

## **Appendix 10:**

### **Local Government Pension Scheme Discretions Policy**

#### **General Principles**

1.1. Under the rules of the Local Government Pension Scheme (“LGPS”) the employer has the right to authorise discretion on a number of matters regarding the administration of the pension scheme.

1.2. For a number of discretions there is a statutory requirement to publicise the approach the employer will take.

1.3. The approach to exercising discretion in this policy is to allow the employer to make a reasonable decision in individual cases but also to be clear as to the factors it will take into account in making that decision.

1.4. In formulating and reviewing its policy statements the employer is required to:

- Have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and,
- Be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

1.5. 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.

1.6. This policy confers no contractual rights.

1.7. Active Learning Trust retains the right to change this policy at any time.

1.8. 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.

#### **This policy deals with the Employing Authority’s Discretions Under the following legislation:**

The Local Government Pension Scheme (Administration) Regulations 2008 (as amended) (Prefix A below)

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2009 (as amended) (Prefix B below)

The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (Prefix C below)

The Local Government Pension Scheme Regulations 2013 (Prefix D below)

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended) (Prefix E below)

The Local Government Pension Scheme Regulations 1995 (Prefix F below)

**The following table applies to discretions which may be exercised on and after 1 April 2014 in relation to scheme members who left the scheme between 1 April 2008 and 31 March 2014**

<b>Regulation</b>	<b>Discretion</b>	<b>Employer's Policy on the exercise of this discretion</b>
B12	Whether to augment membership of an active member (by up to 10 years)	Active Learning Trust will not have a general policy to augment membership of an active member by up to 10 years but may decide to do so where a sound business case can be made for exercising this discretion and there are exceptional extenuating circumstances. Each case will be considered on its individual merits.
B13	Whether to grant additional pension to a member (by up to £5,000 p.a.)	Active Learning Trust will not have a general policy to grant additional pension to a member (by up to £5,000 p.a.) but may consider doing so where a sound business case can be made for exercising this discretion and there are exceptional extenuating circumstances. Each case will be considered on its individual merits.
B18(1)	Whether all or some benefits can be paid if an employee reduces their hours or grade after reaching age 55 (flexible retirement)	Active Learning Trust will not have a general policy of exercising this discretion but may exercise this discretion where a sound business case can be made for granting flexible retirement with immediate access to all or part of the member's benefits. Each case will be considered on its individual merits.
B18(3)	Whether to waive, in whole or in part, any actuarial reduction on benefits paid on flexible retirement.	Active Learning Trust will not have a general policy of waiving, in whole or in part, the actuarial reduction on the benefits paid on flexible retirement, but may consider doing so where a sound business case can be made for doing so or where other exceptional circumstances arise.
B30(2)	Whether to grant application for early payment of benefits on or after age 50/55 and before age 60	Active Learning Trust will not have a general policy of granting early payment of benefits on or after age 50/55 and before age 60 but will consider requests on a case by case basis. Active Learning Trust will only consider exercising this discretion where a sound business case can be made for doing so or where other exceptional circumstances arise that make payment of those benefits justifiable.
B30(5)	Whether to waive, on compassionate grounds, the actuarial reduction on benefits paid early.	The Active Learning Trust will not generally waive the actuarial reduction applied to benefits paid early under regulation B30(2) above. The Active Learning Trust may consider waiving the actuarial reduction where exercising that discretion can be justified in terms of the sound businesses case made for initially paying those benefits or where other exceptional circumstances arise that make payment of those benefits justifiable. Each case will be considered on its individual merits.

B30 A	Whether to grant early release of pension benefits for former employees who are deemed to be “pensioner members with deferred benefits” under ill health retirement provisions of the LGPS.	The Active Learning will not have a policy of granting such payments and any payments of this sort will be only granted on exceptional compassionate grounds or in situations where no costs will be charged to the Trust/Schools within the Trust.
A22(2)	Whether to extend the period for a member to elect to pay contributions to cover unpaid leave of absence, maternity, paternity, or adoption leave beyond 30 days after returning to work or leaving.	The School will allow the extension of the period in cases where the member was not notified of the right to pay contributions.
A83(8)	If a scheme member wishes to transfer pension rights into the LGPS he/she must opt to do so within 12 months of joining the LGPS “or such longer period as the employer may allow”.	The Active Learning Trust will only extend the 12 months time limit in exceptional circumstances where negligence on the part of the Trust, its schools or partner service providers has contributed significantly to any such delay .

**The following table applies to the discretions which may be exercised on and after 1 April 2014 in relation to active scheme members and members who cease active membership after 31 March 2014**

D16(2)(e) and D16(4)(d)	This regulation allows The Active Learning Trust to fund employees additional pension contributions up to a maximum of £6500 (as at 1 April 2014) either in whole or in part.	Additional pension contributions will not normally be funded in whole or in part. Any such payments would only be granted in exceptional cases.
D30(6)	Qualifying scheme members who are over age 55 can, with the consent of The Trust, continue to work for the Trust or in a particular school within the Trust on different terms and conditions and request to draw their pension entitlements (flexible retirement).	The Active Learning Trust will not have a general policy of exercising this discretion but may exercise this discretion where a sound business case can be made for granting flexible retirement with immediate access to all or part of the member’s benefits and where the release of pension benefits for such an employee is a major factor in the decision to offer/accept this flexible arrangement. The Active Learning Trust will consider requests on a case by case basis.
D30(8)	Benefits payable pursuant to D30(6) and D30(5) will be adjusted in accordance with guidance issues by the Government Actuary.	The Active Learning Trust] will not have a general policy of waiving, in whole or in part, the actuarial reduction on any benefits paid, but may consider doing so, subject to affordability and mindful of the setting of precedent, where a sound business case can be made or where other exceptional circumstances arise. Each case will be considered on its individual merits.

Rule of 85 protection	It should be noted that some people may ask for the “rule of 85 protections” to be applied when their pension benefits are being paid, rather than phrasing the question as asking for the “waiving of actuarial reduction”.	Such applications will not normally be approved by The Active Learning Trust. Applications may be approved in exceptional circumstances or where there is a sound business case for doing so.
D31	Whether to grant extra annual pension of up to £6500 (as at 1 April 2014) to an active scheme member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.	The Active Learning Trust will not have a general policy to grant this sum but may consider doing so where a sound business case can be made for exercising this discretion or where there are exceptional circumstances (subject to affordability and mindful of the setting of precedent). Each case will be considered on its individual merits.
D9 & 10	Active members are required to make contributions on the basis of pensionable pay bands. This policy is made to aid the administration of the scheme – in particular in setting the contribution rates to be applied to each individual. However, nothing in this policy can override the statutory provisions of the LGPS.	The Active Learning Trust] will allocate employees to the appropriate contribution rate according to pay band which applies at the 1 April] each year and adjust only where there is a contractual change during the year.
D100 (6)	Whether, with the agreement of the Pension Fund administering authority, to permit a scheme member to elect to transfer other pension rights into the LGPS if he/she has not made such an election within 12 months of joining the LGPS.	The Active Learning Trust will only extend the 12 month’s time limit in exceptional circumstances where negligence on the part of the Trust, its schools or partner service providers has contributed significantly to any such delay
D17 & C15(1) (d) & A25(3) & B15(3)	Whether, how much, and in what circumstances to contribute to a shared-cost Additional Voluntary Contribution (SCAVC) arrangement entered into on or after 1 April 2014 and whether, how much,	The Active Learning Trust does not and does not intend to have a general policy on the provision of any arrangement of this sort.

	and in what circumstances to continue to contribute to any shared cost Additional Voluntary Contribution (SCAVC) arrangement that the employer had entered into before 1 April 2014.	
D22(7) & (8)	Whether to extend the 12 month time limit within which a scheme member who has a deferred LGPS benefit in England or Wales following the cessation of employment (or cessation of a concurrent employment) may elect not to have the deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in the new employment (or within 12 months of ceasing the concurrent membership).	The Active Learning Trust will only extend the 12 months time limit in exceptional circumstances. Each case will be considered on its individual merits.
D21(4)(a)(iv), 21(4)(b)(iv) and 21(5)	Whether or not, when calculating assumed pensionable pay when a member is: <ul style="list-style-type: none"> <li>- on reduced contractual pay or no pay on due to sickness or injury, or</li> <li>- absent during ordinary maternity, paternity or adoption leave or during paid additional maternity, paternity or adoption leave, or</li> <li>- absent on reserve forces service leave, or</li> <li>- retires with a Tier 1 or Tier 2 ill health pension, or</li> <li>- dies in service to include in the calculation the amount of any 'regular lump sum payment'</li> </ul>	The Active Learning Trust will not have a general policy of exercising this discretion but may do so where a sound business case can be made or there are exceptional circumstances. In any event, The Active Learning Trust will consider requests on a case by case basis and any decisions to exercise this discretion will be fair, equitable and justifiable.

	received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred. A 'regular lump sum payment' is a payment for which the member's employer determines there is a reasonable expectation that such a payment would be paid on a regular basis.	
E 5 (1)	Power to increase statutory redundancy payments above statutory weekly pay limit	The Active Learning Trust will not increase statutory redundancy payments above statutory weekly pay limit.
E 6	Decision to award up to 104 weeks compensation instead of compensatory added years	The Active Learning Trust will not award up to 104 weeks compensation instead of compensatory added years.

**The following table applies in relation to discretions to be exercised on and after 1 April 2014 in relation to scheme members who ceased active membership before 1 April 1998**

F11(2)(c)	Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before age 65 on compassionate grounds.	Such applications will not normally be approved by The Active Learning Trust unless there are exceptional circumstances where individuals can show that there are significant compassionate grounds.
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