



FALCON

EDUCATION TRUST

**LOCAL GOVERNMENT
PENSION SCHEME
DISCRETIONS POLICY**

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Falcon Education Academies Trust

Local Government Pension Scheme Discretions Policy

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Falcon Education Academies Trust

Local Government Pension Scheme Discretions Policy

1. Overview & Introduction

1.1. Overview

The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014. The provisions of the new LGPS, together with protections for members benefits accrued before 1 April 2014, are now contained in the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (the 'LGPS Transitional Regulations 2014') and the Local Government Pension Scheme (Amendment) Regulations 2020 ('LGPS Amendment Regulations 2020').

Therefore, this statement now relates to the application of discretions under:

- (a) the LGPS Regulations 2013 and the LGPS Amendment Regulations 2020;
- (b) the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 ('LGPS Transitional Regulations 2014'); and
- (c) the Local Government Pension Scheme Regulations 1997 ('LGPS Regulations 1997') and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 ('LGPS Benefits Regulations 2007'), which continue to have effect in so far as is necessary under Regulation 3 (Membership before 1 April 2014) of the LGPS Transitional Regulations 2014.

1.2. Introduction

Under Regulation 60 (statements of policy about exercise of discretionary functions) of the LGPS Regulations 2013 and paragraph 2(2) of Schedule 2 of the LGPS Transitional Regulations 2014, employers are required to make and publish policy statements on how they will exercise five specific discretions.

Following the implementation of the LGPS Amendment Regulations 2018 two further mandatory discretions have been introduced under regulations 24(a), 30(a), 30(c), 30(e) and 30(f).

In addition, there are two further discretions relevant to employers, which relate to members who left before 1 April 2014. These are under Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008 (in respect of leavers between 1 April 2008 and 31 March 2014) and under Regulation 106 of the LGPS Regulation 1997 (in respect of leavers between 1 April 1998 and 31 March 2008).

Any policy statements made must not limit, or 'fetter' how an employer uses any of the discretions afforded by the scheme.

The use of any discretion is likely to lead to immediate and potentially continuing increased pension costs for the employer, which could be considerable.

The Trust is required to keep its statement under review and make such revisions as are appropriate following a change in its policy. Following any changes in its policy the Trust must publish the revised policy and send a copy to the administering authority within one month of the date the policy is revised.

In formulating and revising the policy statements outlined below, the Trust must have regard to the extent to which the exercise of its discretionary powers could lead to a serious loss of confidence in the public service.

Details of the five discretions available are as follows:

2.1. Shared cost Additional Pension Contributions - Regulation 16 (2) (e) and 16 (4) (d)

Regulation 16 allows an active member who is paying into the main scheme to enter into an arrangement to pay additional contributions, either by regular contributions (Regulation 16(2) (e)) or by a lump sum payment (Regulation 16(4) (d)). This may be funded in whole or in part by the Trust.

Statement

Falcon Education Academies Trust does not consider contributions towards additional pension contributions to be an essential part of its employment strategy. The Trust will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the express permission of the Trust Board.

It is likely that decisions will be made on the merits of each case having particular regard to factors such as:

- Falcon Academy Trust's ability to meet the cost of granting such a request; and/or
- the member's personal circumstances.

2.2. Awarding Additional Pension - Regulation 31

Regulation 31 allows the Trust to grant additional pension up to the maximum allowed by the scheme rules provided that the member is active **or** is within 6 months of leaving **for reasons of** redundancy **or** business efficiency **or** whose employment was terminated by mutual consent on grounds of business efficiency.

The Trust may use this Regulation as an aid to recruitment, an aid to retention or to compensate or reward an employee who is retiring.

Statement

Falcon Education Academies Trust will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the express permission of the Trust Board. Decisions will be made on the merits of each case having regard to the following:

- the member's personal circumstances;
- the interests of the Trust;
- the additional contributions due to the Fund by the Trust in respect of the exercise of this discretion;
- any potential benefits or savings to the Trust arising from the exercise of this discretion;
- other options that are, from time to time, available under the Trust's severance arrangements;
- the funding position of the Trust within the Fund;
- the ability of the Trust to meet the cost of granting such an award.

2.3. Flexible Retirement - Regulation 30(6)

Regulation 30 allows the Trust to consent for a member who has attained the age of 55 to draw all or part of their retirement benefits (both pension and lump sum) whilst continuing in employment and Fund membership provided that:

- there has been a reduction in hours, or
- a reduction in grade.

The Trust can choose to waive any reductions that apply under Regulation 30(8).

Statement

Falcon Education Academies Trust will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the express permission of the Trust Board. It is recommended that there should be a reduction in hours, or in grade, equivalent to at least an overall 20% reduction in remuneration.

Decisions will be made on the merits of each case having particular regard to:

- the operating requirements of the employing department
- the Trust's ability to meet the cost of granting such a request
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place for time to time can be made
- the member's personal circumstances.

2.4. Waiving actuarial reductions - Regulation 30(8)

The Trust may waive the actuarial reductions applied to a members benefits, unless 85 year rule protections exist employers can waive:

- all of the reductions in respect of pre 1 April 2014 benefits but only on compassionate grounds (paragraph 2 of Schedule 2 of the LGPS Transitional Regulations 2014);
- all or some of the actuarial reduction in respect of post 1 April 2014 on any grounds.

Where 85 year rule protections exists and the member has full or tapered protection the employer can waive all of the reductions but only on compassionate grounds for the service up to the date the 85 year rule protection ends (31 March 2016 (full) or 31 March .2020 (tapered)).

Statement

Falcon Academy Trust, will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the Trust's ability to meet the cost of granting such a request
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made
- the member's personal circumstances

Applications for the payment of unreduced benefits for service before 1 April 2014 on the grounds of compassion will be granted if:

- in the Trust's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval. It is likely that only cases where the former employee is prevented from undertaking any form of paid employment due to the need to provide long term care for a dependant, will be considered, and
- the Trust can meet the cost of granting such a request.

2.5. Switching on the 85 rule – Schedule 2 - 1(1) (c) of the LGPS Transitional Regulations 2014

The Trust can decide to "switch on" the 85 year rule to allow members to receive benefits either unreduced or with a smaller reduction to their 85 year rule date. The Trust will be responsible for meeting any strain costs relating to benefits being paid before age 60. If the Trust does not "switch on" the 85 year rule the member's benefits will be reduced to age 60 or the date they meet the 85 year rule if later.

Statement

Falcon Education Academies Trust will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the express permission of the Trust Board. Decisions will be made on the merits of each case having particular regard to:

- Waiving of actuarial reductions and the application of the 85-year rule protections will be considered only where there is a clear financial or operational advantage to the Trust in doing so.
- the Trust's ability to meet the cost of granting such a request;

- the member's personal circumstances.

3.1. Discretions under the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007

There are also two other discretions for employers but these relate specifically to members who left before 1 April 2014.

Whilst the LGPS Regulations 2013 repeals the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007 (in so far as they had not already been repealed), Regulation 3(1) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 allows for the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007 to still have effect in so far as they relate to certain member benefits before 1 April 2014. As such, the other discretions still available for certain members only, are as follows:

3.2. Early Payment of Deferred Pensions for members who left before 1st April 2014

Early Payment of Deferred Pensions for members who left before 1st April 2014 – Regulation 2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, Regulation 30(2) and 30(5) of the LGPS Benefits Regulations 2007 & Regulation 31(2) and Regulation 31(5) of the LGPS Regulations 1997

This Regulation allows employers to allow members who left the scheme before 1 April 2014 and who are over the age of 55 to take their benefits early. Under Regulation 30(5) employers can waive any reduction to benefits paid under that Regulation on compassionate grounds. Additionally under Regulation 2 (1(2)) employers may elect to 'switch on' the 85 year rule where a member has taken voluntarily early payment of deferred benefits from age 55.

Statement

Falcon Education Academies Trust will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the express permission of the Trust Board. Decisions will be made on the merits of each case having particular regard to:

- the Trust's ability to meet the cost of granting such a request
- the member's personal circumstances

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- In the Trust's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval. It is likely that only cases where the former employee is prevented from undertaking any form of paid employment due to the need to provide long term care for a dependant, will be considered, and
- the Trust can meet the cost of granting such a request.

N.B. Deferred members who left the Scheme before 1 April 2008 can still make application for the early payment of their deferred benefits after age 50 under LGPS rules. However, under HMRC rules such payments would be classed as 'un-authorized' and would be subject to a punitive tax charge.

3.3 Early Payment of Deferred Pensions for members who left before 1st April 2014 and have ceased to be entitled to a tier 3 ill benefit

Early Payment of Deferred Pensions for members who left before 1st April 2014 and have ceased to be entitled to a tier 3 ill benefit - Regulation 2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, Regulation 30A(3) and 30A(5) of the LGPS Benefits Regulations 2007.

This regulations allow employers to allow members who have ceased to be entitled to a tier 3 ill health benefit and who are over the age of 55 to take their benefits early. Under sub paragraph 5 of Regulation 30A employers can waive any reduction to benefits paid under that Regulation on compassionate grounds. Alternatively under Regulation 2 (1(2)), employers may elect to 'switch on' the 85 year rule where voluntary early payment of suspended tier 3 ill health pension is taken.

Statement

Falcon Education Academies Trust will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the express permission of the Trust Board. Decisions will be made on the merits of each case having particular regard to:

- the Trust's ability to meet the cost of granting such a request
- the member's personal circumstances

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- in the Trust's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval. It is likely that only cases where the former employee is prevented from undertaking any form of paid employment due to the need to provide long term care for a dependant, will be considered, and
- the Trust can meet the cost of granting such a request.