



LGPS DISCRETIONS STATEMENT SCHEME EMPLOYERS

OVERVIEW

The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014. The provisions of the new LGPS, together with protections for members benefits accrued before 1 April 2014, are now contained in the Local Government Pension Scheme Regulations 2013 (the '**LGPS Regulations 2013**') and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (the '**LGPS Transitional Regulations 2014**').

Therefore, this statement now relates to the application of discretions under:

- (a) the **LGPS Regulations 2013**;
- (b) the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 ('**LGPS Transitional Regulations 2014**'); and
- (c) the Local Government Pension Scheme Regulations 1997 ('**LGPS Regulations 1997**') and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 ('**LGPS Benefits Regulations 2007**'), which continue to have effect in so far as is necessary under *Regulation 3 (Membership before 1 April 2014) of the LGPS Transitional Regulations 2014*.

This statement is issued by West Yorkshire Pension Fund (the '**Fund**') to assist Scheme Employers under the Fund.

Furthermore, this statement has been prepared on the Fund's understanding of the above regulations; therefore whilst it represents the views of the Fund it should not be treated as a complete and authoritative statement of the law. Employers may wish, or will need, to take their own legal advice on the interpretation of any particular regulations. No responsibility whatsoever will be assumed by the Fund for any liability, financial or otherwise, incurred by employers relying on this statement. The Fund does not accept any responsibility for reliance on the information contained, or referred to, in this statement.

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INTRODUCTION

Under *Regulation 60 (statements of policy about exercise of discretionary functions) of the LGPS Regulations 2013 and paragraph 2(2) of Schedule 2 of the LGPS Transitional Regulations 2014*, employers are required to make and publish policy statements on how they will exercise **five specific discretions**.

In addition there are **two further discretions** relevant to employers, which relate to members who left before 1 April 2014. These are under *Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008* (in respect of leavers between 1 April 2008 and 31 March 2014) and under *Regulation 106 of the LGPS Regulation 1997* (in respect of leavers between 1 April 1998 and 31 March 2008).

Any policy statements made must not limit, or 'fetter' how an employer uses any of the discretions afforded by the scheme.

The use of any discretion is likely to lead to immediate and potentially continuing increased pension costs for Holme Valley Parish Council, which could be considerable.

Holme Valley Parish Council is required to keep its statement under review and make such revisions as are appropriate following a change in its policy. Following any changes in its policy Holme Valley Parish Council must publish the revised policy and send a copy to the Fund within one month of the date the policy is revised.

In formulating and revising the policy statements outlined below, Holme Valley Parish Council must have regard to the extent to which the exercise of its discretionary powers could lead to a serious loss of confidence in the public service.

The discretions listed below are those that require a written policy, however employers have further discretions under the regulations that they may wish to formulate a written policy on.

FUTHER GUIDANCE FROM THE LOCAL GOVERNMENT PENSION SCHEME SECRETARIAT

When formulating any policies Scheme Employers should also take into account information provided by the LGPC Secretariat which can be found here:

<http://www.lgpsregs.org/images/AdministrationGuides/DiscretionsPoliciesv1.2clean>

More detailed guidance specifically on all the discretions can be found here on the LGPS website at:

<http://www.lgpsregs.org/images/AdministrationGuides/Discretionsv1.2clean>



SCHEME EMPLOYER DISCRETIONS

Specific discretions under the LGPS Regulations 2013 and the LGPS Transitional Regulations 2014

Details of the **five discretions** available are as follows:

1. **Shared cost Additional Pension Contributions - Regulation 16 (2)(e) and 16 (4)(d)**

*Note: the specific provisions of Regulation 16 allow an active member who is paying into the main scheme to enter into an arrangement to pay additional contributions, either by regular contributions (Regulation 16(2)(e)) or by a lump sum payment (Regulation 16(4)(d)). This may be funded in whole or in part by **Holme Valley Parish Council**.*

Holme Valley Parish Council does not consider contribution towards additional pension contributions to be an essential part of its employment strategy. However, **Holme Valley Parish Council** will consider applications made under these specific provisions having regard to **Holme Valley Parish Council's** general policy from time to time, on the employee pay strategy and the particular circumstances surrounding each case.

It is likely that decisions will be made on the merits of each case having particular regard to factors such as:

- **Holme Valley Parish Council's** ability to meet the cost of granting such a request; and/or
- the member's personal circumstances.

2. **Awarding Additional Pension - Regulation 31**

*Note: Regulation 31 allows employers to grant additional pension up to the maximum allowed by the scheme rules provided that the member is active **or** is within 6 months of leaving **for reasons of** redundancy **or** business efficiency **or** whose employment was terminated by mutual consent on grounds of business efficiency.*

Employers may wish to use this Regulation as an aid to recruitment, an aid to retention or to compensate or reward an employee who is retiring.

*Employers should also consider provisions of this Regulation, in particular Regulation 31(4), if they decide to exercise their power under **Section 1 (general power of competence) of the Localism Act 2011.***

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Holme Valley Parish Council will consider applications made under this *Regulation* having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to the following:

- the member's personal circumstances;
- the interests of **Holme Valley Parish Council**;
- the additional contributions due to the Fund by **Holme Valley Parish Council** in respect of the exercise of this discretion;
- any potential benefits or savings to **Holme Valley Parish Council** arising from the exercise of this discretion;
- other options that are, from time to time, available under **Holme Valley Parish Council's** severance arrangements;
- the funding position of **Holme Valley Parish Council** within the Fund;
- the ability of **Holme Valley Parish Council** to meet the cost of granting such an award.

3. Flexible Retirement - Regulation 30(6)

Note: this provision in the Regulations allows Holme Valley Parish Council to consent for a member who has attained the age of 55 to draw all or part of their retirement benefits (both pension and lump sum) whilst continuing in employment and Fund membership provided that:

- *there has been a reduction in hours, or*
- *a reduction in grade.*

Employers can choose to waive any reductions that apply under Regulation 30(8).

Holme Valley Parish Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the operating requirements of the employing department
- **Holme Valley Parish Council's** ability to meet the cost of granting such a request
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made
- the member's personal circumstances.

4. Waiving actuarial reductions - Regulation 30(8)

Note: Holme Valley Parish Council may waive the actuarial reductions applied to a member's benefits, unless 85 year rule protections exist, employers can waive:

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- *all of the reductions in respect of pre 1 April 2014 benefits but only on compassionate grounds (paragraph 2 of Schedule 2 of the LGPS Transitional Regulations 2014);*
- *all or some of the actuarial reduction in respect of post 1 April 2014 on any grounds.*

Where 85 year rule protections exist and the member has full or tapered protection Holme Valley Parish Council can waive all of the reductions but only on compassionate grounds for the service up to the date the 85 year rule protection ends (31 March 2016 (full) or 31 March 2020 (tapered)).

Holme Valley Parish Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- **Holme Valley Parish Council's** ability to meet the cost of granting such a request
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made
- the member's personal circumstances.

Applications for the payment of unreduced benefits for service before 1 April 2014 on the grounds of compassion will be granted if:

- in **Holme Valley Parish Council's** sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- **Holme Valley Parish Council** can meet the cost of granting such a request.