



# Trinity MAT

Trinity Multi Academy Trust

<b>Policy:</b>	LGPS Discretions Statement (in respect of West Yorkshire Pension Fund)
<b>Date of review:</b>	October 2018
<b>Date of next review:</b>	October 2021
<b>Lead professional:</b>	Chief Finance Officer
<b>Status:</b>	Statutory

## 1. Purpose of statement

1.1 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.

1.2 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).

1.3 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).

1.4 Please refer to **Appendix 1** for the descriptions of each discretion.

## 2. Links with other policies or legislation

2.1. Specific discretions under the LGPS Regulations 2013 and the LGPS Transitional Regulations 2014.

2.2. Further Discretions under the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007.

2.3 Mandatory discretions under LGPS Amendment Regulations 2018.

## 3. Consultation

3.1. This statement has been prepared under advice from the West Yorkshire Pension Fund.

## 4. Specific discretions under the LGPS Regulations 2013 and the LGPS Transitional Regulations 2014

### 4.1 Shared cost Additional Pension Contributions – Regulation 16 (2)(e) and 16 (4)(d)

Trinity Multi Academy Trust does not consider contribution towards additional pension contributions to be an essential part of its employment strategy. However, Trinity Multi Academy Trust will consider applications made under these specific provisions having regard to the trust's general policy from time-to-time, on the employee pay strategy and the particular circumstances surrounding each case.

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

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

### 4.2 Awarding Additional Pension – Regulation 31

Trinity Multi 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 following:

- The member's personal circumstances
- The interests of the trust
- The additional contributions due to the Fund by Trinity Multi Academy 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.

#### **4.3 Flexible retirement – Regulation 30(6)**

Trinity Multi 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 operating requirements of the trust
- Trinity Multi Academy 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.

#### **4.4 Waiving actuarial reductions – Regulation (30(8)**

Trinity Multi 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:

- Trinity Multi Academy 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 and;
- Trinity Multi Academy Trust can meet the cost of granting such a request.

**4.5. Switching on the 85 rule – Regulation 1(1)(c) of the LGPS Transitional Regulations 2014** Trinity Multi 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:

- Trinity Multi Academy 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.

### **5 Further discretions under the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007**

**5.1 Early Payment of Deferred Pensions for members who left before 1<sup>st</sup> 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**

Trinity Multi 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:

- Trinity Multi Academy 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 evidence provided justify approval and;
- Trinity Multi Academy 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-authorised' and would be subject to a punitive tax charge.

5.2 Early Payment of Deferred Pensions for members who left before 1<sup>st</sup> 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.

Trinity Multi 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:

- Trinity Multi Academy 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 and;
- Trinity Multi Academy Trust can meet the cost of granting such a request.

## **Appendix 1 Shared cost Additional Pension Contributions - Regulation 16 (2)(e) and 16 (4)(d)**

The specific provisions of Regulation 16 allow 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 employer**.

### **Awarding Additional Pension - Regulation 31**

Regulation 31 allows employers 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.

Employers may wish to use this Regulation as an aid to recruitment, an aid to retention or to compensate or reward an employee who is retiring. Employers should also consider provisions of this Regulation, in particular Regulation 31(4), if they decide to exercise their power under **Section 1 (general power of competence) of the Localism Act 2011**.

### **Flexible Retirement - Regulation 30(6)**

This provision in the Regulations allows the employer 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.

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

### **Waiving actuarial reductions - Regulation 30(8)**

The employer 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 exist 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)).

### **Switching on the 85 rule – Regulation 1(1)(c) of the LGPS Transitional Regulations 2014**

The employer 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 employer will be responsible for meeting any strain costs relating to benefits being paid before age 60. If the employer 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.

### **Early Payment of Deferred Pensions for members who left before 1<sup>st</sup> 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.

### **Early Payment of Deferred Pensions for members who left before 1<sup>st</sup> 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.**

These regulations allow employers to permit 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.