

Human Resource

Employer Discretions Policy - LGPS

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| Academy level contribution: | n/a | |
| CEO approval: | Sean Kelly | Date: July 2019 |
| Education Group consultation (where applicable): | | Date: May 2019 |
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The Local Government Pension Scheme Regulations 2013 (“the 2013 Regulations”) and The Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014 (“the 2014 Regulations”)

1. Overview

- 1.1 The Local Government Pension Scheme (“LGPS”) in England and Wales was amended with effect from 1 April 2014. The provisions of the amended LGPS are now contained in the 2013 Regulations and the 2014 Regulations. This policy statement relates to the exercise of the employer discretions contained in the above Regulations.

General Principles to be Adopted in Exercising Discretions

- 1.2 The trust, in formulating the policy statements outlined below, has sought to ensure that its discretionary powers will be exercised reasonably. The discretionary powers:
- a) will be exercised in the public interest;
 - b) will not be used for an ulterior motive;
 - c) will be used with regard to all relevant factors (costs to the Academy Trust will be balanced against benefit for the Academy Trust);
 - d) will only be used where there is a real and substantial benefit to the Academy Trust in return for incurring extra costs;
 - e) will only be used having considered the views of the scheme Actuary; and
 - f) will be duly recorded when used.
- 1.3 The trust will also consider the views of the pensions administering authority (currently Nottinghamshire Local Government Pension Fund).
- 1.4 In support of its deliberations regarding requests made on compassionate grounds, the trust will take into account all relevant factors and require whatever information, documentation and supporting evidence it considers appropriate.
- 1.5 The employer discretionary powers will be exercised having regard to the extent to which the exercise of any policy discretion would lead to a serious loss of confidence in the public service.
- 1.6 The policy statements do not limit or fetter how the trust exercises any of the discretions afforded by the pension scheme.

2. The Discretions

| Regulation | Policy |
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| <p>Regulations 16(2)(e) and 16(4)(d) of the 2013 Regulations</p> <p>Shared Cost Additional Pension Scheme</p> <p>An employer can choose to pay for or contribute towards a member's Additional Pension Contract via a Shared Cost Additional Pension Contract (SCAPC).</p> | <p>As a general rule the trust's policy is not to exercise this discretion but the trust will consider individual cases on their merits having regard to the cost to the trust.</p> <p>Any application must be supported by a business case in writing.</p> |
| <p>Regulation 30(6) of the 2013 Regulations & regulation 11(2) of the 2014 Regulations</p> <p>Flexible Retirement</p> <p>Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is subject to the employer agreeing to the member either reducing their hours or moving to a position on a lower grade.</p> <p>In such cases, pension benefits will be reduced in accordance with actuarial tables, unless the employer waives reduction on compassionate grounds, or a member has protected rights.</p> | <p>When exercising its discretion in relation to flexible retirement, the trust will look at its operating requirements; have regard to pension fund members' individual circumstances and the impact on services of granting flexible retirement together with the cost to the Academy Trust.</p> <p>As a general rule the trust will only grant flexible retirement to members where there is, in the opinion of the trust, a financial or operational benefit to the trust in granting the member's request for flexible retirement.</p> <p>As a general rule the trust's policy is not to exercise this discretion but will consider individual cases on their merits having regard to the cost to the trust.</p> <p>Any application by a scheme member must be supported by a business case in writing.</p> <p>The trust will not as a general rule exercise its discretion to waive any actuarial reduction in benefits although each case will be considered on its merits (see further below).</p> |
| <p>Regulation 30(8) of the 2013 Regulations</p> <p>Waiving actuarial reduction</p> <p>Employers have the power to waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members benefits paid on the grounds of flexible retirement.</p> | <p>As a general rule the trust's policy is not to exercise these discretions but it will consider individual cases on their merits having regard to the compassionate grounds of individual members and having regard to the cost to the trust.</p> |

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| <p>Employers may also waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to member's benefits for deferred members and suspended tier 3 ill health pensioners who elect to draw benefits on or after age 60 and before normal pension age.</p> <p>Employers also have the power to waive, in whole or in part, the actuarial reduction applied to active members benefits when a member chooses to voluntarily draw benefits on or after age 55 and before age 60.</p> | |
| <p>Schedule 2, paragraphs 1(1)(c), 2(2) and 2(3) of the 2014 Regulations</p> <p>Power of employing authority to 'switch on' the 85 year rule</p> <p>An employer can choose whether to 'switch on' the 85 year rule for members who voluntarily retire on or after age 55 and before age 60.</p> <p>An employer can also choose to waive, on compassionate grounds, the actuarial reduction applied to benefits for a member voluntarily drawing benefits on or after age 55 and before age 60.</p> | <p>The trust's policy is not to switch on the 85 year rule or, as a general rule, to exercise the discretion to waive on compassionate grounds the actuarial reduction but the trust will consider individual cases on their merits and having regard to the cost to the trust.</p> |
| <p>Regulation 31 of the 2013 Regulations</p> <p>Power of employing authority to grant additional pension</p> <p>An employer can choose to grant additional pension to an active member or to a member within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6500* per annum).</p> <p>(*the figure of £6500 will be increased each April under Pensions Increase Orders)</p> | <p>As a general rule the trust's policy is not to exercise this discretion, but it will consider individual cases on their merits and having regard to the cost to the trust.</p> <p>An application for additional pension must be supported by a business case in writing.</p> |

- 2.1 A copy of this document is being published on the trust's website and is being sent to the Nottinghamshire Local Government Pension Fund as the appropriate pensions administering authority. In preparing this policy statement we have had regard to the extent to which the exercise of the functions mentioned in this policy could lead to a serious loss of confidence in the public service. We are satisfied that our adopted policies would not lead to any such loss of confidence and that the policy individually and generally is workable, affordable and reasonable having regard to foreseeable costs.
- 2.2 All personal data collected, processed and stored under the provisions of this policy will be in accordance with our data protection policy, our Workforce Privacy Notice, our Retention and Destruction Policy and in line with the requirements of (i) the General Data Protection Regulation ((EU) 2016/679) (unless and until it is no longer directly applicable in the UK) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018.
- 2.3 This policy will be kept under review. It will be reviewed at least every 2 years, or earlier where the relevant regulations are amended. Any subsequent change in this policy statement will be notified to affected employees and to Nottinghamshire Local Government Pension Fund and will be published on the trust's website before the end of the month that any such revisions are made in.