



## Local Government Pension Scheme Discretions Policy

<b>Committee:</b>	<b>Trust Board</b>
<b>Approved on:</b>	March 2021
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<b>Updated/Reviewed on:</b>	

**The Discretions Policy has been approved and adopted by the Board of Trustees and we confirm that should any of the decisions change in the future the Pensions Fund will be notified immediately. We certify that the statements within this policy are correct.**

Approved On:

and will be reviewed:

Signed by The Chair of Trustees:

Signed by the Chief Executive Officer:

**Document Control**

Date	Revision / Amendments	Author

**ESPRIT Multi Academy Trust**  
**Local Government Pension Scheme Discretions Policy**

Under the Local Government Pension Scheme (LGPS) Regulations 2013, which came into effect on 1 April 2014, each scheme employer must publish and keep under review a statement of policy. ESPRIT Multi Academy Trust, as the scheme employer, has the right to authorise discretion on a number of matters regarding the administration of the pension scheme.

**Scope**

This policy will apply to all ESPRIT Multi Academy Trust employees who are members of the Local Government Pension Scheme. It does not apply to staff employed under Teacher terms and conditions of employment.

This policy provides clear guidance on how ESPRIT Multi Academy Trust will exercise these discretions. In doing so, the Trust has sought to provide fair and affordable benefits for its staff.

**Areas of Discretion**

For a number of discretions there is a statutory requirement to publicise the approach ESPRIT Multi Academy Trust will take.

The discretions under Regulation 60 of the LGPS 2013 and TP 2014 are as follows:

- Regulation 16 LGPS 2013 - Funding of additional pension
- Regulation 30 (6) LGPS 2013 - Flexible retirement
- Regulation 30 (8) LGPS - Waiving of actuarial reduction included within Regulation 30 (6)
- Regulation 30a (3) – Early Payment of Pension (Tier 3 ill health)
- Regulation 31 LGPS 2013 - Award of additional pension
- Schedule 2 TP 2014 (switching on rule 85)

As an employer we are required to keep the statement under review and make appropriate revisions following a change in the policy. Any changes must be available to members of the ESPRIT Multi Academy Trust and details sent to the Staffordshire Pension Fund within one month of the change.

Other discretions that scheme employees may exercise include:

- Regulation 17 – Shard Cost Additional Voluntary Contribution Facilities
- Regulation 100 – Election to transfer within 12 months
- Regulation 22 – Election to aggregate within 12 months of commencement
- Regulation 9 – Allocation of contribution band
- Regulation 21 – Assumed pensionable pay

The approach to exercising discretion in this policy is to allow ESPRIT Multi Academy Trust to make a reasonable decision in individual cases but also to be clear as to the factors it will consider in making that decision.

In formulating and reviewing its policy statements the Board of Trustees is required to be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs. This policy sets out how the Trust will operate these provisions

## **Local Government Pension Scheme (LGPS) Regulations 2013**

### **Regulations 16(2) (e) and 16(4) (d): Funding of additional pension**

A Scheme member can 'buy' an additional annual pension benefit (currently £6822 per year for 2018/2019 – this will increase in April 2019) to enhance their benefits, to replace lost pension caused by a period of authorised absence or industrial dispute. The member can 'buy' the additional pension either over a period of time or by one off lump sum payment.

Where the pension has been lost because of a period of authorised unpaid absence, including child related absence, the regulations require the employer to contribute to the cost of the lost pension where the member elects to 'buy' back the lost pension within 30 days of returning to work. The employer contributes 2/3rds of the total cost and the employee 1/3 of the total cost. The cost is calculated in accordance with guidance provided by the Government Actuary (GAD). Where the employer does not receive an election form from the employee within 30 days of returning to work from an authorised absence on no pay, the Trust may extend the period by which they will accept an election beyond the 30-day deadline.

Where the absence has occurred in consequence of a trade dispute, the employer is not required to share the cost of the lost pension and there are no time limits as to when the employee can elect to 'buy back' the lost pension.

The additional pension may be funded in whole or in part by ESPRIT Multi Academy Trust.

### **STATEMENT OF POLICY**

ESPRIT Multi Academy Trust will only contribute to the cost of 'buying' additional pension where the Scheme member is 'buying' additional pension in respect of a period of authorised absence where an election form was received from the Scheme member within 30 days of returning to work.

Where a Scheme member makes an election after the 30 day deadline to "buy" back an amount of lost pension, as a result of unpaid authorised absence, and it can be demonstrated that the reason for missing the deadline was because the member was not informed that this deadline existed, ESPRIT Multi Academy Trust will accept a late election up to 30 days after the receipt of the first Annual Benefit statement received by the member, following the employees return to work from the period of unpaid authorised absence.

Any decision regarding funding additional pension must be made by the Board of Trustees.

### **Regulation 30(6) LGPS 2013: Flexible Retirement**

ESPRIT Multi Academy Trust has the discretion to allow flexible retirement for an employee age 55 or over who with the employer's consent reduces their hours or grade. If an employer chooses to exercise this discretion, all or part of the accrued benefits can be paid even though the person remains in employment. Benefits will be reduced on account of early payment (subject to certain protections for pre-1 April 2014 members).

There are certain conditions that must be met:

- The Employer must agree to the release of the pension; and
- The Employee must reduce either their hours and/or their grade. The specific reduction required is not set out in the Regulations, but instead must be determined by the Employer.

There are a number of reasons taken into account when considering the flexible retirement policy. These include;

- enabling employees to have a smoother transition into retirement;
- retaining employees (and their skills) where they might otherwise have left and taken up employment elsewhere in order to receive their LGPS benefits;
- to provide greater flexibility in managing workforce planning decisions (skills transfers, etc.),
- without the need to make use of the more expensive redundancy or efficiency provisions;

There are also a number of other reasons considered as to why the Trust might not wish to encourage the use of flexible retirement, for example:

- a desire to reduce staff numbers;
- the loss of resources from those that would have continued to work full time; the additional costs associated with recruiting and training a replacement for the residual hours of the post; and
- the loss of 'savings' to the employer as a result of allowing someone to receive the immediate payment of LGPS benefits where they might have been expected to retire beyond the earliest date when they could receive unreduced retirement benefits.
- There will be a direct cost to the employer.

#### **STATEMENT OF POLICY**

ESPRIT Multi Academy Trust will consider an application received in writing from a Scheme member to elect for flexible retirement under Regulation 30(6). Each case will be considered by the Trust on its merits and in accordance with section 6.0 of the Early Release of Pension Benefits as part of the Security of Employment suite of policies. Each case will be reviewed on a case by case basis and will be determined by the Board of Trustees.

The Board of Trustees will take into account the following:

- Any pension costs including strain costs to the Trust are considered as part of the overall decision-making process for any individual making this request. (Pension estimates for flexible retirement from the pension administrators will reflect this policy).
- The flexible retirement must provide benefits to the Trust, for example financial savings or the facilitation of organisational or staffing changes and will not result in any detriment to the Trust.
- If the request is to work reduced hours, the Trust assessment must be that there would be no operational problems caused, or recruitment difficulty anticipated, in making up the reduced hours.

- If the request is for a move to a lower graded post, this would be subject to an appropriate vacancy arising and the operation of the Trust normal recruitment procedures in filling the post.

**Regulation 30(8) - Waiving of actuarial reduction**

Where flexible retirement is agreed or a member of staff is voluntarily retiring on or after age 55, the Trust has the discretion to waive in whole or in part actuarial reduction on benefits (unless the rule of 85 exists) under the LGPS 2013 and TP 2014 where a scheme member voluntarily withdraws pension before normal pension retirement age.

**STATEMENT OF POLICY**

The Trust will only agree to the early payment of accrued pension entitlement to be paid without an actuarial reduction in exceptional cases (for example, where there is a clear financial or operational advantage to Trust as a result of the early payment of pension). Each case will be determined on its merits by the Board of Trustees.

**Regulation 30a (3) – Early Payment of Pension (Tier 3 ill health)**

An employer may give consent to the early payment of pre-1 April 2014 suspended tier 3 ill health pension where a member, aged 55 or more applies before age 60.

Any cost for the early payment would fall on the employer. If the benefits payable would normally be reduced for early payment, an employer may agree to waive all or part of the reduction, on compassionate grounds. The cost of doing so would fall on the employer.

**STATEMENT OF POLICY**

The Trust will determine on an individual case by case basis whether any actuarial reduction is waived on compassionate grounds. Each case will be determined on its merits by the Board of Trustees.

**Regulation 31 LGPS 2013: Power of the employing authority to award additional pension to active members**

ESPRIT Multi Academy Trust may resolve to award 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, additional annual pension up to £7,194 per year (20/219 – to increase in April 2021). Such an award of additional pension may also be made within six months of leaving employment to those persons who have left on the grounds of redundancy or business efficiency (as at April 2020. This will be revalued each subsequent April).

**STATEMENT OF POLICY**

The Trust follows the statutory redundancy policy; therefore, the Trust does not adopt has no intention of making use of this power in the foreseeable future but may wish to consider its use in exceptional cases where there is a clear financial or operational advantage from doing so. The Board of Trustees will decide whether or not such additional benefits are approved and each case will be determined on its merits.

### **Schedule 2 TP 2014 (application of Rule of 85)**

Whether to apply the rule of 85 protections to members who choose to voluntarily draw their benefits on or after age 55 and before age 60.

#### **STATEMENT OF POLICY**

ESPRIT Multi Academy Trust will not switch on the rule of 85 for any employee voluntarily drawing benefits on or after age 55 and before age 60.

### **Other discretions that scheme employers may exercise but are not statutory**

#### **Regulation 17 – Shard Cost Additional Voluntary Contribution Facilities**

This discretion allows the Employer to maintain and contribute to an employee's Additional Voluntary Contribution Scheme.

#### **STATEMENT OF POLICY**

ESPRIT Multi Academy Trust has not adopted this discretion. This will not have any effect on the existing AVC facility available where the employee only is able to make such contributions.

#### **Regulation 100 – Election to transfer within 12 months**

This discretion allows the Employer to extend the 12 months limit a member has in which to elect to transfer other pension rights into the LGPS. This has to be with the agreement of the Administering Authority.

#### **STATEMENT OF POLICY**

ESPRIT Multi Academy Trust would only consider where extenuating circumstances apply and this would include;

- Where evidence exists that an election was made within 12 months but this was not received by the administering authority
- Where evidence exists that the member was not aware of the 12 month limit due to maladministration

#### **Regulation 22 – Election to aggregate within 12 months of commencement**

This discretion allows the Employer to extend the 12-month time limit a member has within which they must elect not to have deferred benefits aggregated with their new LGPS employment.

#### **STATEMENT OF POLICY**

ESPRIT Multi Academy Trust would only consider where extenuating circumstances apply and this would include;

- Where evidence exists that an election was made within 12 months but this was not received by the administering authority
- Where evidence exists that the member was not aware of the 12 month limit due to maladministration

#### **Regulation 9 – Allocation of contribution band**

This discretion allows the Employer to determine which contribution band is allocated on joining the scheme and at each April. It also determines the circumstances when an employee's band may be reviewed. ESPRIT Multi Academy Trust reviews contributions monthly via the payroll provider.

#### **STATEMENT OF POLICY**

ESPRIT Multi Academy Trust payroll provider will re-brand on a monthly basis on all contractual changes, but not ad hoc hours changes and re-band upon a pay award.

#### **Regulation 21 – assumed pensionable pay**

This discretion allows the Employer to determine whether to include in the calculation of assumed pensionable pay the amount of any "regular lump sum payment". This is in cases where an employee's pay needs to be calculated where their pay has been reduced due to certain absences in order that they are not unduly advantaged or disadvantaged.

#### **STATEMENT OF POLICY**

ESPRIT Multi Academy Trust will determine in individual cases to establish in a fair, equitable and justifiable way what the members likely pay would have been but for the absence, and in cases where this pay is to be used for future enhancements whether that level of pay would have been received every year to normal retirement age. The Board of Trustees will consider any such business case.

#### **Application Process**

Employees are encouraged to take independent financial advice before deciding to apply for early release of benefits or flexible retirement options and to consult with the relevant Pension provider to confirm eligibility and obtain estimates of benefits.

All valid and eligible formal applications will be considered by the Board of Trustees.

#### **Decisions/Feedback**

The Principal or a member of the Senior Team will liaise with the employee following the decision made by the Board of Trustees. Feedback will be provided to the individual where an application has not been approved together with the opportunity to discuss other potential options.

Any complaints relating to decisions in these matters would need initially to be raised under the pension scheme's Internal Disputes Resolution Procedure, details of which are available from the pension scheme administrator.

This policy confers no contractual rights.

ESPRIT Multi Academy Trust retains the right to change this policy at any time.

Only the policy, which is current at the time a relevant event occurs to the Scheme member, will be the one applied to that member.