

WYPCC – Decision

From: Sophie Abbott, Interim CFO.

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Timing:	Pressing – new regulations put in place with effect from 1.4.14.
Purpose:	Decision on the policy statement relating to discretionary pensions, age 55-60.
Cleared by:	Fraser Sampson

SUBJECT OF ADVICE

Summary: The 2014 LGPS Regulations introduced on 1 April 2014 provide for a new option where a member of the scheme can choose to voluntarily draw their pension benefits on or after age 55 and before age 60 without the need of the employer's permission.

Within the Regulations, an employer is able to exercise a number of discretions, but before doing so, the regulations require employers to make and publish policy statements on how they will exercise their discretion.

A number of enquiries have been made to the Pension Section seeking information regarding employer discretions, in particular how the employer will apply the rule of 85.

Background:

1. The Local Government Pension Scheme (LGPS) Regulations require employers to make and publish policy statements on how they will exercise any employer discretion. The 2014 LGPS Regulations have introduced a new option where a member of the scheme can choose to voluntarily draw their pension benefits on or after age 55 and before age 60 without the need of the employer's permission. A number of enquiries have been made to the Pension Section seeking information regarding employer discretions, in particular how the employer will apply the rule of 85. It has therefore been considered necessary to have a discretionary statement in place as near to 1 April as possible.
2. It will be necessary to provide a further number of discretion statements. It is anticipated that these will be submitted together, for consideration by the PCC in the near future.
3. Under the current (and earlier) LGPS Regulations, any member request to have benefits brought into payment earlier than age 60 require the consent of the employer before the request is granted. This is due to the fact that there may be

inherent costs to the employer in agreeing early payment of benefits due to the rule of 85 over which the employer has no control.

4. The rule of 85 is satisfied if the age at the date a member draws their benefits, plus scheme membership (both age and membership in whole years), adds up to 85 years or more.
5. The April 2014 LGPS Regulations now mean that an employee may elect to go at age 55 and over up until age 60 without employer consent, but no longer has the full protection of the 85 year rule unless the employer agrees to exercise a discretion to allow its application.
6. Attached at **Appendix A** is a discretion statement for application of the rule of 85, providing information for members of the scheme to help them understand the rule and the criteria the employer will apply when exercising its discretion.

Recommendation: It is recommended that the PCC approve the proposed Discretion Statement and for it to be implemented with immediate affect.

Affordability: Turning on the rule of 85 will incur employer costs in the majority of cases. The costs will vary dependant upon the employee's age and service attained at the time of retirement.

For information, as at 31 March 2014 there were 114 members of the LGPS, 9 were aged 55 and over with a further 2 members attaining age 55 during 2015/2016.

Handling: The Discretionary Pensions Award - Police Staff policy, will need to be amended

Risks/Legal Opinion:

Supporting and Dissenting Views: Stephen Davies, Employee Relations Manager has discussed the proposed Draft Discretion statement with the Unions and Staff associations at the weekly consultation meeting of 26 March 2014. No issues were raised.

APPENDICES:

Appendix A - Discretionary Policy Statement – Rule of 85 and Protection.

Rule of 85 and age 55 to 60 Retirements **Discretionary Policy Statement**

This statement has been put in place ahead of publication of any guidance to employers as regards their obligations for application of discretions. Schedule 2 of the Transitional Regulations applies.

The PCC reserves the right to make changes to this statement once the full extent of the Transitional Regulations are known.

Rule of 85

The rule of 85 protects a member's benefits from the normal early payment reduction. To have the rule of 85, a member must have been a member of the Local Government Pension Scheme (LGPS) on 30 September 2006. The rule of 85 is satisfied if the age at the date a member draws their benefits, plus scheme membership (both age and membership in whole years), adds up to 85 years or more.

The rule of 85 protection will continue to apply from 1 April 2014 with one exception. The only occasion where this protection will not automatically apply is where the member chooses to voluntarily draw their benefits on or **after age 55 and before age 60**. In this instance, members are taking their benefits without the need for employer permission. From 1 April 2014, this is a new option where employer consent is no longer required for the release of benefits between age 55 and 60.

From April 2014, where a member chooses to retire and take their benefits at any point from age 55, notice of their intention MUST be given no less than three months from the intended date of payment.

Information

Previously, the rule of 85 protections were automatically applied where a member was allowed to retire at age 55 and over up until age 60. In doing so, there were immediate costs to the employer over which the employer had no control

Application of the 85 year rule

The rules for application can be quite complex, but the following provides general guidance. For a more detailed understanding, members should direct their queries to the West Yorkshire Pension Fund (WYPF)

- **If a member does not satisfy the rule of 85 by the time they reach age 65.** All benefits are reduced if the member chooses to draw their benefits before Normal Pension age. The reduction will be based on how many years before a member's Normal Pension Age (age 65 for pension built up to April 2014 and before State Pension age for pension built up from April 2014) when they draw their benefits.

- **If a member will be age 60 or over by 31 March 2016** and they choose to draw their pension before Normal pension age then, provided the 85 year rule is satisfied when the member starts to draw their benefits, the benefits accrued up to 31 March 2016 will not be reduced.
- **If a member is under age 60 by 31 March 2016** and a member chooses to draw pension before their protected Normal Pension age, then provided the rule of 85 is satisfied when the member starts to draw their pension, the benefits accrued up to 31 March 2008 will not be reduced, Also, if the member is aged 60 between 1 April 2016 and 31 March 2020 and meet the 85 year rule by 31 March 2020, some of the benefits built up between 1 April 2008 and 31 March 2020 will not have a full reduction.

Discretion

Under the 2014 Pension Regulations, LGPS Scheme employers are able to exercise discretion to “turn on” the rule of 85 for members. This is likely to create up front costs to the employer as well as reducing or even removing any reduction to the member’s benefits.

Employers still retain the right to waive, on compassionate grounds any actuarial reductions that applies to benefits accrued before 1 April 2014 and to waive, in whole or part (on any grounds), any actuarial reduction that would otherwise apply to benefits accrued after 31 March 2014.

Employer Discretion – Application

Members who are aged 55 or over may apply directly to the WYPF for an estimate of benefits if they intend to retire without employer consent and in doing so, accept that the rule of 85 will not be applied.

Members may choose to request the employer to exercise its discretion to “switch on” the rule of 85.

The employer will consider applications made under the regulations having regard to the particular circumstances surrounding each case having particular regard to:

- The operating requirements of the employing department
- The employer’s ability to meet the cost of granting such a request
- Whether any demonstrable cost savings in excess of savings under any severance (redundancy) arrangements can be made
- Any potential benefits or savings to the employer arising from the exercise of this discretion.
- The member’s personal circumstances.

Applications

All applications should be submitted to the Pensions Section via their HR Manager, for a decision to be made by the PCC, having taken advice from his CFO.