through either an Additional Pension Contribution (APC) or an Additional Voluntary Contribution (AVC). There is a discretion as to whether the employer</p>	NYP will contribute to Shared Cost APC Schemes only when an employee has opted to buy back 'lost' pension due to a period of authorised unpaid leave (including sickness and child related leave) within 30 days of returning to work from that leave. In these circumstances, the employee

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	<p>wishes to share the cost of an APC or AVC or buy additional pension for employees through an Employer APC or AVC</p>	<p>will pay one third of the cost of the Shared Cost APC and the employer will pay two thirds of the cost</p> <p>Other than the circumstances above, NYP will not enter any Shared cost APC/AVC arrangements</p>
<p>19(2) (RefR)</p>	<p>A scheme member who meets the normal criteria for a refund of pension contributions is not entitled to such a refund if he/she ceased employment due to an offence of a fraudulent character or due to grave misconduct unless the employer directs that a total or partial refund may be made.</p> <p>The employer may over rule the LGPS legislation and pay a refund of contributions to a member who is entitled to a refund had they simply resigned but who instead was dismissed due to an offence of a fraudulent character or due to grave misconduct.</p>	<p>NYP will consider whether or not to make a refund based on the merits of each case and in light of advice from Internal Audit.</p>
<p>91 (1)and (8) (Ref R)</p>	<p>If a scheme member is convicted of, and ceases employment as a result of, an offence in connection with his/her employment which was gravely injurious to the state or liable to lead to a serious loss of confidence in the public service, the employer can apply to the Secretary of State or the Office of the Deputy Prime Minister for the issue of a forfeiture certificate. If the Secretary of State issues a certificate the employer may direct that certain of the person's rights are forfeited.</p> <p>The employing authority may apply to remove the member's entitlement to receive his pension.</p>	<p>NYP will consider whether or not to apply for and enact a certificate based on the merits of each case and in light of advice from Internal Audit.</p>
<p>92 (1)and (2) (Ref R)</p>	<p>Where the Secretary of State has issued a forfeiture certificate but the employer has not applied the certificate, nor notified the scheme member of an award of benefits under the LGPS, the employer may direct that interim</p>	<p>NYP will not direct that interim payments are made from the Fund pending a decision.</p>

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	<p>payments are made out of the Pension Fund until such time as it decides to apply the forfeiture certificate or to make an award of benefits.</p> <p>The employer may instruct the pension fund to pay the pension until a decision is taken by the employer to forfeit the pension.</p>	
<p>91 (4) (Ref R)</p>	<p>Where a member (i) ceases employment in consequence of a criminal, negligent or fraudulent act or omission in connection with that employment and (ii) has incurred a monetary obligation arising therefrom to the employer and (iii) is entitled to pension benefits under the LGPS, the employer may recover the amount of the monetary obligation or the value of the member's pension rights, if less, other than transferred in pension rights, from the Pension Fund and reduce the member's benefits accordingly.</p> <p>If member dismissed due to a criminal, negligent or fraudulent act in connection with his employment and it costs the employer money, the employer may recover the outstanding amount from the member's benefits. If the pension entitlement is below the amount owed the employer may recover the full value of the pension benefits. If the pension benefit is not due to be brought into payment immediately then this amount may be noted and deducted from the pension at a later date. The employer may only recover local government benefits, not benefits transferred in from another approved scheme.</p>	<p>NYP will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from internal audit.</p>
<p>93(2) and (Ref R)</p>	<p>Where</p> <ul style="list-style-type: none"> (i) a member ceases employment in consequence of an offence involving fraud or due to grave misconduct in connection with that employment, and (ii) the employer has suffered a direct financial loss resulting therefrom, and (iii) the member is entitled to benefits under the LGPS and a forfeiture certificate has been applied, or the member is entitled to a 	<p>NYP will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from internal audit.</p>

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	<p>refund of pension contributions</p> <p>the employer may direct that the amount of the direct financial loss, or the refund of contributions if less, be recovered from the Pension Fund.</p> <p>Virtually as 91 above, but with the issue of forfeiture certificate the money is recovered by the pension fund, not the employer.</p>	
95 (Ref R)	<p>Whether, if the member has committed treason or been imprisoned for at least 10 years for one or more offences under the Official Secrets Acts, forfeiture under R91 or recovery of a monetary obligation under R93 should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement</p>	NYP will consider each case on its merits.
100(68) (Ref R)	<p>If a scheme member wishes to transfer pension rights into the NYPF from a non-local government source, he/she must opt to do so within 12 months of joining the LGPS "or such longer period as the employer may allow".</p> <p>With effect from 1 April 2014, this regulation also includes any AVC arrangements dated prior to membership of the North Yorkshire Pension Fund</p> <p><i>Note: It is common practice in pension schemes (eg the NHS) to only allow transfers into a scheme within the first year of the member joining the scheme. This is because it is more beneficial for the member as the member's salary is usually lower upon joining the scheme than in later years resulting in increased years bought. In addition the money transferred in may be used for investment over a longer period of time.</i></p> <p>For previous LGPS membership with an employer other than NYCC, various inter fund transfer regulations apply.</p>	<p>NYP will only allow members to opt to transfer pension rights beyond the 12 month period if there is evidence of administrative shortcomings.</p> <p><i>The Administering Authority will provide guidance on individual queries but must be contacted within the 12 month period above.</i></p>
3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b)	<p>Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31 March in the 10 years prior to leaving</p>	NYP will allow members to so choose

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<p>(Ref TP) and 11(2) (Ref B)</p>		
<p>9(1) and 9(3) (Ref R)</p>	<p>From 1 April 2014 Banded Contribution rates for employees will be based on actual pensionable pay received.</p> <p>Employers to assess the relevant contribution band to determine the rate of employee contribution.</p> <p>Note: LGPS 2014 allocates contribution bands based on actual pay received, and not on whole time equivalent pay as was used in the LGPS 2008 Regulations</p>	<p>On 1st April each year, NYP will allocate the appropriate band for all members' pensionable pay based on the previous years' pensionable pay and include incremental progression and cost of living increases where known as at 1 April. This will then be reviewed on a quarterly basis bands adjusted accordingly.</p> <p>For new posts commencing during the year, the band will depend on starting salary.</p> <p>If members have variable or nil hours contracts, the relevant band will be based on an assessment of the total pensionable pay received in the previous year. For new variable or nil hours posts, banding will be by reference based on the whole time equivalent of the salary and reviewed in line with the Force review timetable. If any member believes this would be inaccurate, they should ask their Line Manager to contact the Human Resources for further information.</p>
<p>12(6) (Ref TP)</p>	<p>From 1 April 2008, regulations introduced tiered ill health retirement and this continues under LGPS 2014.</p> <p>If an employer determines, in the case of a qualifying active member:-</p> <p>(a) To terminate his employment on grounds that his ill health or infirmity of mind or body renders unlikely to be capable of discharging efficiently the duties of his current employment</p> <p><u>And</u></p>	<p>NYP will be guided by the recommendation of the Independent Registered Medical Practitioner (IRMP).</p> <p>As a transitional measure NYP will accept a certificate produced by an IRMP under the 2008 Scheme for the purposes of making an ill health determination under the 2014 Scheme</p>

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	<p>(b) That he unlikely to be capable of obtaining any gainful employment before his normal retirement age,</p> <p>They shall agree to his retirement pension coming into payment before his normal retirement date and decide whether Tier 1, 2 or 3 payments are payable</p>	
<p>38(3) (Ref R)</p>	<p>Employer to decide whether deferred beneficiary meets permanent ill health criteria</p> <p><i>Note: Scheme members who have left employment and are entitled to preserved benefits may obtain access to the payment of their pension benefits early on ill health grounds. The IRMP will be asked to certify that the ex employee, who has left a local government employment before he is entitled to the immediate payment of retirement benefits, has become permanently incapable of discharging efficiently the duties of that employment because of ill health or infirmity of mind or body.</i></p> <p>No enhancement to the service will apply where preserved benefits are being bought into payment on ill health grounds.</p>	<p>NYP will be guided by the recommendation of the Independent Registered Medical Practitioner (IRMP).</p> <p>Applications from former employees with deferred benefits will be managed by Human Resources. If approved, HR will refer the former employee to the IRMP and notify the former employee of the outcome of the application. Payment of pension benefits will commence from the date the IRMP identified as the date of permanent incapacity.</p>
<p>38(6) (ref R)</p>	<p>To grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60</p> <p>Where a tier 3 ill health retirement pension has been paid and subsequently ceased, LGPS member becomes a 'deferred Pensioner' who has ceased to be employed by NYP and is not receiving payment of benefits. He or she may seek further Ill Health Retirement benefit payments (as preserved benefits into payment) on an unrelated medical condition.</p> <p>See above</p>	<p>NYP will be guided by the recommendation of the IRMP</p> <p>See above</p>

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<p>6(3) (Ref T) 42(4) (Ref L) 9 (Ref OT)</p>	<p>Whether to accept (late) elections after 31.3.1998 from members who want to count membership between 1.4.72 and 5.4.88 for widower's pensions.</p> <p>If late election is allowed, the employer must pass a resolution, within 6 months of agreeing to accept the election, to state that the membership will count for widower's pensions</p>	<p>NYP will only consider extending the deadline where NYP considers there is evidence of administrative shortcomings on the part of NYP or the administrating authority</p>
<p>17(3) (Ref OT)</p>	<p>Whether to extend time limit for repayment of a previous refund during the period 1.4.74 and 31.12.79</p>	<p>NYP will only consider extending the time limit where NYP considers there is evidence of administrative shortcomings on the part of NYP or the administrating authority</p>
<p>Reg 8 (SI 2006/966)</p>	<p>Whether to recover employee contributions that had been reduced or waived after 40 years' pensionable local government service</p>	<p>NYP will not seek to recover such contributions</p>
<p>Reg 3,4,6 and 7 Ref (I)</p>	<p>Whether to award an injury allowance following loss of employment or reduction in pay or death in service through permanent incapacity after sustaining an injury or contracting a disease as a result of anything he or she was required to do in carrying out duties of job.</p>	<p>NYP will consider each case on its merits.</p>
<p>98 (1)(b) (Ref R)</p>	<p>Whether to agree to bulk transfer payment where two or more members' active membership ends on their joining a registered non local government scheme</p>	<p>NYP will consider whether or not to agree on the merits of each case after consideration with the Administering Authority and after having taken appropriate actuarial advice.</p>

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DEFINITION OF SPECIAL TERMS

North Yorkshire Police – collectively the Police and Crime Commissioner and the Chief Constable in their respective corporate capacities as the employer of staff (or, in the case of the Chief Constable in so far as Police Officers are concerned, deemed or de jure employer).

North Yorkshire Police Personnel – Collectively, Police Service Personnel and Commissioner Staff as defined below.

Police Service Personnel – Police Officers under the direction and control of the Chief Constable and Police Staff in the employment of the Chief Constable.

Police Staff – collectively, Chief Constable's Staff and Commissioner Staff.

Commissioner Staff – All staff in the employment of the Police and Crime Commissioner.

Chief Constable's Staff – All staff in the employment of the Chief Constable.

Normal Pension Age - In the LGPS2014 this is an individual's State Pension Age

Line Manager – immediate line manager with responsibility for managing the police staff member.

IRMP – Independent Registered Medical Practitioner who is employed by an external agency. Under Local Government Pension scheme they make the determination on permanent incapacity

COMPLIANCE AND LEGITIMACY

The following areas have been considered and their impact assessed when writing this policy:	
Legal Basis	
The legal basis in which the policy is to operate can be found in: e.g.;	
<ul style="list-style-type: none"> Human Rights Act 1998 	
	Yes (Date)
Legal and Risk Legal Basis, Risk Management and Insurance Information Compliance Human Rights Act 1998	The Human Rights Act 1998 creates 'Convention Rights' which are set out in Section 1 (1) of that Act. They are rights drawn from the European Convention on Human Rights and Fundamental Freedoms. The provisions of this policy are compatible with the 'Convention Rights' In application of this policy, North Yorkshire Police will not discriminate against persons on the basis of age, sex, race, colour, language, religion, disability, political, or other opinion, sexual orientation, nationality or social

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<p>(Checked by Acting Head of Legal Services)</p> <p>(Completed by procedure reviewer)</p>	<p>origin, association with national minority, property, birth, or other status as defined under Article 14, European Convention on Human Rights and Fundamental Freedoms (ECHR).</p> <p>Date: 19/06/14</p> <p>Name: Jane Wintermeyer</p> <p>Date procedure reviewed:</p> <p><input type="checkbox"/> Tick if <u>major</u> changes to policy, OR</p> <p><input type="checkbox"/> Tick if only <u>minor</u> changes to policy</p>
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Equality Analysis	
<p>This template must be completed for all NYP initiatives (i.e. policies, practices, projects, strategies, programmes). Guidance on completing an equality analysis can be found on the Diversity Subsite.</p> <p>An Equality Analysis (EA) examines the impact that NYP's policies, practices, functions and services have on people from the protected characteristic groups. Undertaking an EA will identify any potentially discriminatory or negative consequences as well as potential benefits ensuring that, as far as possible, everyone has an equitable experience of policing services.</p> <p>The sections below should be considered from the perspective of race, disability, gender, religion or belief, sexual orientation, age, gender reassignment, marriage and civil partnership, pregnancy and maternity.</p>	
Stage 1 - Screening	<p>a) Identify the aims, objectives and intended outcomes of the initiative.</p> <p>The aim of this policy is to provide the NYP decisions regarding the LGPS 2014 employer discretions</p>
	<p>b) Could any of the groups of people set out at d) be affected differently by the initiative e.g. in terms of access to a service, or being able to take advantage of proposed opportunities?</p> <p>NA</p>
	<p>c) What research have you done? What information/data has been considered?</p>

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d) Following the assessment of available information/data, has a positive (beneficial) or negative (adverse) impact been identified? OR is the initiative equality neutral, i.e. no particular/minimal affect on any group? Give details on whom the initiative impacts and how.				
	Positive (High Impact)	Negative (High Impact)	Neutral (Low/no Impact)	Details
Race			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic.
Gender			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic
Disability	X			There may be some impact upon this group or an individual due to a disability
Religion or belief			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic
Sexual Orientation			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic
Age	X			There may be some impact upon this group or an individual due to their age
Marriage and Civil Partnerships			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic
Gender Reassignment			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic
Pregnancy and Maternity			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic
<p>If the impact is equality neutral (i.e. no particular/minimal affect on any group) this should be noted and no further action is required. Where a potential impact (positive or negative) has been identified, further assessment is required to determine what changes may be necessary to either reduce the negative impact or enhance the positive impact and sections e) to g) should be completed.</p>				

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Stage 2 - Assessment	e) Consult with the groups you have at section b)				
	<table border="1"> <thead> <tr> <th>Date of Consultation</th> <th>Outcome</th> </tr> </thead> <tbody> <tr> <td>May 2014</td> <td>No comments made on policy</td> </tr> </tbody> </table>	Date of Consultation	Outcome	May 2014	No comments made on policy
	Date of Consultation	Outcome			
	May 2014	No comments made on policy			
	f) Decide what actions, if any, will be taken as a result of the analysis. Are there any specific factors which need to be taken into account?				
	g) Provide a report outlining the findings of the analysis process and the reasons for the decision reached.				
<table border="1"> <tr> <td>Equality Analysis carried out by:</td> <td> Date completed/reviewed: <input type="checkbox"/> Tick if <u>no</u> change to EA status, OR <input type="checkbox"/> Tick if EA status has changed </td> </tr> </table>	Equality Analysis carried out by:	Date completed/reviewed: <input type="checkbox"/> Tick if <u>no</u> change to EA status, OR <input type="checkbox"/> Tick if EA status has changed			
Equality Analysis carried out by:	Date completed/reviewed: <input type="checkbox"/> Tick if <u>no</u> change to EA status, OR <input type="checkbox"/> Tick if EA status has changed				
<table border="1"> <tr> <td>For high impact EA only: Equality Analysis quality assured by:</td> <td>Date:</td> </tr> </table>	For high impact EA only: Equality Analysis quality assured by:	Date:			
For high impact EA only: Equality Analysis quality assured by:	Date:				

APPEALS PROCEDURE

If an individual wishes to complain about the process that has been followed, with regard to this policy, they are entitled to go through the Internal Dispute Resolution Procedure which is operated by North Yorkshire County Council in their capacity of pension

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administrators. Information in respect of this procedure can be found on the People Portal under the Pensions subsite.

DEVELOPMENT AND REVIEW

DEVELOPMENT

Director :	Rosie Holmes, A/Director of HR	30/05/2014
Author:	Sarah Mekins	22/05/2014
Extent of Consultation (List all parties consulted):	UNISON	30/05/2014

IMPLEMENTATION

Date In Force:	01/04/2014
Chief Officer Team Notified (Meeting & Date):	

REVIEW

Procedure Review Date:	Remains in force until it is replaced in agreement with UNISON 31/03/2016
Equality Analysis Review Date:	31/03/2016
Reviewer:	
Director/SN Commander/Head of Department/Head of Unit:	
Reviewed: (Version Control)	--/------

COMMUNICATION

This procedure will be communicated in the following ways:		
	Yes(Date)	No
Force-wide email		No
Message of the Day		No
Organisational Learning Bulletin In the Loop	Yes	
Daily Management Meeting (Cascade Briefing)		No
PCC Website	Yes	
NYP Website	Yes	
Policies & Procedures Database Update	Yes	

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LGPS 2014 Employer Pensions Discretions Comparison Table

Regulation	Discretion	Draft Policy	2009 NYP discretion
<p>20(1)(b) (Ref R)</p>	<p>An employer can specify in an employee's contract what other payments or benefits, other than those specified in regulation 20(1)(a) and not otherwise precluded by regulation 20(2), are to be pensionable.</p> <p>The employee's pay is "all the salary, wages, fees & other payments paid to him/her for his/her own use in respect of his/her employment". The employer may opt to specify in an employee's contract any other payment or benefit that may be pensionable, excluding the following items which are not deemed pensionable under the Regulation:</p> <ul style="list-style-type: none"> ◆ Expenses (travel, subsistence, other expenses allowances) ◆ Payments in lieu of notice of termination ◆ Payment in consideration of holidays ◆ Payments made as an inducement not to terminate employment ◆ Any amount treated as the money value for the provision of a motor vehicle or any amount paid in lieu of such a provision 	<p>NYP reserves the right to specify what, if any, other payments or benefits are to be pensionable in accordance with the Regulations.</p> <p><i>See NYP guidance on pensionable and non pensionable pay</i></p> <p><i>Pensionable pay same as previous discretion</i></p>	<p>NYPA reserves the right to specify what, if any, other payments or benefits are to be pensionable in accordance with the Regulations and will automatically include "detriment" or "protected" pay as pensionable pay.</p>

<p>30(8) (Ref R)</p>	<p>Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement</p>	<p>NYP will not waive any actuarial reduction on benefits paid on flexible retirement. All applications for flexible retirement will be considered in line with the process and criteria set out in the Staff Retirement Procedure.</p> <p><i>The previous NYP discretions were silent on this discretion, however this is how NYP dealt with flexible retirement applications in practice.</i></p>	
<p>30(8) (Ref R)</p>	<p>Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age</p>	<p>NYP will not waive any actuarial reduction on benefits paid which a member voluntarily draws before normal pension age.</p> <p><i>New discretion</i></p>	
<p>Sch 2 Paras 1(2) and 2(2) (Ref TP)</p>	<p>Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>NYP will not switch on the 85 Year Rule for any employee voluntarily drawing benefits on or after age 55 and before age 60</p> <p><i>New discretion</i></p>	
<p>3(1), Sch 2, paras 2(1) and 2(2) (Ref TP) 30(5) and 30A(5) (Ref B)</p>	<p>Whether to waive any actuarial reduction on pre and/or post April 2014 benefits on compassionate grounds</p>	<p>NYP will not waive any actuarial reduction and pay any pension strain costs arising out of voluntary early retirement or flexible retirement</p> <p><i>New discretion</i></p>	

<p>30A and 30(5) (ref B)</p>	<p>To waive, on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits paid early.</p> <p>The employer may determine on compassionate grounds that a members' retirement pension and grant should not be reduced if paid early under Regulation 30(A)</p> <p>NOTE: This discretion only applies to those members who have left employment on or after 01.04 2008 and before 01.04.2014. A deferred pension brought into early payment on compassionate grounds cannot be reduced.</p> <p>Where a tier 3 ill health retirement pension has been paid and subsequently ceased, LGPS member becomes a 'deferred Pensioner' who has ceased to be employed by NYP and is not receiving payment of benefits. He or she may seek early release of pension benefit from age 55 (as preserved benefits into payment) on compassionate grounds.</p>	<p>Applications from deferred Pensioners will only be considered on compassionate grounds, taking into account the costs of waiving any reduction. All applications will be considered by the Chief Constable / Chief Executive Officer.</p> <p><i>New discretion</i></p>	
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<p>22(7)(b) (Ref R)</p>	<p>Where an active member has previous LGPS service, they may elect to aggregate this with their ongoing service within twelve months of becoming an active member, or "such longer period as their employer may allow".</p>	<p>NYP will permit aggregation beyond 12 months. <i>As per previous discretion policy</i></p>	<p>NYPA will permit aggregation beyond 12 months. Up until the date of leaving or date of retirement.</p>
<p>31 (Ref R)</p>	<p>From 1 April 2014, the employer has the authority to grant additional pension to a member by up to £6,500 per annum.</p>	<p>NYP will not grant additional pension to a member <i>As per previous discretion policy. The amount of additional pension was £5,000.</i></p>	<p>NYPA will not grant additional pension to a member.</p>
<p>15(1)(b) (Ref TP) 66(8) (Ref L) 66(9)(b) (former Ref L)</p>	<p>A scheme member who wishes to elect to convert In House AVCs into a period of scheme membership must do so within 30 days of ceasing to be an active member "or such longer period as the employer may allow".</p> <p>The legislation states that an employee must make an election within 30 days of retiring if he wishes to transfer his AVC benefits into the LGPS. The employing authority may allow the member to make this election beyond 30 days of retiring.</p>	<p>NYP will extend the 30 day deadline if NYP considers that there is evidence of administrative shortcomings on the part of NYP or the administering authority. <i>As per previous discretion policy</i></p>	<p>NYPA will consider extending the 30 day deadline if NYPA consider that there is evidence of administrative shortcomings on the part of NYPA or the administering authority.</p>

<p>16(2)(e) and 16(4)(b) (Ref R)</p>	<p>Whether, how much, and in what circumstances to contribute to a shared cost APC / AVC scheme</p> <p>If a scheme member wishes to buy more pension, he/she can do this through either an Additional Pension Contribution (APC) or an Additional Voluntary Contribution (AVC). There is a discretion as to whether the employer wishes to share the cost of an APC or AVC or buy additional pension for employees through an Employer APC or AVC</p>	<p>NYP will contribute to Shared Cost APC Schemes only when an employee has opted to buy back 'lost' pension due to a period of authorised unpaid leave (including sickness and child related leave) within 30 days of returning to work from that leave. In these circumstances, the employee will pay one third of the cost of the Shared Cost APC and the employer will pay two thirds of the cost</p> <p>Other than the circumstances above, NYP will not enter any Shared cost APC/AVC arrangements</p> <p><i>New discretion - NYP will meet the minimum regulatory requirements</i></p>	<p>NYPA will consider whether or not to make a refund based on the individual case.</p>
<p>19(2) (Ref R)</p>	<p>A scheme member who meets the normal criteria for a refund of pension contributions is not entitled to such a refund if he/she ceased employment due to an offence of a fraudulent character or due to grave misconduct unless the employer directs that a total or partial refund may be made.</p> <p>The employer may over rule the LGPS legislation and pay a refund of contributions to a member who is entitled to a refund had they simply resigned but who instead was dismissed due to an offence of a fraudulent character or due to grave misconduct.</p>	<p>NYPA will consider whether or not to make a refund based on the merits of each case and in light of advice from Internal Audit.</p> <p><i>As per previous discretion</i></p>	<p>NYPA will consider whether or not to make a refund based on the individual case.</p>

<p>91 (1) and (8) (Ref R)</p>	<p>If a scheme member is convicted of, and ceases employment as a result of, an offence in connection with his/her employment which was gravely injurious to the state or liable to lead to a serious loss of confidence in the public service, the employer can apply to the Secretary of State or the Office of the Deputy Prime Minister for the issue of a forfeiture certificate. If the Secretary of State issues a certificate the employer may direct that certain of the person's rights are forfeited.</p> <p>The employing authority may apply to remove the member's entitlement to receive his pension.</p>	<p>NYP will consider whether or not to apply for and enact a certificate based on the merits of each case and in light of advice from Internal Audit.</p> <p><i>As per previous discretion</i></p>	<p>NYPA will consider whether or not to apply for and enact a certificate based on the individual case</p>
<p>92 (1) and (2) (Ref R)</p>	<p>Where the Secretary of State has issued a forfeiture certificate but the employer has not applied the certificate, nor notified the scheme member of an award of benefits under the LGPS, the employer may direct that interim payments are made out of the Pension Fund until such time as it decides to apply the forfeiture certificate or to make an award of benefits.</p> <p>The employer may instruct the pension fund to pay the pension until a decision is taken by the employer to forfeit the pension.</p>	<p>NYP will not direct that interim payments are made from the Fund pending a decision.</p> <p><i>As per previous discretion</i></p>	<p>NYPA will not direct that interim payments are made from the Fund pending a decision.</p>

<p>91 (4) (Ref R)</p>	<p>Where a member (I) ceases employment in consequence of a criminal, negligent or fraudulent act or omission in connection with that employment and (ii) has incurred a monetary obligation arising there from to the employer and (iii) is entitled to pension benefits under the LGPS, the employer may recover the amount of the monetary obligation or the value of the member's pension rights, if less, other than transferred in pension rights, from the Pension Fund and reduce the member's benefits accordingly.</p> <p>If member dismissed due to a criminal, negligent or fraudulent act in connection with his employment and it costs the employer money, the employer may recover the outstanding amount from the member's benefits. If the pension entitlement is below the amount owed the employer may recover the full value of the pension benefits. If the pension benefit is not due to be brought into payment immediately then this amount may be noted and deducted from the pension at a later date. The employer may only recover local government benefits, not benefits transferred in from another approved scheme.</p>	<p>NYP will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from internal audit.</p> <p><i>As per previous discretion</i></p>	<p>NYPA will consider whether or not to recover and reduce benefits accordingly based on the individual case.</p>
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<p>93(2) and (Ref R)</p>	<p>Where (i) a member ceases employment in consequence of an offence involving fraud or due to grave misconduct in connection with that employment, and (ii) the employer has suffered a direct financial loss resulting there from, and (iii) the member is entitled to benefits under the LGPS and a forfeiture certificate has been applied, or the member is entitled to a refund of pension contributions</p> <p>the employer may direct that the amount of the direct financial loss, or the refund of contributions if less, be recovered from the Pension Fund.</p> <p>Virtually as 91 above, but with the issue of forfeiture certificate the money is recovered by the pension fund, not the employer.</p>	<p>NYP will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from internal audit.</p> <p><i>As per previous discretion</i></p>	<p>NYPA will consider whether or not to recover and reduce benefits accordingly based on the individual case</p>
<p>95 (Ref R)</p>	<p>Whether, if the member has committed treason or been imprisoned for at least 10 years for one or more offences under the Official Secrets Acts, forfeiture under R91 or recovery of a monetary obligation under R93 should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement</p>	<p>NYP will consider each case on its merits.</p> <p><i>New discretion</i></p> <p><i>This is line with other forfeiture discretions</i></p>	

<p>100(68) (Ref R)</p>	<p>If a scheme member wishes to transfer pension rights into the NYPF from a non-local government source, he/she must opt to do so within 12 months of joining the LGPS "or such longer period as the employer may allow".</p> <p>With effect from 1 April 2014, this regulation also includes any AVC arrangements dated prior to membership of the North Yorkshire Pension Fund</p> <p><i>Note: It is common practice in pension schemes (eg the NHS) to only allow transfers into a scheme within the first year of the member joining the scheme. This is because it is more beneficial for the member as the member's salary is usually lower upon joining the scheme than in later years resulting in increased years bought. In addition the money transferred in may be used for investment over a longer period of time.</i></p> <p>For previous LGPS membership with an employer other than NYP, various inter fund transfer regulations apply.</p>	<p>NYP will only allow members to opt to transfer pension rights beyond the 12 month period if NYP considers that there is evidence of administrative shortcomings in the part of NYP or the administering authority.</p> <p><i>As per previous discretion</i></p> <p><i>The Administering Authority will provide guidance on individual queries but must be contacted within the 12 month period above.</i></p>	<p>NYPA will only consider allowing members to opt to transfer pension rights beyond the 12 month period if NYPA consider that there is evidence of administrative shortcomings on the part of NYPA or the administering authority.</p>
<p>3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b) (Ref TP) and</p>	<p>Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31 March in the 10 years prior to leaving</p>	<p>NYP will allow members to so choose</p> <p><i>As per previous discretion</i></p>	<p>NYPA will allow members to so choose.</p>

<p>11(2) (Ref B)</p>	<p>From 1 April 2014 Banded Contribution rates for employees will be based on actual pensionable pay received. Employers to assess the relevant contribution band to determine the rate of employee contribution. Note: LGPS 2014 allocates contribution bands based on actual pay received, and not on whole time equivalent pay as was used in the LGPS 2008 Regulations</p>	<p>On 1st April each year, NYP will allocate the appropriate band for all members' pensionable pay based on the previous years' pensionable pay and include incremental progression and cost of living increases where known as at 1 April. This will then be reviewed on a quarterly basis and bands adjusted accordingly. For new posts commencing during the year, the band will depend on starting salary. If members have variable or nil hours contracts, the relevant band will be based on an assessment of the total pensionable pay received in the previous year. For new variable or nil hours posts, banding will be by reference based on the whole time equivalent of the salary and reviewed in line with the Force review timetable. If any member believes this would be inaccurate, they should ask their Line Manager to contact Human Resources for further information. <i>Amended from previous NYP discretion. Quarterly reviews will allow for timely adjustments for overtime payments. A future state could be a monthly review of contributions through payroll systems.</i></p>	<p>On 1st April each year (commencing 1st April 2008) NYPA will allocate the appropriate band for all members' pensionable pay based on previous year's pensionable pay and include incremental progression and cost of living increases where known as at 1st April. Only permanent changes to pensionable pay will be taken into account in banding. Banding will not change during the following financial year unless there is a contractual change which affects a banding. For new posts commencing post 1st April in each year, the band will depend on starting salary. For members on variable or nil hours contracts, relevant band will be based on assumed full time equivalent for each post. For new variable or nil hours contracts commencing post 1st April, banding will be by reference to similar posts or advice from Line Manager.</p>
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<p>12(6) (Ref TP)</p>	<p>From 1 April 2008, regulations introduced tiered ill health retirement and this continues under LGPS 2014.</p> <p>If an employer determines, in the case of a qualifying active member:-</p> <p>(a) To terminate his employment on grounds that his ill health or infirmity of mind or body renders unlikely to be capable of discharging efficiently the duties of his current employment</p> <p><u>And</u></p> <p>(b) That he unlikely to be capable of obtaining any gainful employment before his normal retirement age,</p> <p>They shall agree to his retirement pension coming into payment before his normal retirement date and decide whether Tier 1, 2 or 3 payments are payable</p>	<p>NYP will be guided by the recommendation of the Independent Registered Medical Practitioner (IRMP).</p> <p>As a transitional measure NYP will accept a certificate produced by an IRMP under the 2008 Scheme for the purposes of making an ill health determination under the 2014 Scheme</p> <p>As per previous discretion. This is how NYP have dealt with the ill health process.</p>	<p>NYCC will be guided by the recommendation of an Independent Registered Medical Practitioner (IRMP).</p>
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<p>38(3) (Ref R)</p>	<p>Employer to decide whether deferred beneficiary meets permanent ill health criteria</p> <p><i>Note: Scheme members who have left employment and are entitled to preserved benefits may obtain access to the payment of their pension benefits early on ill health grounds. The IRMP will be asked to certify that the ex employee, who has left a local government employment before he is entitled to the immediate payment of retirement benefits, has become permanently incapable of discharging efficiently the duties of that employment because of ill health or infirmity of mind or body.</i></p> <p><i>No enhancement to the service will apply where preserved benefits are being bought into payment on ill health grounds.</i></p>	<p>NYP will be guided by the recommendation of the Independent Registered Medical Practitioner (IRMP).</p> <p>Applications from former employees with deferred benefits will be managed by Human Resources.</p> <p>If approved, HR will refer the former employee to the IRMP and notify the former employee of the outcome of the application.</p> <p>Payment of pension benefits will commence from the date the IRMP identified as the date of permanent incapacity.</p> <p><i>Similar to previous discretion and procedure. This is how NYP have dealt with the ill health process in practice.</i></p>	<p>NYP will be guided by the recommendation of an Independent Registered Medical Practitioner (IRMP)</p> <p>Applications from former employees with deferred benefits will be managed by former Service; the Service is responsible for referring the former employee to the Independent Registered Medical Practitioner (IRMP) via the Occupational Health Service and notifying the former employee of the outcome of the application. If granted payment of pension benefits will commence from the date of the employee's letter requesting that the preserved benefits be brought into payment.</p>
<p>38(6) (ref R)</p>	<p>To grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60</p> <p>Where a tier 3 ill health retirement pension has been paid and subsequently ceased, LGPS member becomes a 'deferred Pensioner' who has ceased to be employed by NYP and is not receiving</p>	<p>NYP will be guided by the recommendation of the IRMP</p> <p>See above</p> <p><i>Previous NYP discretions were silent on this discretion. This is how NYP have dealt with these processes in practice.</i></p>	

	<p>payment of benefits. He or she may seek further ill Health Retirement benefit payments (as preserved benefits into payment) on an unrelated medical condition.</p> <p>See above</p>		
<p>6(3) (Ref T) 42(4) (Ref L) 9 (Ref OT)</p>	<p>Whether to accept (late) elections after 31.3.1998 from members who want to count membership between 1.4.72 and 5.4.88 for widower's pensions.</p> <p>If late election is allowed, the employer must pass a resolution, within 6 months of agreeing to accept the election, to state that the membership will count for widower's pensions</p>	<p>NYP will only consider extending the deadline where NYP considers there is evidence of administrative shortcomings on the part of NYP or the administering authority</p> <p><i>As per previous discretion</i></p>	<p>NYPA will only consider extending the deadline where NYPA consider that there is evidence of administrative shortcomings on the part of NYPA or the administering authority.</p>
<p>17(3) (Ref OT)</p>	<p>Whether to extend time limit for repayment of a previous refund during the period 1.4.74 and 31.12.79</p>	<p>NYP will only consider extending the time limit where NYP considers there is evidence of administrative shortcomings on the part of NYP or the administering authority</p> <p><i>As per previous discretion</i></p>	<p>NYPA will only consider extending the time limit where NYPA consider that there is evidence of administrative shortcomings on the part of NYPA or the administering authority.</p>
<p>Reg 8 (SI 2006/966)</p>	<p>Whether to recover employee contributions that had been reduced or waived after 40 years' pensionable local government service</p>	<p>NYP will not seek to recover such contributions</p> <p><i>As per previous discretion</i></p>	<p>NYPA will not seek to recover such contributions.</p>

<p>Reg 3,4,6 and 7 Ref (I)</p>	<p>Whether to award an injury allowance following loss of employment or reduction in pay or death in service through permanent incapacity after sustaining an injury or contracting a disease as a result of anything he or she was required to do in carrying out duties of job.</p>	<p>NYP will consider each case on its merits. <i>Similar to previous discretion. This is how NYP have dealt with police staff injury on duty in practice.</i></p>	<p>NYPA will consider each case individually.</p>
<p>98 (1)(b) (Ref R)</p>	<p>Whether to agree to bulk transfers' payment where two or more members' active membership ends on their joining a registered non local government scheme</p>	<p>NYP will consider whether or not to agree on the merits of each case after consideration with the Administering Authority and after having taken appropriate actuarial advice. <i>As per previous discretion</i></p>	<p>NYPA will consider whether or not to agree on the merits of each case after consideration with The Fund and after having taken appropriate actuarial advice.</p>

Police and Crime
Commissioner
North Yorkshire



NYP LGPS Employer Discretion Policy 2

(with effect from 1 April 2014)
(Police Staff)

POLICY STATEMENT

All North Yorkshire Police Personnel must adhere to this policy. This policy applies to Police Staff who are members of the Local Government Scheme (LGPS) or ex Police Staff members of North Yorkshire Police who have deferred benefits within the LGPS.

The LGPS is a statutory pension scheme, which governs the way in which the Police Staff pension scheme is administered. There are, however, some areas of the scheme that are decided by employers. These are collectively referred to as 'Employers Discretions'.

LINKAGES

Strategy:

[Add hyperlinks to overarching strategy which this policy supports.](#)

Subsidiary Linked Procedures :

[Add hyperlinks to all related procedures under this policy.](#)
[Staff Retirement Policy](#)

Other Documents:

[Add hyperlinks to all related documents to this policy or acknowledgement to texts used from other sources.](#)

[Redundancy Procedure](#)

POLICY STATEMENT

This policy statement is open to public viewing.

This document incorporates North Yorkshire Police (NYP) policies under the following Regulations as at 1 April 2014. For ease of reference, each discretion in this document is marked 'Ref 'E' and 'Ref 'F' to correspond with the relevant Regulation.

Ref 'E' The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)

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Ref 'F' The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)

The following is a statement of North Yorkshire Police's (NYP) policy on the exercise of discretions under the above two Regulations as required by those Regulations. The policy represents clear guidance on the exercise of any particular discretion. The policies confer no contractual rights. The policy in force at the time of a relevant event occurring will be the one that is applied.

Regulation	Discretion	Policy
5 (Ref E)	<p>Power to increase statutory redundancy payments</p> <p>Compensation may be paid in accordance with this regulation to a person who is entitled to a redundancy payment under the 1996 Act on the termination of his employment. The amount which may be paid must not be more than the difference between the redundancy payment to which he is entitled under Part 11 of the 1996 Act; and the payment to which he would have been entitled if there had been no limit on the amount of a week's pay used in the calculation of his redundancy payment.</p>	<p>NYP uses actual salary in the calculation of redundancy payment as opposed to the statutory maximum as per s. 227 ERA 1996, in accordance with Regulation 5 of DCR 2006.</p>
6 (Ref E)	<p>Discretionary compensation for redundancy</p> <p>Where a member has not been awarded an additional period of Local Government service under Regulation 12 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended), his employer may pay, not later than six months after the date of termination, compensation under this regulation.</p> <p>That amount must not exceed 104 weeks' pay.</p>	<p>NYP does not award augmentation of service under regulation 52 of the Principal Regulations, and so could determine to make compensatory awards under this regulation.</p> <p>It is currently not the policy of NYP to make such awards.</p> <p>For employees affected by TUPE regulations, NYP will take legal advice where appropriate.</p>
21(4) (Ref F)	<p>Awards to surviving spouse's or civil partners.</p> <p>The employer may determine how to apportion any surviving spouse's annual compensatory added years' payment</p>	<p>NYP will consider each case individually.</p>

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	<p>where the deceased is survived by more than one spouse.</p>	
<p>25(2) (Ref F)</p>	<p>Payment of children's compensation.</p> <p>The employer may decide to whom any children's compensatory added years' payments are to be paid where children's pensions are not payable under the LGPS (because the employee had not joined the LGPS) and in such a case, how the added years will be apportioned amongst the eligible children.</p>	<p>NYP will consider each case individually.</p>
<p>21(7) (Ref F)</p>	<p>Circumstances under which surviving spouse's or civil partner's payments should continue after remarriage, cohabitation or entering into a civil partnership.</p> <p>The employer may decide, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1st April 1998, whether the normal pension suspension rules should be disapplied, ie whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid</p>	<p>NYP will consider each case individually.</p>
<p>21(5) (Ref F)</p>	<p>Reinstatement of surviving spouse's or civil partner's payment.</p> <p>If, under the preceding decision, the employer decides to apply the normal suspension rules, the employer can then decide whether the payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation</p>	<p>If NYP determined to suspend such payment, it will reinstate after the end of the remarriage, new civil partnership or cohabitation.</p>

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<p>17 (Ref F)</p>	<p>Reduction in annual compensation.</p> <p>The employer may determine to what extent to reduce or suspend the member's annual compensatory added years payment during any period of re employment in local government</p>	<p>NYP will make a determination after consultation with the Administering Authority and having regard to the date of original award</p>
<p>19 (Ref F)</p>	<p>Effect of cessation of new employment</p> <p>The employer may determine how to reduce the member's annual compensatory added years payment following the cessation of a period of re employment in local government</p>	<p>NYP will make a determination after consultation with the Administering Authority and having regard to the date of original award.</p>

DEFINITION OF SPECIAL TERMS

North Yorkshire Police – collectively the Police and Crime Commissioner and the Chief Constable in their respective corporate capacities as the employer of staff (or, in the case of the Chief Constable in so far as Police Officers are concerned, deemed or de jure employer.

North Yorkshire Police Personnel – Collectively, Police Service Personnel and Commissioner Staff as defined below.

Police Service Personnel – Police Officers under the direction and control of the Chief Constable and Police Staff in the employment of the Chief Constable.

Police Staff – collectively, Chief Constable's Staff and Commissioner Staff.

Commissioner Staff – All staff in the employment of the Police and Crime Commissioner.

Chief Constable's Staff – All staff in the employment of the Chief Constable.

Normal Pension Age - In the LGPS2014 this is an individual's State Pension Age

Line Manager – immediate line manager with responsibility for managing the police staff member.

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COMPLIANCE AND LEGITIMACY

The following areas have been considered and their impact assessed when writing this policy:	
Legal Basis	
The legal basis in which the policy is to operate can be found in: e.g.;	
<ul style="list-style-type: none"> • Human Rights Act 1998 	
	Yes (Date)
Legal and Risk Legal Basis, Risk Management and Insurance Information Compliance Human Rights Act 1998 (Checked by Acting Head of Legal Services) (Completed by procedure reviewer)	The Human Rights Act 1998 creates 'Convention Rights' which are set out in Section 1 (1) of that Act. They are rights drawn from the European Convention on Human Rights and Fundamental Freedoms. The provisions of this policy are compatible with the 'Convention Rights' In application of this policy, North Yorkshire Police will not discriminate against persons on the basis of age, sex, race, colour, language, religion, disability, political, or other opinion, sexual orientation, nationality or social origin, association with national minority, property, birth, or other status as defined under Article 14, European Convention on Human Rights and Fundamental Freedoms (ECHR). Date: 19/06/14 Name: Jane Wintermeyer Date procedure reviewed: <input type="checkbox"/> Tick if <u>major</u> changes to policy, OR <input type="checkbox"/> Tick if only <u>minor</u> changes to policy

Equality Analysis
<p>This template must be completed for all NYP initiatives (i.e. policies, practices, projects, strategies, programmes). Guidance on completing an equality analysis can be found on the Diversity Subsite.</p> <p>An Equality Analysis (EA) examines the impact that NYP's policies, practices, functions and services have on people from the protected characteristic groups. Undertaking an EA will identify any potentially discriminatory or negative consequences as well as potential benefits ensuring that, as far as possible, everyone has an equitable experience of policing services.</p> <p>The sections below should be considered from the perspective of race, disability,</p>

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gender, religion or belief, sexual orientation, age, gender reassignment, marriage and civil partnership, pregnancy and maternity.

Stage 1 - Screening	a) Identify the aims, objectives and intended outcomes of the initiative.				
	The aim of this policy is to provide the NYP decisions regarding the LGPS 2014 employer discretions				
	b) Could any of the groups of people set out at d) be affected differently by the initiative e.g. in terms of access to a service, or being able to take advantage of proposed opportunities?				
	NA				
	c) What research have you done? What information/data has been considered?				
	d) Following the assessment of available information/data, has a positive (beneficial) or negative (adverse) impact been identified? OR Is the initiative equality neutral, i.e. no particular/minimal affect on any group? Give details on whom the initiative impacts and how.				
		Positive (High Impact)	Negative (High Impact)	Neutral (Low/no Impact)	Details
	Race			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic.
	Gender			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic
Disability			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic	
Religion or belief			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic	
Sexual Orientation			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic	

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	Age			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic
	Marriage and Civil Partnerships			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic
	Gender Reassignment			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic
	Pregnancy and Maternity			X	This policy applies equally to everyone and with no impact upon this group or individual with this characteristic

If the impact is equality neutral (i.e. no particular/minimal affect on any group) this should be noted and no further action is required. Where a potential impact (positive or negative) has been identified, further assessment is required to determine what changes may be necessary to either reduce the negative impact or enhance the positive impact and sections e) to g) should be completed.

Stage 2 - Assessment	e) Consult with the groups you have at section b)	
	Date of Consultation	Outcome
	May 2014	On comments on this policy
	f) Decide what actions, if any, will be taken as a result of the analysis. Are there any specific factors which need to be taken into account?	
	g) Provide a report outlining the findings of the analysis process and the reasons for the decision reached.	
Equality Analysis carried out by:	Date completed/reviewed: <input type="checkbox"/> Tick if <u>no</u> change to EA status, OR <input type="checkbox"/> Tick if EA status has changed	

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For high impact EA only: Equality Analysis quality assured by:	Date:
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APPEALS PROCEDURE

If an individual wishes to complain about the process that has been followed, with regard to this policy, they are entitled to go through the Internal Dispute Resolution Procedure which is operated by North Yorkshire County Council in their capacity of pension administrators. Information in respect of this procedure can be found on the People Portal under the Pensions subsite.

DEVELOPMENT AND REVIEW

DEVELOPMENT

Director :	Rosie Holmes, A/Director of HR	30/05/2014
Author:	Sarah Mekins	22/05/2014
Extent of Consultation (List all parties consulted):	UNISON	30/05/2014

IMPLEMENTATION

Date In Force:	01/04/2014
Chief Officer Team Notified (Meeting & Date):	

REVIEW

Procedure Review Date:	Remains in force until it is replaced in agreement with UNISON 31/03/2016
Equality Analysis Review Date:	31/03/2016
Reviewer:	
Director/SN Commander/Head of Department/Head of Unit:	
Reviewed: (Version Control)	--/--/----

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COMMUNICATION

This procedure will be communicated in the following ways:		
	Yes(Date)	No
Force-wide email		No
Message of the Day		No
Organisational Learning Bulletin	Yes	
In the Loop		No
Daily Management Meeting (Cascade Briefing)		No
PCC Website	Yes	
NYP Website	Yes	
Policies & Procedures Database Update	Yes	

