

## Discretions Policy for: Fulford Parish Council

Date: 11 September 2024

This policy confers no contractual rights. Fulford Parish Council retains the right to change the policies at any time without prior notice or consultation. The policy in force at the time a relevant event occurs will be the one that is applied.

Discretions from 1.4.14. in relation to post 31.3.14. active members (excluding councillor members) and post 31.3.14. leavers (excluding councillor members)

R = Local Government Pension Scheme (LGPS) Regulations 2013 (SI 2013/2356)

TP = LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014

A = LGPS (Administration) Regulations 2008 (SI 2008/239)

B = LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended) (SI 2007/1166)

L = LGPS Regulations 1997 (as amended) (SI 1997/1612)

Area	Discretion	Regulation	Exercised by	Key	Policy
<b>Granting additional pension</b>	Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a - figure at 1 April 2014. This is inflation proofed annually)	R31	Employer	<b>Mandatory</b>	Fulford Parish Council will not grant additional pension to a member
<b>Shared cost Additional Pension Contributions (to buy additional pension)</b>	Whether, how much and in what circumstances to contribute to a shared cost Additional Pension Contributions (APC) scheme  A member can buy additional pension through an APC contract. The discretion is whether the employer will share the cost of the APC	R16(2)(e) & R16(4)(d)	Employer	<b>Mandatory</b>	Fulford Parish Council 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
<b>Flexible retirement</b>	Whether all or some benefits can be paid if an active member aged 55 or over and with at least 2 years qualifying service reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	Employer	<b>Mandatory</b>	Fulford Parish Council will consider applications in accordance with its policy on <b>Flexible Retirement</b>
	Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	<b>Mandatory</b>	Fulford Parish Council 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 <b>Flexible Retirement Policy</b>
<b>85 Year Rule</b>	Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement).	TPSch 2, para, 1(2) & 1(1)(c)	Employer (or Admin. Authority where Employer has become defunct)	<b>Mandatory</b>	Fulford Parish Council will not switch on the 85 Year Rule for any employee voluntarily drawing benefits on or after age 55 and before age 60
<b>Waive Reduction</b>	Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/14 and post 31/3/14 membership) a) on compassionate grounds (pre 1/4/14 membership) and / or, in whole or in part on any grounds (post 31/3/14 membership) if the member was not in the Scheme before 1/10/06, ( <b>Group 4</b> ) b) on compassionate grounds (pre 1/4/14 membership) and / or, in whole or in part on any grounds (post 31/3/14 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will not attain 60 between 1/4/16 and 31/3/20 inclusive ( <b>Group 3</b> ) c) on compassionate grounds (pre 1/4/16 membership) and / or, in whole or in part on any grounds (post 31/3/16 membership) if the member was in the Scheme before 1/10/06 and will be 60 by 31/3/16 ( <b>Group 1</b> ) d) on compassionate grounds (pre 1/4/20 membership) and / or, in whole or in part on any grounds (post 31/3/20 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will attain 60 between 1/4/16 and 31/3/20 inclusive ( <b>Group 2</b> )	TP3(1), TPsSch 2, para 2(1) & B30(5) & B30A(5)	Employer (or Admin. Authority where Employer has become defunct)	<b>Mandatory</b>	Fulford Parish Council will not waive any actuarial reduction arising out of a voluntary early or flexible retirement. Fulford Parish Council will pay any pension strain costs arising out of voluntary early or flexible retirement where <b>this has been approved through its early/flexible retirement policy</b>
	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31/3/14 membership)	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	<b>Mandatory</b>	Fulford Parish Council will not waive any actuarial reduction on benefits paid which a member voluntarily draws before normal pension age
<b>Transferring in non LGPS pension rights</b>	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	Employer and Admin. Authority	Recommended	
<b>Transferring in LGPS pension rights (only for pre 1.4.14 re-joiners)</b>	Whether to extend the 12 month option period for aggregation of deferred benefits  <b>Care: This must match your existing discretion under the 2008 Scheme.</b>	A16(4)(b)(iii)	Employer	Recommended	
<b>Transferring in LGPS pension rights (only for post 1.4.14 re-joiners)</b>	Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment	R22(8)(b)	Employer	Recommended	<b>Suggested policy ****</b> will only extend the 12 month period for aggregation in exceptional circumstances

Joiners	Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with an ongoing concurrent employment	R22(7)(b)	Employer	Recommended	<b>Suggested policy ****</b> will only extend the 12 month period for aggregation in exceptional circumstances
Transferring in LGPS pension rights (ie. final salary benefits which will buy CARE pension only for post 1.4.14 re-joiners)	Whether to extend the 12 month option period for a member (who did not become a member of the 2014 Scheme by virtue of TP5 (1)) to elect that pre 1 April 2014 deferred benefit should be aggregated with a new employment	TP10 (6)	Employer	Recommended	
Employee contribution rate	Employers to assess the relevant contribution band to determine the rate of employee contribution.  Banded contribution rates for employees are based on actual pensionable pay received and not whole time equivalent salary. Employers to allocate appropriate band at each 1 April and determine other circumstances in which the banding will be reviewed.	R9(1) & R9(3)	Employer	Recommended	
Assumed Pensionable Pay (APP)	In determining APP, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	Employer	Recommended	
	Where in the employer's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments if appropriate) in the 3 months (or 12 weeks if not paid monthly) before the start of APP, is materially lower than the level of pensionable pay the member would have normally received  The discretion is whether to substitute a higher level of pensionable pay by taking into account the pensionable pay received by the member in the previous 12 months	R21(5A) & R21(5B)	Employer	Recommended	
Refund of contributions - member left due to an offence/grave misconduct	No right to return of contributions where a member left their employment due to offence of a fraudulent character or grave misconduct in connection with that employment unless employer directs a total or partial refund is to be made	R19(2)	Employer	Less Common	
Pensionable payments	<b>Specify in an employee's contract</b> what other payments or benefits, other than those specified in R20(1)(a) and not otherwise precluded by R20(2), are to be pensionable	R20(1)(b)	Employer	Less Common	
T3 ill health review	Determine whether person in receipt of Tier 3 ill health pension has started gainful employment	R37(3) & (4)	Employer	Less Common	
T3 ill health review overpayments	Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	R37(3)	Employer	Less Common	
Deferred member - ill health	Decide whether deferred beneficiary meets criteria of being permanently incapable of former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, <u>whichever is the sooner</u>	R38(3)	Employer (or Admin. Authority where Employer has become defunct)	Less Common	
T3 ill health recommencement	Decide whether a suspended ill health tier 3 member is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health	R38(6)	Employer (or Admin. Authority where Employer has become defunct)	Less Common	

Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1.4.08 and before 1.4.14

A = LGPS (Administration) Regulations 2008

B = LGPS (Benefits, Memberships and Contributions) Regulations 2007

T = LGPS (Transitional Provisions) Regulations 2008 (SI 2008/238)

Area	Discretion	Regulation	Exercised by	Key	Policy
<b>85 Year Rule</b>	Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60	TPSch 2, para, 1(2) & 1(1)(c)	Employer (or Admin. Authority where Employer has become defunct)	<b>Mandatory</b>	Fulford Parish Council will not switch on the 85 Year Rule for any deferred member voluntarily drawing benefits on or after age 55 and before age 60.
	Whether to "switch on" the 85 year rule for a pensioner member with deferred benefits (i.e. a suspended tier 3 ill health pensioner) voluntarily drawing benefits on or after age 55 and before age 60,	TPSch 2, para, 1(2) & 1(1)(c)	Employer (or Admin. Authority where Employer has become defunct)	<b>Mandatory</b>	Fulford Parish Council will not switch on the 85 Year Rule for any deferred member voluntarily drawing benefits on or after age 55 and before age 60.
<b>Waive reduction</b>	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member)	B30(5), TPsSch 2, para 2(1)	Employer (or Admin. Authority where Employer has become defunct)	<b>Mandatory</b>	Fulford Parish Council 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 <b>the Parish Council</b>
<b>Waive reduction</b>	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (pensioner member with deferred benefits, i.e. a suspended tier 3 ill health pensioner)	B30A(5), TPsSch 2, para 2(1)	Employer (or Admin. Authority where Employer has become defunct)	<b>Mandatory</b>	Fulford Parish Council will only be considered on compassionate grounds, taking into account the costs of waiving any reduction. All applications will be considered by <b>the Parish Council</b>

Discretions in relation to:

- a) councillor members who ceased active membership on or after 1.4.98., and
- b) any other scheme members who ceased active membership on or after 1.4.98. and before 1.4.08

L = LGPS Regulations 1997 (as amended) (SI 1997/1612)

R = LGPS Regulations 2013(SI 2013/2356)

TP = LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525)

Area	Discretion	Regulation	Exercised by	Key	Policy
<b>Employer consent retirement</b>	Grant application for early payment of deferred benefits on or after age 50 and before age 55	L31(2)	Employer	<b>Mandatory</b>	Fulford Parish Council will not grant early payment of deferred benefits before the age of 55.
<b>Waive reduction</b>	Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early	L31(5) & TPSch 2, para 2(1)	Employer	<b>Mandatory</b>	Fulford Parish Council will not waive actuarial reduction on deferred benefits paid early.
<b>85 Year Rule</b>	Whether to "switch on" the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60	TPSch 2, para 1(2) & 1(1)(f) & R60	Employer (or Admin. Authority where Employer has become defunct)	<b>Mandatory</b>	Fulford Parish Council will not switch on the 85 Year Rule for any deferred member voluntarily drawing benefits on or after age 55 and before age 60.

Discretions in relation to scheme members who ceased active membership before 1.4.98

LGPS Regulations 1995 (as amended) (SI 1995/1019)

TL = LGPS (Transitional Provisions) Regulations 1997 (SI 1997/1613)

Area	Discretion	Regulation	Exercised by	Key	Policy
<b>Employer consent retirement</b>	Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds	TP3(5A)(vi) TL4 & L106(1) & D11(2)(c)	Employer (or Admin. Authority where Employer has become defunct)	<b>Mandatory</b>	Fulford Parish Council will not grant applications for early payment of deferred benefits between the ages of 50 and 55. Over the age of 55, Fulford Parish Council will consider on a case by case basis.

Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended) (SI 2006/2914)

Under the Discretionary Compensation Regulations, each authority (other than an admitted body - but see comment in this cell) is required to formulate and keep under review a policy which applies in respect of exercising their discretion on the areas below

Area	Discretion	Regulation	Exercised by	Key	Policy
<b>Redundancy Pay on actual weeks pay</b>	To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit	5	Employer	<b>Mandatory</b>	When calculating redundancy payments, Fulford Parish Council will use the employee's actual weekly pay plus the applicable employer pension contribution rate, where the total does not exceed the statutory weekly capped amount. Where these combined payments exceed the statutory weekly capped amount the higher of actual weekly pay or the statutory weekly amount will be used. These entitlements will be applied to part-time staff on a pro rata basis.
<b>Lump sum compensation</b>	To award lump sum compensation of up to 104 weeks pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment	6	Employer	<b>Mandatory</b>	Fulford Parish Council will not award any lump sum compensation in any situations.

Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended) (SI 2000/1410)

These regulations still apply to any compensatory added years previously awarded by a scheme employer before 1 April 2007. Scheme employers (other than an admitted body - but see comment in this cell) who made awards of compensatory added years are required to have a published policy, which is kept under review, on the areas below

Area	Discretion	Regulation	Exercised by	Key	Policy
<b>Abatement during re-employment</b>	To what extent to reduce or suspend the member's annual compensatory added years (CAY) payment during any period of re-employment in local government	17	Employer	<b>Mandatory</b>	Fulford Parish Council will make a determination after consultation with the administering Authority and having regard to the date of original award.
<b>Reduction following cessation of re-employment</b>	How to reduce the member's annual CAY payment following the cessation of a period of re-employment in local government	19	Employer	<b>Mandatory</b>	Fulford Parish Council will make a determination after consultation with the administering Authority and having regard to the date of original award.
<b>Apportionment of survivor benefit</b>	How to apportion any surviving spouse's or civil partner's annual CAY payment where the deceased person is survived by more than one spouse or civil partner	21(4)	Employer	<b>Mandatory</b>	Fulford Parish Council will consider on a case by case basis.
<b>Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments</b>	Whether, 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 1 April 1998, the normal pension suspension rules should be disapplied i.e. whether the spouse's or civil partner's annual CAY payments should continue to be paid	21(7)	Employer	<b>Mandatory</b>	Fulford Parish Council will consider on a case by case basis.
	If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual CAY payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation	21(5)	Employer	<b>Mandatory</b>	If Fulford Parish Council determined to suspend such payment, it will reinstate after the end of the remarriage, new civil partnership or cohabitation.

Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or cohabitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them	21(7)	Employer	Mandatory	Fulford Parish Council will consider on a case by case basis.
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**Discretions under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011(SI 2011/2954)**

Under the Injury Allowances Regulations, each scheme employer (other than an admitted body - but see comment in this cell) must have a published policy, which is kept under review, that it will apply under the Injury Allowances Regulation in respect of leavers, deaths and reductions in pay that occurred after 15 January 2012

Area	Discretion	Regulation	Exercised by	Key	Policy
Injury Allowances	Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	3(1)	Employer	Mandatory	Fulford Parish Council will consider each case on its merits.
	Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	3(4) and 8	Employer	Mandatory	Any injury allowance granted will not exceed the amount of the reduction in remuneration offset against any other benefits, payments or awards received in relation to the injury or disease.
	Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1) (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job)	3(2)	Employer	Mandatory	Any injury allowance granted will cease when the employee leaves employment with Fulford Parish Council. The injury allowance will be reviewed should the employee's circumstances change e.g. relation to the employee's working or earning capacity or other payments received.
	Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job	4(1)	Employer	Mandatory	Fulford Parish Council will consider each case on its merits.
	Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job	4(3) and 8	Employer	Mandatory	Any injury allowance granted will not exceed 85% of the employee's final pensionable remuneration, offset against any other benefits, payments or awards received in relation to the injury or disease.
	Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity)	4(2)	Employer	Mandatory	Any injury allowance granted will cease when the employee reaches their state pension age or is granted tier 1 ill-health retirement.
	Whether to suspend or discontinue injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.	4(5)	Employer	Mandatory	Any injury allowance granted will be reassessed or suspended if the employee becomes capable of working again.
	Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a regulation 3 payment (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) was being made at date of cessation of employment but regulation 4 (loss of employment through permanent incapacity) does not apply	6(1)	Employer	Mandatory	Fulford Parish Council will not make an injury allowance.
	Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following cessation of employment)	6(1)	Employer	Mandatory	Fulford Parish Council will not make an injury allowance.
	Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowance following cessation of employment)	6(2)	Employer	Mandatory	Fulford Parish Council will not make an injury allowance.
	Whether to grant an injury allowance to the spouse, civil partner, co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	7(1)	Employer	Mandatory	Fulford Parish Council will consider each case on its merits.
	Determine amount of any injury allowance to be paid to the spouse, civil partner or co-habiting partner under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job)	7(2) and 8	Employer	Mandatory	Any injury allowance granted will not exceed 85% of the employee's final pensionable remuneration, offset against any other benefits, payments or awards received in relation to the injury or disease.
	Determine whether and when to cease payment of an injury allowance payable under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job)	7(3)	Employer	Mandatory	Any injury allowance granted will cease at the date when the employee would have reached their state pension age or may be reviewed if the beneficiary remarries, enters into a new civil partnership or cohabits.