

## LGPS Discretions Policy



**Education is for improving lives and for leaving your community and world better than you found it.**

**Approved by the Board of Directors on: 14 October 2020**

**Review date: October 2022**

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**Community Academies Trust discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations**

1. Discretions to be exercised:

- i) under the LGPS Regulations 2013 from 1 April 2014 in respect of members of the Career Average Revalued Earnings (CARE) scheme,
- ii) under earlier LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014,

This document will form Community Academies Trust's policy on pension and compensation discretions. It should be noted that:

- the policies will confer no contractual rights
- Community Academies Trust will retain the right to change the policies at any time without prior notice or consultation, but Community Academies Trust will endeavour to discuss changes with all unions recognised by the trust's Trade Union Recognition Agreement, and
- only the policy which is current at the time a relevant event occurs to an employee / scheme member will be the one applied to that employee / member.

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<b>Table A: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations 2013 in relation to active scheme members and members who cease active membership after 31 March 2014.</b>	<b>Community Academies Trust policy</b>
<p>1. Whether, at full cost to Community Academies Trust, to grant extra annual pension of up to £7,194 (figure at 1 April 2020<sup>1</sup>) to an active scheme member or, within 6 months of leaving, to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency.</p>	<p>Community Academies Trust will not make use of the discretion to grant extra annual pension of up to £7,194 (figure at 1 April 2020) to an active scheme member or, within 6 months of leaving, to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency except in exceptional circumstances where Community Academies Trust considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward and can only be authorised by the Accounting Officer.</p>
<p>2. Whether, where an active scheme member wishes to purchase extra annual pension of up to £7,194 (figure at 1 April 2020<sup>1</sup>) by making Additional Pension Contributions (APCs), Community Academies Trust will voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p>	<p>Community Academies Trust will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) in two situations. Firstly, where: an active scheme member returns from a period of authorised leave of absence, and the member does not, within 30 days of returning from the leave of absence, make an election to buy-</p>

<sup>1</sup> The figure of £6,500 that applied at April 2014 is increased each April (starting April 2015) under the Pension (Increase) Act 1971 (as if it were a pension with a PI date of 1 April 2013).

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	<p>back the amount of pension 'lost' during that period of leave of absence, and the member subsequently makes an election to do so whilst an active member and it can be demonstrated that the reason for the member missing the original 30 day deadline was because the member had not been made aware of that deadline, and the election is made no more than 6 months after the member returns from the period of leave of absence or such longer period as Community Academies Trust may deem reasonable in any individual case.</p> <p>A decision on whether the member meets the above criteria (and on whether the 6 month period referred to should be extended in any individual case) will be taken by the Accounting Officer and, where it is agreed that the conditions are met, Community Academies Trust will be required to contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC. Secondly, where a member has a string of odd days of authorised unpaid leave of absence throughout the Scheme year (1 April to 31 March). In such a case Community Academies Trust will, instead of requiring elections to buy-back the amount of pension 'lost' during the periods of leave of absence to be made within 30 days of returning from each day of absence, allow the member (whilst an active member) to make a single election during the Scheme year to cover each one of the absences that occur during the Scheme year.</p>
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<p>3. Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of Community Academies Trust, reduce their working hours or grade and, if so, as part of the agreement:</p> <ul style="list-style-type: none"> <li>- whether, in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw if flexible retirement is agreed), to permit the member to choose to draw <ul style="list-style-type: none"> <li>• all, part or none of the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and / or</li> <li>• all, part or none of the pension benefits they accrued after 31 March 2014, and</li> </ul> </li> <li>- whether to waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA)<sup>2</sup>.</li> </ul>	<p><u>Flexible retirement</u></p> <p>Community Academies Trust will not agree to flexible retirement except in circumstances where Community Academies Trust considers it is in its financial or operational interests to do so. Each case</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward,</li> <li>- will set out whether, in addition to any pre 1 April 2008 benefits, the member will be permitted, as part of the flexible retirement agreement, to take <ul style="list-style-type: none"> <li>a) all, some or none of their 1 April 2008 to 31 March 2014 benefits, and /or</li> <li>b) all, some or none of their post 31 March 2014 benefits, and</li> </ul> </li> <li>- will require the approval of the Accounting Officer</li> </ul> <p><u>Waiver of any actuarial reduction on flexible retirement</u></p> <p>Where flexible retirement is agreed, the benefits payable will be subject to any actuarial reduction applicable under the Local Government Pension Scheme Regulations and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.</p>

<sup>2</sup> NPA means the employee's individual State Pension Age at the time the employment is terminated, but with a minimum of age 65 (although, the NPA for membership accrued prior to 1 April 2014 is still linked to age 65). State Pension Age is currently age 66. Under current legislation the State Pension Age is due to rise to 67 between 2026 and 2028 and to 68 between 2044 and 2046. However, the government has announced plans to link rises in the State Pension Age above age 67 to increases in life expectancy.

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	<p>Community Academies Trust will only waive any such reduction, in whole or in part, where it considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward and will require the approval of the Accounting Officer including, where the reduction is only to be waived in part, approval for the amount of reduction to be waived.</p>
<p>4. Whether, as the 85 year rule does not (other than on flexible retirement – see 3 above) automatically apply to members who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60, to apply the 85 year rule<sup>3</sup> to such voluntary retirements.</p>	<p>Community Academies Trust will not agree to apply the 85 year rule where members choose to voluntarily draw their benefits on or after age 55 and before age 60 except in circumstances where Community Academies Trust considers it is in its financial or operational interests to do so. Each case</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward, and</li> <li>- will require the approval of the Accounting Officer.</li> </ul>
<p>5. For:</p> <p>i) active members voluntarily retiring on or after age 55 and before Normal Pension Age who elect under regulation 30(5) of the LGPS Regulations 2013 to immediately draw benefits, and</p>	<p>Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age Community Academies Trust will not agree to waive in whole or in part any actuarial reduction that would otherwise be applied to their benefits except in circumstances where Community Academies Trust considers it is in its financial or operational interests to do so or there</p>

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<p>ii) deferred members and suspended Tier 3 ill health pensioners who elect under regulation 30(5) of the LGPS Regulations 2013 to draw benefits (other than on ill health grounds) on or after age 55 and before Normal Pension Age</p> <p>who:</p> <ul style="list-style-type: none"> <li>- were <u>not</u> members of the LGPS before 1 October 2006 [Group 4 members], whether to: <ul style="list-style-type: none"> <li>o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits, if any, accrued before 1 April <u>2014</u>, and / or</li> <li>o waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2014</u></li> </ul> </li> <li>- <u>were</u> members of the LGPS before 1 October 2006 and <u>will</u> be 60 or more on 31 March 2016 [Group 1 members], whether to: <ul style="list-style-type: none"> <li>o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2016</u>, and / or</li> <li>o waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2016</u></li> </ul> </li> </ul>	<p>are compelling compassionate<sup>4</sup> reasons for doing so.</p> <p>Each case</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward, or</li> <li>- will be considered on the merits of the compassionate case put forward, and</li> <li>- will require the approval of the Accounting Officer including, where the reduction is only to be waived in part, approval for the amount of reduction to be waived</li> </ul>
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<sup>4</sup> There is no definition in the Regulations of “compassionate grounds”. However, one could take the view that, for example, releasing benefits because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

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<ul style="list-style-type: none"> <li>- <u>were</u> members of the LGPS before 1 October 2006 and will <u>not</u> be 60 or more on 31 March 2016 and will <u>not</u> attain age 60 between 1 April 2016 and 31 March 2020 [Group 3 members], whether to: <ul style="list-style-type: none"> <li>o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2014</u>, and / or</li> <li>o waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2014</u></li> </ul> </li>   <li>- <u>were</u> members of the LGPS before 1 October 2006 and will <u>not</u> be 60 or more on 31 March 2016 but <u>will</u> attain age 60 between 1 April 2016 and 31 March 2020 [Group 2 members], whether to: <ul style="list-style-type: none"> <li>o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2020</u>, and / or</li> <li>o waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2020</u></li> </ul> </li> </ul>	
<p>6. 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</p>	<p>Community Academies Trust will not enter into a shared cost AVC arrangement other than in exceptional circumstances in which case the</p>

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<p>much, and in what circumstances to continue to contribute to any shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into before 1 April 2014.</p>	<p>decision to contribute, and the amount of the contribution, will be subject to the approval of the Accounting Officer.</p>
<p>7. 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 an employment (or cessation of a concurrent employment) after 31 March 2014 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).</p>	<p>Community Academies Trust will only 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 an employment (or cessation of a concurrent employment) after 31 March 2014 may elect not to have the deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment):</p> <ul style="list-style-type: none"> <li>a) where Community Academies Trust agrees that the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration;</li> <li>b) where Community Academies Trust agrees that the available evidence indicates the member had made an election within 12 months of joining the LGPS but the election was not received by the Pension Fund administering authority (e.g. the election form was lost in the post); or</li> <li>c) where the member has pre 1 April 2014 membership and Community Academies Trust agrees the available evidence indicates that, due to maladministration, the member had not been informed of the implications of having benefits aggregated and would, in consequence,</li> </ul>

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	<p>suffer a detriment to their pension benefits (for example, where member's whole-time equivalent pensionable pay on commencing with Community Academies Trust is, in real terms after allowing for inflation, significantly less than the whole-time equivalent pensionable pay upon which the deferred benefits were calculated).</p> <p>d) Where the member did not become a member of the 2014 scheme by virtue of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] to elect that pre 1 April 2014 deferred benefits should be aggregated with a new employment.</p>
<p>8. 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.</p>	<p>Community Academies Trust will only extend the 12 month time limit within which a scheme member must make an election to transfer other pension rights into the LGPS after joining the LGPS:</p> <ul style="list-style-type: none"> <li>- where the member asked for transfer investigations to be commenced within 12 months of joining the LGPS but a quotation of what the transfer value will purchase in the LGPS has not been provided to the member within 11 months of joining the LGPS. The time limit for such a member to make a formal election to transfer pension rights into the LGPS will be extended to one month beyond</li> </ul>

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	<p>the date of the letter issued by the Pension Fund administering authority notifying the Scheme member of the benefits the transfer will buy in the LGPS;</p> <ul style="list-style-type: none"> <li>- where the available evidence indicates the member made an election within 12 months of joining the LGPS, but the election was not received by the Pension Fund administering authority (e.g. the election form was lost in the post);</li> <li>- where the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration.</li> </ul>
<p>9. How the pension contribution band/rate to which an employee is to be allocated will be determined on joining the Scheme and at each subsequent April, and the circumstances in which the employer will, in addition to the review each April, review the pension contribution band/rate to which an employee has been allocated consequent upon a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March).</p>	<p>A school in the trust will review all employees' contribution bands annually in April based on the expected pensionable pay in the role for the new fiscal year, including regular overtime payments if expected. The contribution band will remain in place for that role for the whole of the new year.</p> <p>Where an employee joins the scheme in the year the contribution band will be assessed based on the expected annual pensionable pay in the year, including regular overtime payments, at the date of joining the scheme. The contribution band will remain in place for the rest of the scheme year.</p>

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<p>10. Whether or not, when calculating assumed pensionable pay when a member is:</p> <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 paid shared parental leave, or during paid additional maternity or adoption leave (other than any part of that leave where the pensionable pay received is greater than the assumed pensionable pay for that part of the leave period), 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</li> </ul> <p>to include in the calculation the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred.</p>	<p>In assessing Assumed Pensionable Pay (APP) Community Academies Trust will not, other than in exceptional circumstances, include in the calculation any 'regular lump sum payments' in which case the decision to include the 'regular lump sum payment' will be subject to the approval of the Accounting Officer.</p>
<p>11. Whether in the Employer's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or 12 weeks if not paid monthly) preceding the commencement of Assumed Pensionable Pay (APP), is materially lower than the level of pensionable pay the member would have normally received, decide whether to substitute a higher level of pensionable pay having had regard to the level of pensionable pay</p>	<p>In assessing Assumed Pensionable Pay (APP) Community Academies Trust will not, other than in exceptional circumstances, substitute a higher level of pensionable pay in which case the decision to will be subject to the approval of the Accounting Officer.</p>

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received by the member in the previous 12 months.	
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<b>Table B: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 2008 and 31 March 2014</b>	<b>Community Academies Trust policy</b>
1. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.	Community Academies Trust will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. Each case will be considered on its merits and will be subject to the approval of the Accounting Officer.
2. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to any suspended Tier 3 ill health pension benefits which are brought back into payment before age 65.	Community Academies Trust will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to a suspended Tier 3 ill health pension which is brought back into payment before age 65. Each case will be considered on its merits and will be subject to the approval of the Accounting Officer.

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