

# LGPS Discretions Policy

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## **1 Introduction**

Diverse Academies Trust (the Trust) is required, as an employer, to outline how it intends to use its discretionary powers when dealing with decisions it may have to make regarding Local Government Pension Scheme (LGPS) matters. The Trust subscribes to The Nottinghamshire Local Government Pension Fund and The West Yorkshire Pension Fund (Walton Academy) and adopts the latest recommended statement from the respective LGPSs.

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 (Statutory Instruments 2013 No. 2356), the 2014 Regulations and the 2018 Regulations (amendments). This policy statement relates to the exercise of the employer discretions contained in the above regulations, therefore whilst it represents the views of the respective LGPS funds it should not be treated as a complete and authoritative statement of the law. The Trust may or will seek to take its own legal advice on the interpretation of any particular regulation(s).

To ensure value for money and financial stability, the Trust has adopted an approach which is relevant to the size, finances and current staffing levels. In addition, the decisions regarding the discretionary powers have been taken to ensure the affordability of the scheme to all members. The statements outlined in this policy must not limit or bind how the Trust uses the discretions afforded by the scheme(s).

All requests to the Trust for the consideration of the application of discretions should be made in writing, with supporting documentation, to the Chief Operating Officer.

Diverse Academies Trust is committed to equality and this policy has been created in accordance with the Equality Act 2010 and with regard to age regulations.

## **2 Key roles and responsibilities**

2.1 The Trust Board has overall responsibility for the implementation and monitoring of the LGPS Discretionary Policy.

2.2 The Trust Board has responsibility for ensuring that the LGPS Discretionary Policy, as written, does not discriminate in relation to protected characteristics.

2.3 The Trust Board has overall responsibility for handling complaints regarding this policy.

- 2.4 In the first instance, complaints should be directed to the Chief Operating Officer (COO).
- 2.5 The COO has responsibility for the day-to-day implementation and management of the LGPS Discretionary Policy.
- 2.6 This policy will be used with regard to all relevant factors and costs to the Trust will be balanced against the benefits.
- 2.7 This policy will only be used where there is a real and substantial benefit to the Trust in return for incurring extra costs.
- 2.8 This policy will only be used having considered the information from the scheme actuary.
- 2.9 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.
- 2.10 Where appropriate and where there are economic benefits to the Trust, discretions may be considered as part of severance stipends.

### 3 Discretions

The specific areas where employers will be required to formulate, publish and keep under review statements of Policy are as follows:

DISCRETION & REGULATION	POLICY ON INDIVIDUAL DISCRETIONS
<p><b>1). Reg 31: Whether to grant additional pension to a member. (maximum £7,579 per annum)</b></p>	<p><i>The Trust will only exercise this discretion in exceptional circumstances. Decisions will be made on the merit of each case with particular regard to –</i></p> <ul style="list-style-type: none"> <li>• <i>A member’s personal circumstances.</i></li> <li>• <i>The economic interests of the Trust</i></li> <li>• <i>Other options that are available under the Trust’s severance arrangements.</i></li> <li>• <i>The ability of the Trust to meet the cost of awarding the discretion.</i></li> </ul>

<p><b>2). Reg 16(2)e &amp; Reg 16(4)d:</b>  <b>Whether to make either a regular or lump sum Additional Pension Contribution (APC) to a member’s account (part or whole funding this)</b>  <b>[Note: this discretion only relates to cases when the member is working as normal rather than absent from work with permission but no pensionable pay – in the latter scenario, employers must fund it if necessary.]</b></p>	<p><i>The Trust will only exercise this discretion in exceptional circumstances. Decisions will be made on the merit of each case with particular regard to –</i></p> <ul style="list-style-type: none"> <li>• <i>A member’s personal circumstances.</i></li> <li>• <i>The economic interests of the Trust</i></li> <li>• <i>Other options that are available under the Trust’s severance arrangements.</i></li> <li>• <i>The ability of the Trust to meet the cost of awarding the discretion.</i></li> </ul>
<p><b>3). Reg 30(6) Whether all or some pension benefits can be paid if a member aged 55 or over reduces their hours/grade and continues to work (“flexible retirement”)</b></p>	<p><i>The Trust will consider employee requests to take flexible retirement on a case by case basis. Decisions will be made on the merits of each case having particular regard to –</i></p> <ul style="list-style-type: none"> <li>• <i>A member’s personal circumstances.</i></li> <li>• <i>The operating requirement of the Trust.</i></li> <li>• <i>The economic interests of the Trust.</i></li> <li>• <i>Whether to permit the member to choose to draw all, part or none of the pensions benefits accrued after 1<sup>st</sup> April 2008.</i></li> </ul>
<p><b>4). Reg 30(8) Waiving actuarial reduction on flexible retirement. (an employer may waive the actuarial reductions applied to a members benefits unless 85 year rule protections exist)</b></p>	<p><i>The Trust will only waive the actuarial reduction on flexible retirement in exceptional circumstances. Decisions will be made on the merit of each case with particular regard to –</i></p> <ul style="list-style-type: none"> <li>• <i>A member’s personal circumstances.</i></li> <li>• <i>The economic interests of the Trust.</i></li> <li>• <i>The ability of the Trust to meet the cost of awarding the discretion.</i></li> </ul>

<p><b>5). Reg 30(8) Waiving actuarial reduction on early retirement (age 55+) – for both active, deferred members &amp; suspended tier 3 ill health pensions</b></p>	<p>The Trust <i>will only waive the actuarial reduction on early retirement in exceptional circumstances. Decisions will be made on the merit of each case with particular regard to –</i></p> <ul style="list-style-type: none"> <li>• <i>A member’s personal circumstances.</i></li> <li>• <i>The economic interests of the Trust.</i></li> <li>• <i>The ability of the Trust to meet the cost of awarding the discretion.</i></li> </ul>
<p><b>6). Transitional Provisions 1(1)(c) of Schedule 2: Whether to allow the rule of 85 to be “switched on” for members who would normally meet the rule but who will not if they draw the benefits before the age of 60.</b></p>	<p>The Trust <i>will only agree to “switch on” the rule of 85 in exceptional circumstances. . Decisions will be made on the merit of each case with particular regard to –</i></p> <ul style="list-style-type: none"> <li>• <i>A member’s personal circumstances.</i></li> <li>• <i>The economic interests of the Trust.</i></li> </ul>
<p><b>7). Regs 22(8 &amp; 9) Whether to extend 12-month period to separate previous LG service.</b></p>	<p>The Trust <i>will only allow an extension to the 12-month period to separate previous LG service where it can be shown that the member was not provided with the required information within 6 months of starting.</i></p>
<p><b>8). Reg 9(3) Determine rate of employees’ contributions.</b></p>	<p>The Trust <i>will review all employees’ contribution bands when there has been contractual change to a member’s salary or hours at some point during the year. A member’s contribution rate will not be reviewed as the result of one-off additional payments.</i></p>
<p><b>9). Reg 100(6) Whether to extend 12-month period to allow a transfer-in of non-LG pension rights.</b></p>	<p>The Trust <i>will only allow an extension to the 12-month period to combine previous non-LG service where it can be shown that the member was not provided with the required information within 6 months of starting.</i></p>
<p><b>10). Reg 91 (1) (4) If a member is convicted of a relevant offence, the Scheme employer (or former) may apply to the Secretary of State who may issue a forfeiture certificate.</b></p>	<p>Where a forfeiture certificate is issued, the Trust <i>may direct that any of the member's rights under these Regulations are forfeited.</i></p>

Two further discretions that relate specifically to members leaving the scheme before 1<sup>st</sup> April 2014 are required to be kept under review and published as follows:

<p>1). - Reg 2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, Regulation 30(2) and 30(5) of the LGPS Benefits Regulations 2007 &amp; Regulation 31(2) and Regulation 31(5) of the LGPS Regulations 1997</p> <p><b>Early Payment of Deferred Pensions for members who left the scheme before 1st April 2014</b></p>	<p><i>The Trust will only consider this discretion in exceptional circumstances. Decisions will be made on the merit of each case with particular regard to –</i></p> <ul style="list-style-type: none"> <li>• <i>A member's (former member) personal circumstances.</i></li> <li>• <i>The economic benefits to the Trust</i></li> </ul>
<p>2). - Regulation 2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, Regulation 30A(3) and 30A(5) of the LGPS Benefits Regulations 2007.</p> <p><b>Early Payment of Deferred Pensions for members who left before 1st April 2014 and have ceased to be entitled to a tier 3 ill health benefit -</b></p>	<p><i>The Trust will only consider this discretion in exceptional circumstances. Decisions will be made on the merit of each case with particular regard to –</i></p> <ul style="list-style-type: none"> <li>• <i>A member's (former member) personal circumstances.</i></li> <li>• <i>The economic benefits to the Trust.</i></li> </ul>