



# **EMPLOYER DISCRETIONS POLICY**

## **LOCAL GOVERNMENT PENSION SCHEMES**

## Document control table

<b>Document title:</b>	Employer Discretions Policy LGPS
<b>Owner (name &amp; job title):</b>	Alison Lister, Deputy COO
<b>Version number:</b>	V8
<b>Date approved:</b>	24 June 2024
<b>Approved by:</b>	OGAT Board
<b>Date of next review:</b>	June 2026

## Document History

Version	Date	Author	Note of revisions
V1	2015	K Bradford	
V2	Jan 2017	K Bradford	Addition of new academies Shared costs and APC statements added
V3	Nov 2020	K Commons	Addition of new academies
V4	Sept 2021	K Dent	Addition of new academies
V5	Nov 2021	A Lister	Updates following LGPS (Amendment) Regulations 2018
V6	March 2022	A Lister	Addition of new academies
V7	February 2023	A Lister	Update to Section 6 - LGPS member records Addition of new academies: Outwood Primary Academy Greenhill - WYPF Outwood Academy Kirkby College - Nottinghamshire Pension Fund
V8	May 2024	A Lister	Review of policy - no changes

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## 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 Regulations 2013 (the '**LGPS Regulations 2013**'), 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 2018 ('**LGPS Amendment Regulations 2018**').

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

- (a) the **LGPS Regulations 2013** and the **LGPS Amendment Regulations 2018**;
- (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*.

## Statement of Intent

As an employer participating in the Local Government Pension Scheme (LGPS), Outwood Grange Academies Trust (OGAT) is required to formulate, publish and keep under review, a discretions policy in accordance with the regulations detailed below:

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*, OGAT is required to make and publish policy statements on how the Trust 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, 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).

To ensure value for money and financial stability, OGAT has adopted an approach that befits the size, finances and current staffing levels of the Trust. In addition, the decisions regarding the discretionary powers have been taken to ensure the affordability of the scheme to all members.

OGAT is committed to equality and this policy has been created in accordance with anti-discrimination laws, the Equality Act 2010 and with regard to age regulations.

In addition to the above, the Trust is required to adhere to a number of provisions and to create and implement effective procedures for the administration of the LGPS scheme.

These duties and procedures are established in detail in this policy.

### **LGPS overview**

The LGPS 2013 is a Career Average Revalued Earnings (CARE) scheme.

#### **Accrual rate**

The accrual rate is 1/49<sup>th</sup>.

#### **Revaluation rate**

The revaluation rate is based on the Consumer Price Index (CPI).

#### **Pensionable pay**

Pay, including non-contractual overtime and additional hours for part-time staff, is classed as pensionable pay.

#### **Contribution flexibility**

There is contribution flexibility with a 50/50 option.

#### **Normal Pension Age**

The normal pension age is equal to the member's State Pension Age (minimum 65).

#### **Lump sum trade off**

A trade off of £1 annual pension for £12 lump sum is available.

#### **Death in service lump sum**

The death in service lump sum is 3x pensionable pay.

#### **Death in service survivor benefits**

A 1/160<sup>th</sup> accrual rate based on Tier 1 ill health pension enhancement.

### Ill health provision

Tier 1 – immediate payment with service enhanced to Normal Pension Age

Tier 2 – immediate payment of pension with 25% service enhancement to Normal Pension Age

Tier 3 – temporary payment of pension for up to 3 years (no enhancement)

### Indexation of pension in payment

The LGPS indexation of pension in payment is based on CPI.

### Vesting period

The LGPS has a vesting period of 2 years.

### Administering authority details

<b>Academy Name</b>	<b>Pension Authority</b>
Outwood Grange Academy Outwood Academy City Fields Outwood Academy Freeston Outwood Academy Hemsworth Outwood Primary Academy Ledger Lane Outwood Primary Academy Kirkhamgate Outwood Primary Academy Lofthouse Gate Outwood Primary Academy Park Hill Outwood Primary Academy Newstead Green Outwood Primary Academy Bell Lane Outwood Primary Academy Greenhill	West Yorkshire Pension Fund
Outwood Academy Adwick Outwood Academy City Outwood Academy Carlton Outwood Academy Danum Outwood Academy Shafton Outwood Primary Academy Darfield Outwood Primary Academy Littleworth Grange Outwood Primary Academy Woodlands	South Yorkshire Pension Fund
Outwood Academy Ripon Outwood Academy Easingwold Outwood Primary Academy Alne Outwood Primary Academy Greystone	North Yorkshire Pension Fund

Outwood Academy Portland Outwood Academy Valley Outwood Academy Kirkby College	Nottinghamshire Pension Fund
Outwood Academy Brumby Outwood Academy Foxhills Outwood Academy Brumby Juniors	East Riding Pension Fund
Outwood Academy Acklam Outwood Academy Bishopsgarth Outwood Academy Bydales Outwood Academy Ormesby Outwood Academy Normanby Outwood Academy Redcar Outwood Academy Riverside Outwood Alternative Provision Eston	Teesside Pension Fund
Outwood Academy Hasland Hall Outwood Academy Newbold	Derbyshire Pension Fund
Outwood Academy Haydock	Merseyside Pension Fund
Outwood Academy Hindley	Greater Manchester Pension Fund

### **Key roles and responsibilities**

The Trust Board has overall responsibility for the implementation and monitoring of the LGPS Discretionary Policy at Outwood Grange Academies Trust.

The Trust Board has responsibility for ensuring that the LGPS Discretionary Policy, as written, does not discriminate on any grounds, including but not limited to: age, ethnicity/national origin, culture, religion, gender, disability or sexual orientation.

The Trust Board has overall responsibility for handling complaints regarding this policy as outlined in the Trust's Grievance Procedure.

In the first instance, complaints should be directed to the Trust's Deputy Chief Operating Officer (Deputy COO).

The Deputy COO has responsibility for the day-to-day implementation and management of the LGPS Discretionary Policy at Outwood Grange Academies Trust.

The Deputy COO is responsible for monitoring overtime worked and for initiating review procedures as necessary.

## **Scheme Employer Discretions**

### **Specific discretions under the Local Government Pension Scheme (LGPS) Regulations 2013 and the Local Government Pension Scheme (LGPS) Transitional Regulations 2014**

#### **1. Shared cost Additional Pension Contributions (to buy additional pension) - Regulations 16(2)(e) and 16(4)(d) of the Local Government Pension Scheme (LGPS) Regulations 2013:**

*Note: these 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**.*

OGAT does not consider contributions towards additional pension contributions to be an essential part of its employment strategy. However, OGAT 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: OGAT's ability to meet the cost of granting such a request; and/or
- The member's personal circumstances.

However, OGAT will only consider doing this in those cases where there is a clear financial or administrative advantage to the Trust.

#### **2. Awarding Additional Pension - Regulation 31 of the Local Government Pension Scheme (LGPS) Regulations 2013:**

*Note: 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 (by up to £6,500 pa - figure at 1 April 2014. This is inflation proofed annually).*

*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.*



OGAT 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 OGAT;
- The additional contributions due to the Fund by OGAT in respect of the exercise of this discretion;
- Any potential benefits or savings to OGAT arising from the exercise of this discretion;
- Other options that are, from time to time, available under OGAT's severance arrangements the funding position of OGAT within the Fund;
- The ability of OGAT to meet the cost of granting such an award.

However, OGAT will only consider doing this in those cases where there is a clear financial or administrative advantage to the Trust.

### **3. Flexible Retirement - Regulation 30(6) of the Local Government Pension Scheme (LGPS) Regulations 2013 & Regulation 11(2) of the (Transitional Provisions, Savings and Amendments) Regulations 2014:**

*Note: this provision in the Regulation allows the employer to consent for a member who has attained the age of 55 and with at least 2 years qualifying service to draw all or part of their retirement benefits (both pension and if applicable, 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).*

OGAT 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 employing department;
- OGAT'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 can be made;

- Whether to permit the member to choose to draw all, part or none of the pension benefits they have built up after 1 April 2008.

However, OGAT will only consider doing this in those cases where there is a clear financial or administrative advantage to the Trust.

#### **4. Waiving actuarial reductions:**

##### **(A) Whether to waive, in whole or in part, actuarial reduction to benefits paid on Flexible Retirement - Regulation 30(8) of the Local Government Pension Scheme (LGPS) Regulations 2013:**

OGAT will consider waiving, in whole or in part, the actuarial reduction on benefits paid on Flexible Retirement on a case by case basis having particular regard to:

- OGAT's ability to meet the cost of granting such a request;
- The member's personal circumstances.
- In OGAT's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- OGAT can meet the cost of granting such a request.

However, OGAT will only consider doing this in those cases where there is a clear financial or administrative advantage to the Trust.

##### **(B) Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1<sup>st</sup> April 2014 and post 31<sup>st</sup> March 2014 membership) - Regulations 3(1), Schedule 2 paragraph 2(1) of the Transitional Provisions, Savings and Amendments) Regulations 2014 & B30(5) & B30A(5) of the (Benefits, Membership and Contributions) Regulations 2007:**

OGAT will (for members with no Rule of 85 protected membership) consider:

Waiving all of the reductions in respect of pre 1 April 2014 benefits but only on compassionate grounds and / or waiving all or some of the actuarial reductions in respect of post 31 March 2014 on any grounds.

For members with post 1<sup>st</sup> April 2014 protected membership (due to the Rule of 85 protections) OGAT will consider waiving the actuarial reductions but will do so only on compassionate grounds as per the Local Government Pension Scheme regulations.

The waiving of reductions will be granted if:

- In OGAT's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- OGAT can meet the cost of granting such a request.

OGAT will only consider doing this in those cases where there is a clear financial or administrative advantage to the Trust.

**(C) Whether to waive, in whole or in part any actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31<sup>st</sup> March 2014 membership) (Post 14 Membership) Regulation 30(8) of the Local Government Pension Scheme (LGPS) Regulations 2013:**

OGAT will consider whether to waive the reduction **but will consider:**

- OGAT's ability to meet the cost of granting such a request.
- The member's personal circumstances.
- In OGAT's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- OGAT can meet the cost of granting such a request.

However, OGAT will only consider doing this in those cases where there is a clear financial or administrative advantage to the Trust.

## **5. Switching on the 85 Year Rule – Schedule 2 paragraphs 1(2) & 1(1)(c) of the Local Government Pension Scheme (LGPS) Transitional Provisions, Savings and Amendment) Regulations 2014**

*Note: The employer can decide to “switch on” the 85 year rule to allow members to receive benefits on or after 55 and before 60 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 (other than on the grounds of flexible retirement).*

OGAT 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:

- OGAT'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.

However, OGAT will only consider doing this in those cases where there is a clear financial or administrative advantage to the Trust.

### **Further discretions under the Local Government Pension Scheme (LGPS) Benefits Regulations 2007:**

There are other discretions for employers but these relate specifically to members who left before 1st April 2014:

#### **1. Early Payment of Deferred Pensions for members who ceased active membership on or after the 1<sup>st</sup> April 2008 but before 1<sup>st</sup> April 2014 – Regulation B30(5), Schedule 2, para 2(1) of the (Transitional Provisions) Regulations 2008:**

*Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30*

OGAT 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:

- OGAT'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 OGAT's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval **and**
- OGAT can meet the cost of granting such a request.

#### **2. Early Payment of Deferred Pensions for members who ceased active membership on or after the 1<sup>st</sup> April 2008 but before 1<sup>st</sup> April 2014 and have**

**ceased to be entitled to a tier 3 ill health benefit - Regulation 30A(5) of the LGPS Benefits Regulations 2007 and Schedule 2, para 2(1) of the (Transitional Provisions) Regulations 2008:** *Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A(5) (pensioner member with deferred benefits, i.e. a suspended tier 3 ill health pensioner):*

OGAT 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:

- OGAT'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 OGAT's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval **and**
- OGAT can meet the cost of granting such a request.

**3 Switching on the 85 Year Rule for a member who ceased active membership on or after the 1<sup>st</sup> April 2008 but before the 1<sup>st</sup> April 2014 voluntarily drawing benefits on or after age 55 and before age 60 – Regulations Schedule 2 1(2) & 1(1)(c) of the LGPS (Transitional Provisions) Regulations 2008:**

OGAT 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:

- OGAT'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.

However, OGAT will only consider doing this in those cases where there is a clear financial or administrative advantage to the Trust

**4 Switching on the 85 rule for a pensioner member with deferred benefits (i.e. a suspended tier 3 ill health pensioner) voluntarily drawing benefits on or**

**after age 55 and before age 60 – Regulations Schedule 2 1(2) & 1(1)(c) of the LGPS (Transitional Provisions) Savings and Amendment) Regulations 2008:**

OGAT 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:

- OGAT'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.

However, OGAT will only consider doing this in those cases where there is a clear financial or administrative advantage to the Trust

**Additional discretionary decisions**

**Whether OGAT will adopt a discretionary injury benefit scheme**

The Trust has adopted a discretionary injury benefit scheme. This allows the payment of a lump sum or allowances to an employee that they would not otherwise be eligible for, following an injury sustained, or disease contracted, whilst carrying out their normal duties.

An award may be granted where an employee suffers a reduction in remuneration as a direct result of an injury sustained, or disease contracted, whilst carrying out their normal duties.

An award may be granted where an employee loses employment due to permanent incapacity as a direct result of an injury sustained, or disease contracted, whilst carrying out their normal duties.

A certificate from an independent registered medical practitioner (IRMP) must be obtained prior to any award.

The amount of any award will be determined by the Trust, having due regard to all the circumstances of the case.

The cost of any award will not be met out of any pension fund.

**Whether the Trust will permit the late inward transfer of pension rights - Regulation 100(6) Local Government Pension Scheme (LGPS) Regulations 2013:**

The Trust will consider extending the time limit of 12 months for employees to transfer the value of a previous pension scheme if there is clear evidence that they had not been informed of, or could not reasonably have known, the time limit.

The Trust will also consider extending the time limit for late inward transfers where there is evidence of significant administrative delays.

Decisions regarding the acceptance of late inward transfers are delegated to the Deputy COO.

**Shared Cost Additional Pension Contributions (to buy lost pension following a period of authorised unpaid absence) - Regulation R16(16) of the Local Government Pension Scheme (LGPS) Regulations 2013:**

If a member has an **authorised unpaid** absence (not including illness or injury, relevant child-related leave or reserve forces service leave) and within 30 days of returning to work they elect to buy back the lost pension, the employer must share the cost (2/3rds).

The discretion is whether to extend the 30 day deadline for a member to elect for a shared cost APC.

The Trust will extend the deadline for a member to elect for a shared cost APC to 60 days or longer where there is evidence of administrative shortcoming.

**Assumed Pensionable Pay (APP) - Regulations 21(5) & R21 (5B) of the Local Government Pension Scheme (LGPS) Regulations 2013:**

The Trust will include lump sum payments in the calculation of APP where there is evidence that the lump sums were regularly received.

The Trust will allow the substitution of a higher level of pensionable pay assessed over the previous 12 month period.

**Redundancy Pay - Regulation 5 of the (Discretionary Compensation) (England and Wales) Regulations 2006**

The Trust will base redundancy payment on an actual week's pay where this exceeds the statutory week's pay limit.

**Lump sum compensation - Regulation 6 (Discretionary Compensation) (England and Wales) Regulations 2006**

The Trust will not award lump sum compensation in cases of redundancy.

## **Employee contribution rate – Regulations R9(1) & R9(3) of the Local Government Pension Scheme (LGPS) Regulations 2013:**

Employers to assess the relevant contribution band to determine the rate of employee contribution. Banded contribution rates for employees are based on actual pensionable pay received and not whole time equivalent salary. Employers to allocate appropriate band at each 1 April and determine other circumstances in which the banding will be reviewed.

OGAT will allocate the appropriate band on 01 April each year for all members' pensionable pay based on the previous years' pensionable pay and include incremental progression and cost of living increases known as at 01 April. This will not change during the financial year unless there is a post change or cessation of salary protection arising from that change or a pay award which cannot be applied on 01 April.

### **Salary reviews in light of staff overtime**

From 1 April 2014, overtime is classed as pensionable pay. In response, the Trust is required to introduce additional measures to ensure EE payment percentages are correct and pension payments are fair and accurate.

To ensure fairness and clarity, the Deputy COO will review staff salaries as necessary in light of overtime acquired.

The maximum period of time between salary reviews for staff at Outwood Grange Academies Trust is 12 months.

### **LGPS member records**

The Trust's Pensions Manager is responsible for maintaining a clear and up-to-date record of all Trust staff enrolled on the LGPS scheme.

The record will record details of each member's:

- Full name
- National Insurance number
- Current full-time equivalent (FTE) salary
- Hours and weeks worked
- Contact details for payroll and HR use

### **Support**

The relevant pension authorities outlined above provide support for the LGPS scheme locally.