



**THIS POLICY COVERS ALL ACADEMIES/SCHOOLS WITHIN
ARDEN MULTI-ACADEMY TRUST**

Name of Policy	Employer Discretions Policy	
Lead	Martin Murphy, CEO	
Governor Committee	Business & Personnel Committee	
Policy Status	Draft	May 2023
	Trustee Approved	12 th December 2023
Version No.	1	
Next Review	Autumn Term 2024	
Amendments		



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”)

Overview

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

Arden Multi Academy Trust (“the Academy Trust”), in formulating the policy statements outlined below, has sought to ensure that its discretionary powers will be exercised reasonably. The discretionary powers;

- will be exercised in the public interest;
- will not be used for an ulterior motive;
- will be used with regard to all relevant factors (costs to the Academy Trust will be balanced against benefit for the Academy Trust);
- will only be used where there is a real and substantial benefit to the Academy Trust in return for incurring extra costs;
- will only be used having considered the views of the scheme Actuary; and
- will be duly recorded when used.

The Academy Trust will also consider the views of the pensions administering authority (currently [state pensions administering authority]).

In support of its deliberations regarding requests made on compassionate grounds, the Academy Trust will take into account all relevant factors and require whatever information, documentation and supporting evidence it considers appropriate.

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.

The policy statements do not limit or fetter how the Academy Trust exercises any of the discretions afforded by the pension scheme.

The Discretions

Regulation	Policy
<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 Academy Trust’s policy is not to exercise this discretion.</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>When exercising its discretion in relation to flexible retirement, the Academy 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 Academy Trust will only grant flexible retirement to members where there is, in the opinion of the Academy Trust, a financial or operational</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>benefit to the Academy Trust in granting the member's request for flexible retirement.</p> <p>As a general rule the Academy Trust's policy is not to exercise this discretion but will consider individual cases on their merits having regard to the cost to the Academy Trust.</p> <p>Any application by a scheme member must be supported by a business case in writing.</p> <p>The Academy 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>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>As a general rule the Academy 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 Academy Trust.</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 Academy 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 Academy Trust will consider individual cases on their merits and having regard to the cost to the Academy 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 Academy 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 Academy Trust.</p> <p>An application for additional pension must be supported by a business case in writing.</p>

Section 2: Pre 2014 mandatory discretions

Discretions to be exercised on and after 1 April 2014 in relation to scheme members who ceased active membership between **1 April 2008 and 31 March 2014**

<p>‘Switch on’ the 85-year rule TPSch 2, para 1(2) & 1(1)(c)</p> <p><i>‘Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.’</i></p> <p><i>‘Whether to “switch on” the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.’</i></p>	<p>The Academy 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 Academy Trust will consider individual cases on their merits and having regard to the cost to the Academy Trust.</p>
<p>Waive actuarial reductions to members benefits B30(5), B30A(5), TPSch 2, para 2(1)</p> <p><i>‘Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member).’</i></p> <p><i>‘Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (pensioner member with deferred benefits).’</i></p> <p>An employer can decide 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>As a general rule the Academy 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 Academy Trust.</p>

Section 3: Pre 2014 mandatory discretions

Discretions to be exercised on and after 1 April 2014 in relation to scheme members who ceased active membership between 1 April 1998 and 31 March 2008

<p>Grant application for early payment of deferred benefits R31(2) LGPS Regulations 1997</p> <p><i>Grant application for early payment of deferred benefits on or after age 50 and before age 55.'</i></p>	<p>As a general rule the Academy 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 Academy Trust.</p> <p>An application for additional pension must be supported by a business case in writing</p>
<p>‘Switch on’ the 85-year rule upon the voluntary early payment of deferred benefits TPSch 2, para 1(2) & 1(1)(f) & R60</p> <p><i>‘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.’</i></p>	<p>The Academy 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 Academy Trust will consider individual cases on their merits and having regard to the cost to the Academy Trust.</p>
<p>Waive actuarial reductions to members benefits R31(5) 1997 & TPSch 2, para 2(1)</p> <p><i>‘Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.’</i></p> <p>An employer can decide whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65.</p>	<p>As a general rule the Academy 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 Academy Trust.</p>

Section 4: Pre LGPS 2014 mandatory discretions
Discretions to be exercised on and after 1 April 2014 in relation to members who ceased active membership before 1 April 1998

<p>Grant application for early payment of deferred benefits TP3(5A)(vi), TL4, L106(1) 1997 Transitional & D11(2)(c) 1995 Regs</p> <p><i>Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds. Although the common provisions of the 1997 Transitional provisions regulations do not specify regulation D11(2)(c), there intention was that it should apply to this regulation.'</i></p> <p>Employers can decide whether to grant applications early payment of deferred pension benefits on or after age 50 and before normal retirement age on compassionate grounds.</p>	<p>As a general rule the Academy 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 Academy Trust.</p>
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Section 5: Recommended LGPS 2013 & 2014 (Non-mandatory discretions)

There is no requirement to have a written policy in respect of non-mandatory discretions. However, there are some non-mandatory discretions where it is recommended for Scheme employers to have a written policy so that both members and the Pension Fund administering authority can be clear on the employer’s policy on these matters.

<p>How an employee’s contribution band will be initially determined and thereafter reviewed R9(1) & R9(3)</p> <p><i>‘Determine rate of employees’ contributions.’</i></p> <p>Employers must decide how the pension contribution band to which an employee is to be allocated on joining the Scheme will be determined and reviewed at each subsequent April.</p> <p>Circumstances in which the employer will review the pension contribution band will also need to be determined. For example, following a material change which affects the member’s pensionable pay during the Scheme year (1 April to 31 March)</p> <p>From 1 April 2014, contributions are based on actual pay including non-contractual overtime.</p>	<p>The Trust will amend the contribution band should there be a material change to the members’ pensionable pay. This includes backdated payments ie. backdated pay awards. The change in contributions will be applied to all the payments from the start date of the award.</p>
<p>Extend the time limit for member to elect for a Shared Cost Additional Pension Contribution R16(16)</p> <p><i>‘Whether to extend 30 day deadline for member to elect for a shared cost APC 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).’</i></p>	<p>As a general rule the Trust will extend the period of 30 days in circumstances which are beyond the members control or in exceptional circumstances.</p> <p>Such requests must be made in writing by the member.</p>
<p>Shared Cost Additional Voluntary Contribution Arrangement (SCAVC) R17(1) and definition of SCAVC in RSch 1</p>	<p>As a general rule the Academy Trust’s policy is not to exercise these discretions but it will consider individual cases on their merits having regard to the compassionate grounds</p>

<p><i>‘Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements.’</i></p> <p>An employer can choose to pay for or contribute towards a member’s Additional Voluntary Contribution through a shared cost arrangement (SCAVC).</p>	<p>of individual members and having regard to the cost to the Academy Trust.</p>
<p>Whether to include a regular lump sum payment when calculating assumed pensionable pay (APP) Reg 21(5)</p> <p><i>‘In determining Assumed Pensionable Pay (APP), whether a lump sum payment made in the previous 12 months is a “regular lump sum”.’</i></p> <p>When calculating assumed pensionable pay, employers can decide to include 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 occurred.</p> <p>A ‘regular lump sum payment’ is a payment for which the employer determines there is a reasonable expectation that such a payment would be paid on a regular basis.</p>	<p>As a general rule the Academy 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 Academy Trust.</p>
<p>Whether to substitute a higher level of pensionable pay when calculating assumed pensionable pay R21(5A) and 21(5B)</p> <p><i>‘Where in the Employer’s opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or 12 weeks if not paid monthly) preceding the commencement 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 having had regard to the level of pensionable pay received by the member in the previous 12 months.’</i></p>	<p>As a general rule the Academy 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 Academy Trust.</p>
<p>Extend the 12-month time limit for a member to elect not to aggregate Post 31 March 2014 deferred benefits R22(8)(b) and R22(7)(b) R22(8)(b):</p>	<p>As a general rule the Academy Trust’s policy is not to exercise these discretions but it will consider individual cases on their merits and will extend the period of 12 months only</p>

<p><i>‘Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with a new employment.</i></p> <p>R22(7)(b):</p> <p><i>‘Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with an ongoing concurrent employment.’</i></p>	<p>in exceptional circumstances where it is beyond the members control.</p>
<p>Extend the 12-month time limit for a member to elect to aggregate Pre 1 April 2014 deferred benefits TP10(6)</p> <p><i>‘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 benefits should be aggregated with a new employment.’</i></p> <p>Employers can decide whether to extend the 12-month time limit for a member to elect to aggregate their Pre 1 April 2014 deferred benefits with their new LGPS employment.</p>	<p>As a general rule the Academy Trust’s policy is not to exercise these discretions but it will consider individual cases on their merits and will extend the period of 12 months only in exceptional circumstances where it is beyond the members control.</p>
<p>Extend the 12-month time limit for transfer of pension rights R100(6)</p> <p><i>‘Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS.’</i></p> <p>An employer can decide to extend the 12-month time limit for a member to elect to transfer pension rights from another registered pension scheme into the LGPS, if an election has not been made within 12 months of joining the LGPS in that employment.</p>	<p>As a general rule the Academy Trust’s policy is not to exercise these discretions but it will consider individual cases on their merits and will extend the period of 12 months only in exceptional circumstances where it is beyond the members control.</p>
<p>Applications for Adjudication of Disagreements R74 (1)</p> <p>Each Scheme employer and administering authority must appoint a person (“the adjudicator”) to consider the applications from any person whose rights or liabilities under the Scheme are affected by</p> <p>(a) a decision under regulation 72 (first instance decisions); or</p>	<p>R72 - Notification of first instance decisions: Responsibility for determinations under the first stage of the procedure now rests with "specified person appointed by <i>Arden Multi Academy Trust</i>. The specified person for Arden Multi Academy Trust is:</p> <p><i>Martin Murphy</i> <i>Chief Executive Officer</i> <i>Arden Multi Academy Trust</i></p>

<p>(b) any other act or omission by a Scheme employer or administering authority,</p> <p>and to make a decision on such applications.</p>	<p><i>Trust House Station Road Knowle Solihull B93 0PT</i></p>
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Section 6: Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)

<p>Redundancy Payments calculation R5</p> <p><i>‘To base redundancy payments on an actual week’s pay where this exceeds the statutory week’s pay limit.’</i></p>	<p>As a general rule the Academy Trust’s policy will use actual weekly pay if this is greater than the maximum stated in the act, for the purpose of calculating a redundancy payment.</p>
<p>Lump-sum compensation R6</p> <p><i>‘Employers have the discretion to pay compensation up to a maximum of 104 weeks pay to an employee who ceases to be employed by reason of redundancy. This applies only where the school has not awarded an increase in total pension membership under regulation 12(b) of the Local Government Pension Scheme Regulations 1997 (as amended). Where a redundancy payment under the Employment Rights Act 1996 (as amended) (ERA), is also made then the equivalent to it shall be deducted from the compensation.’</i></p>	<p>The Trust will pay compensation at a level 2 times the number of weeks’ redundancy as calculated using the Statutory Redundancy Payments ready reckoner (occurring on or after 1 October 2006) up to a maximum of 60 weeks.</p> <p>Where a redundancy payment is also made under the ERA then the equivalent to it shall be deducted from the above compensation.</p>

A copy of this document is being published on the Academy Trust’s website and is being sent to West Midlands LGPS and Warwickshire LGPS as the appropriate pensions administering authorities. 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.

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 the Data Protection Legislation (being (i) the General Data Protection Regulation ((EU) 2016/679) (unless and

until the GDPR 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 1998, including the Data Protection Act 2018).

This policy will be kept under review. It will be reviewed annually, or earlier where the relevant regulations are amended. Any subsequent change in this policy statement will be notified to affected employees and to West Midlands Pension Fund and will be published on the Academy Trust's website before the end of the month that any such revisions are made in.

Signed by:

Date:

Position: Chief Executive Officer