



# Discretions Policy

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## 1. Definitions

A “School” refers to the individual academies within the Trust. Depending on the context this may refer to a singular academy or to all of the academies within the Trust but as separate entities.

The “Trust” refers to all schools within the University Schools Trust, East London and all Trustees, Governors and Staff and who work within it.

“Staff” refers to any individual who is employed by the Trust or who operates on the Trust’s behalf, e.g. Trustees and Governors

## 2. Scope of the Policy

The Local Government Pension Scheme Regulations require an Employer to prepare and keep under review, a written statement of its policy in relation to the exercise of its discretion under a number of provisions of the Regulations.

Similarly, there are a number of discretions under the Regulations which although not specifically requiring a written policy, would benefit from employers doing so, thereby demonstrating and ensuring a fair and consistent approach amongst its scheme members.

## 3. Policy Aims and Ethos

This policy aims to meet the obligations of the LGPS whilst ensuring value for money and financial stability. University Schools Trust will adopt an approach that befits the size, finances and current staffing levels at the Trust. In addition, the decisions regarding the discretionary powers have been taken to ensure the affordability of the scheme to all members.

The Pensions Ombudsman considers that “Where the decision maker is an employer exercising a discretionary power, they have an implied duty of good faith to their employees; that is, there is an implied duty of trust and confidence between an employer and its employees”. In the same judgment he goes on to say “It is clear therefore that the employer is entitled to have regard to their own interests when exercising discretion, which includes their own financial interests.” Some employer or administering authority decision have the effect of producing a pension strain or additional cost to the employer or pension fund. In considering these matters it is legitimate for the decision-making body to include the additional cost as a factor in reaching a decision. However, cost is only one of the factors at play and must be considered in the overall context and with regard to all other relevant factors. A policy that consists of a blanket refusal to follow any course of action that results in a cost to the fund or employer is likely to be seen as fettering discretions, i.e. a policy should not be so restrictive as to prevent flexibility where a (possibly unanticipated) situation requires it.

## 4. Links to Legislation and Guidance Documents

Together with the description of each required policy, the relevant Regulation is provided, as per the key below.

- The Local Government Pension Scheme (Administration) Regulations 2008 (prefix **A**)

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- LGPS (Benefits, Membership and Contributions) Regulations 2007 (prefix **B**)
- The Local Government Pension Scheme 1997 Regulations (prefix **L**)
- The Local Government Pension Scheme Regulations 2013 (prefix **R**)
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix **TP**)

## 5. Roles and Responsibilities

### 5.1. Trust Board

The Trust Board has overall responsibility for the maintenance and operation of this policy. They will maintain a record of concerns raised and the outcomes.

### 5.2. Resources committee

The Resources Committee of the Trust have overall responsibility for the implementation and monitoring of the LGPS Discretionary Policy for all Trust schools.

The Resources Committee have responsibility for ensuring that the LGPS Discretionary Policy, as written, does not discriminate on any grounds, including but not limited to: age, ethnicity/national origin, culture, religion, gender, disability or sexual orientation. The Trust is committed to equality and this policy has been created in accordance with anti-discrimination laws, the Equality Act 2010 and with regard to Age Regulations.

The Resources Committee have overall responsibility for handling complaints regarding this policy as outlined in the Complaints Policy.

### 5.3. Trust Leader / Headteachers

In the first instance, complaints should be directed to the:

- The Trust Leader for executive team staff, and
- The Headteacher of the school for school staff

## 5. Administration

A Scheme employer **must** send a copy of its policy statement to the administering authority (London Borough of Tower Hamlets and Royal Borough of Greenwich) and **must** ensure that a copy is published and easily accessible to all of its eligible Scheme employees.

A Scheme employer **must** keep its statement of policy under review and make such revisions as are appropriate following a change of its policy. Where a revision to the statement is made, a Scheme employer **must** send a copy of its revised statement to the administering authority before the expiry of one month beginning with the date that any such revision is made and **must** ensure that a copy is published and easily accessible to all of its eligible Scheme employees.

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## 6. Mandatory Discretions for members active on or after 1 April 2014

These discretions are Employer discretions under The Local Government Pension Scheme Regulations 2013 (prefix **R**) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix **TP**) on which Employers are required to formulate and publish a policy.

These are mandatory discretions.

Regulation	Discretion	Policy
<b>R16(2)(e)</b>	<p><b>Additional pension</b></p> <p>Where Additional Pension Contributions are to be paid by regular contributions in order to purchase additional pension, whether to fund in whole or in part a member's additional pension contribution.</p>	<b>The Trust Board will not award any additional pension.</b>
<b>R16(4)(d)</b>	<p><b>Additional pension</b></p> <p>Where an Additional Pension Contribution is to be paid by a lump sum contribution in order to purchase additional pension, whether to fund in whole or in part a member's additional pension contribution. The maximum additional pension which can be purchased is £7,026 with effect from 1 April 2019</p>	<b>The Trust Board will not award any additional pension.</b>
<b>R30(8)</b>	<p><b>Waive reductions on retirement</b></p> <p>Whether to waive in whole or in part any reduction in a member's pension benefits as a result of a member who has not attained normal pension age but who has attained the age of 55 or over and has elected, under R30(5), to receive immediate payment of a retirement pension.</p> <p>Whether to waive in whole or in part any reduction in a member's pension benefits where a member flexibly retires under R30(6).</p>	<b>The Trust Board may consider exercising this discretion but any decision to do so will be taken in the full knowledge of the potential financial cost to the Trust.</b>

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Regulation	Discretion	Policy
R31	<p><b>Additional Pension</b></p> <p>Whether to award additional pension up to the maximum (£7,026 with effect from 1 April 2019) to an active member or a member who was an active member who was dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency within 6 months of the date the member's employment ended.</p>	<p><b>The Trust Board will not award any additional pension.</b></p>
TP Schedule 2, para 1(1)(c) and 1(3)	<p><b>Switch on the 85 year rule</b></p> <p>Where a member is voluntarily retiring between the ages of 55 and 60 and has a period of service which is covered by the rule of 85, the rule does not automatically apply. The employer has the discretion to allow for the rule of 85 to be "switched on".</p>	<p><b>The Trust Board will not normally "switch" on the rule of 85, unless exceptional circumstances apply and it is in the Trust's economic or operational interests to do so, as detailed in a business case.</b></p>
TP3(1), TP Schedule 2, para 2(1), R30(8).	<p><b>Waive reductions on compassionate grounds</b></p> <p>Whether to waive upon the voluntary early payment of benefits, any actuarial reduction on compassionate grounds or, for periods of service to which the compassionate service discretion does not apply, to waive any actuarial reduction on any grounds.</p>	<p><b>The Trust Board will not normally waiver reductions on compassionate grounds, unless exceptional circumstances apply and it is in the Trust's economic or operational interests to do so, as detailed in a business case.</b></p>

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## 7. Mandatory Discretions for members who ceased active membership between 1 April 2008 and 31 March 2014

These discretions are Employer discretions under The Local Government Pension Scheme (Administration) Regulations 2008 (prefix **A**), LGPS (Benefits, Membership and Contributions) Regulations 2007 (prefix **B**), and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix **TP**) on which Employers are required to formulate and publish a policy.

These are mandatory discretions.

Regulation	Discretion	Policy
TP1(1)(c) & TP1(2) of Schedule 2	<p><b>Switch on the 85 year rule</b></p> <p>Where a member is voluntarily drawing their deferred benefits between the ages of 55 and 60 and has a period of service which is covered by the rule of 85, the rule does not automatically apply. The employer has the discretion to allow for the rule on 85 to be "switched on".</p>	<p>The Trust Board will not exercise this discretion, however we may consider individual cases on their own merits and may award this discretion in exceptional circumstances and if there is a sound business case.</p>
TP1(1)(c) & TP1(2) of Schedule 2	<p><b>Switch on the 85 year rule for suspended tier 3 members</b></p> <p>Where a member is voluntarily drawing their suspended tier 3 ill health pension between age 55 and 60 and has a period of service which is covered by the rule of 85, the rule does not automatically apply. The employer has the discretion to allow for the rule on 85 to be "switched on".</p>	<p>The Trust Board will not exercise this discretion, however we may consider individual cases on their own merits and may award this discretion in exceptional circumstances and if there is a sound business case.</p>
B30(5) and TP2(1) of Schedule 2	<p><b>Waive reductions on compassionate grounds</b></p> <p>Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p>	<p>The Trust Board will not exercise this discretion, however we may consider individual cases on their own merits and may award this discretion in exceptional circumstances and if there is a sound business case.</p>

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Regulation	Discretion	Policy
B30A(5) & T2(1) of Schedule 2	<p><b>Waive reductions on compassionate grounds</b></p> <p>Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to any suspended tier 3 ill health pension benefits which are brought back into payment before age 65.</p>	<p><b>The Trust Board will not exercise this discretion, however we may consider individual cases on their own merits and may award this discretion in exceptional circumstances and if there is a sound business case.</b></p>

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## 8. Mandatory Discretions for members who ceased active membership between 1 April 1998 and 31 March 2008

These discretions are Employer discretions under The Local Government Pension Scheme 1997 Regulations (prefix L) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix TP) on which Employers are required to formulate and publish a policy.

These are mandatory discretions.

Regulation	Discretion	Policy
TP1(1)(f) & TP1(2) of Schedule 2	<p><b>Switch on the 85 year rule</b></p> <p>Where a member is voluntarily drawing their deferred benefits between the ages of 55 and 60 and has a period of service which is covered by the rule of 85, the rule does not automatically apply. The employer has the discretion to allow for the rule on 85 to be "switched on".</p>	<p>The Trust Board will not exercise this discretion, however we may consider individual cases on their own merits and may award this discretion in exceptional circumstances and if there is a sound business case.</p>
L31(2)	<p><b>Release benefits between age 50 and 55</b></p> <p>Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55.</p>	<p>The Trust Board will not exercise this discretion, however we may consider individual cases on their own merits and may award this discretion in exceptional circumstances and if there is a sound business case.</p>
L31(5) & TP 2(1) of Schedule 2	<p><b>Waive reductions on compassionate grounds</b></p> <p>Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65</p>	<p>The Trust Board will not exercise this discretion, however we may consider individual cases on their own merits and may award this discretion in exceptional circumstances and if there is a sound business case.</p>

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## 9. Mandatory Discretions for members who ceased active membership before 1 April 1995

These discretions are Employer discretions under The Local Government Pension Scheme 1995 on which Employers are **required** to formulate and publish a policy.

These are mandatory discretions.

Regulation	Discretion	Policy
D11(2)(C)	<p><b>Waive reductions on compassionate grounds</b></p> <p>Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65</p>	<p><b>The Trust Board will not exercise this discretion, however we may consider individual cases on their own merits and may award this discretion in exceptional circumstances and if there is a sound business case.</b></p>

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## 10. Non-mandatory discretions

These discretions are Employer discretions under The Local Government Pension Scheme Regulations 2013 (prefix **R**) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix **TP**) on which Employers are recommended to formulate and publish a policy.

These are non-mandatory discretions.

Regulation	Discretion	Policy
R17 & TP15(2A)	<p><b>Shared cost AVC</b></p> <p>Whether, how much, and in what circumstances to contribute to a Shared Cost Additional Voluntary Contribution (SCAVC) arrangement</p>	<p><b>The Trust Board will not contribute to a Shared Cost Additional Voluntary Contribution (SCAVC)</b></p>
R16(16)	<p><b>Late additional pension election</b></p> <p>Whether to extend the 30 day deadline for member to elect for a Shared Cost Additional Pension Contribution (SCAPC) upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave)</p>	<p><b>The Trust Board will not extend the 30 deadline for a Shared Cost Additional Voluntary Contribution (SCAVC) upon return from a period of absence from work.</b></p>
R100(6)	<p><b>Late transfer election</b></p> <p>Whether, with the agreement of the Pension Fund administering authority, to permit a member to elect to transfer pension rights from another registered pension scheme into the LGPS, if they had not made such an election to do so within 12 months of first joining the LGPS in that employment.</p>	<p><b>The Trust Board will not permit a member to elect to transfer pension rights from another registered pension scheme if they had not made such an election to do so within 12 months of first joining the LGPS in that employment.</b></p>
R22(7) and (8)	<p><b>Late non-aggregation election (post 31 March 2014 service)</b></p> <p>Whether to extend the 12 month time limit within which a member who has a deferred LGPS benefit following the cessation of employment (or cessation of a concurrent employment) after 31 March 2014 may elect</p>	<p><b>The Trust Board will not permit a member to extend the 12 month time limit to have their deferred benefits aggregated with their new LGPS employment.</b></p>

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	not to have their deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in that new employment (or within 12 months of ceasing the concurrent membership).	
TP10(6)	<p><b>Late aggregation election (pre 1 April 2014 service)</b></p> <p>Whether to extend the 12 month time limit within which a member who has a deferred LGPS benefit in England or Wales following the cessation of employment before 1 April 2014, to elect to aggregate their deferred benefits with their new LGPS employment that commenced on or after 14 May 2018. The aggregation will provide additional pension for the member.</p>	<b>The Trust Board will not permit a member to extend the 12 month time limit to have their deferred benefits aggregated with their new LGPS employment.</b>
R9&R10	<p><b>Contribution banding</b></p> <p>How the pension contribution band to which an employee is to be allocated on joining the Scheme, and at each subsequent April, will be determined and the circumstances in which the Scheme employer will, in addition to the review each April, review the pension contribution band to which an employee has been allocated following a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March)</p>	<b>An employee is allocated to a pension contribution band each month based on their pensionable pay in the month and hence the pension contribution banding can fluctuate month on month.</b>
R21(4)(a)(iv), R21(4)(b)(iv) and 2R1(5)	<p><b>Lump Sums and assumed pensionable pay</b></p> <p>Whether, when calculating Assumed Pensionable Pay (APP) to include in the calculation the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death</p>	<b>The Trust Board will not exercise this discretion, however we may consider individual cases on their own merits and may award this discretion in exceptional circumstances and if there is a sound business case.</b>

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	occurred. A 'regular lump sum payment' is a payment for which the member's Scheme employer determines there is a reasonable expectation that such a payment would be paid on a regular basis.	
<b>R21(5A) and R21(5B)</b>	Where the calculation of Assumed Pensionable Pay (APP), is materially lower than the level of pensionable pay the member would have normally received, decide whether to substitute a higher level of pensionable pay when calculating APP, having had regard to the level of pensionable pay received by the member in the previous 12 months.	<b>The Trust Board will not exercise this discretion, however we may consider individual cases on their own merits and may award this discretion in exceptional circumstances and if there is a sound business case.</b>

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### 11. Approval Signature

Signature of (enter position e.g. Chair) \_\_\_\_\_

Print name \_\_\_\_\_

Date \_\_\_\_\_

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