



# LGPS Discretions Policy September 2019

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| <b>Published:</b><br>September 2019  | <b>Next review:</b><br>September 2021 | <b>Statutory/non:</b><br>Statutory | <b>Lead:</b><br>Gary Corban COO |
| <b>Associated documents:</b>   |                                       |                                    |                                 |
| <b>Links to:</b><br><a href="http://www.lgpsregs.org/">www.lgpsregs.org/</a><br><a href="http://www.lgpsregs.org/resources/guidesetc.php">www.lgpsregs.org/resources/guidesetc.php</a><br><a href="http://lgpsregs.org/schemeregs/tpregs2014.php">lgpsregs.org/schemeregs/tpregs2014.php</a> |                                       |                                    |                                 |

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## **1 Introduction:**

The Local Government Pension Scheme (“LGPS”) in England and Wales was amended with effect from 1 April 2014. The provisions of the amended LGPS are now contained in the 2013 Regulations (STATUTORY INSTRUMENTS 2013 No. 2356), the 2014 Regulations and the 2018 Regulations (amendments). This policy statement relates to the exercise of the employer discretions contained in the above Regulations

To ensure value for money and financial stability, Diverse Academies Trust (DAT) and National Church of England Academy Trust (NCEAT) have adopted an approach which is relevant to the size, finances and current staffing levels. In addition, the decisions regarding the discretionary powers has been taken to ensure the affordability of the scheme to all members.

DAT are committed to equality and this policy has been created in accordance with the Equality Act 2010 and with regard to age regulations.

## **2 Key roles and responsibilities**

- 1.1 The DAT Board has overall responsibility for the implementation and monitoring of the LGPS Discretionary Policy.
- 1.2 The DAT Board has responsibility for ensuring that the LGPS Discretionary Policy, as written, does not discriminate in relation to protected characteristics.
- 1.3 The DAT Board has overall responsibility for handling complaints regarding this policy
- 1.4 In the first instance, complaints should be directed to DAT Chief Operating Officer (COO)
- 1.5 The DAT COO has responsibility for the day-to-day implementation and management of the LGPS Discretionary Policy.
- 1.6 Will be used with regard to all relevant factors (costs to the Trust will be balanced against the benefit).
- 1.7 Will only be used where there is a real and substantial benefit to the Trust in return for incurring extra costs.as above
- 1.8 Will only be used having considered the information from the scheme Actuary; as above
- 1.9 In support of its deliberations regarding requests made on compassionate grounds, the relevant Trust will take into account all relevant factors and require whatever information, documentation and supporting evidence it considers appropriate.

### 3 Discretionary decisions

The specific areas where employers will be required to formulate, publish and keep under review statements of Policy are as follows:

| <b>DISCRETION &amp; REGULATION</b>   | <b>POLICY ON INDIVIDUAL DISCRETIONS</b>   |
|--|---|
| <p><b>1). Reg 31: Whether to grant additional pension to a member (up to £6500pa)</b></p>  | <p><i>DAT will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the expressed position of the DAT Pay and Performance Committee after consideration of the costs that would apply.</i></p>   |
| <p><b>2). Reg 16(2)e &amp; Reg 16(4)d: Whether to make either a regular or lump sum Additional Pension Contribution (APC) to a member's account (part or whole funding this)</b><br/> <b>[Note: this discretion only relates to cases when the member is working as normal rather than absent from work with permission but no pensionable pay – in the latter scenario, employers must fund it if necessary.]</b></p> | <p><i>DAT will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the expressed position of the DAT Pay and Performance Committee after consideration of the costs that would apply.</i></p>   |
| <p><b>3). Reg 30(6) Whether all or some pension benefits can be paid if a member aged 55 or over reduces their hours/grade and continues to work (“flexible retirement”)</b></p>   | <p><i>DAT will consider employee requests to take flexible retirement on a case by case basis after taking into factors such as service delivery and any costs that may apply. The DAT Pay and Performance Committee will be responsible for agreeing (or otherwise) to all requests to take flexible retirement.</i></p> |
| <p><b>4). Reg 30(8) Waiving actuarial reduction on flexible retirement.</b></p>  | <p><i>DAT will only waive the actuarial reduction on flexible retirement in exceptional circumstances following approval from the DAT Pay and Performance Committee</i></p>   |
| <p><b>5). Reg 30(8) Waiving actuarial reduction on early retirement (age 55+) – for both active, deferred</b></p>  | <p><i>DAT will only waive the actuarial reduction on early retirement in exceptional circumstances and as the result of the expressed permission of the DAT Pay</i></p>   |

|   |   |
|---|---|
| <b>members &amp; suspended tier 3 ill health pensions</b>   | <i>and Performance Committee after considering the costs that would apply.</i>  |
| <b>6). TP Regs 1(1)(c) of Schedule 2: Whether to allow the rule of 85 to be “switched on” for members who would normally meet the rule but who will not if they draw the benefits age 55-59</b> | <i>DAT will only agree to “switch on” the rule of 85 in exceptional circumstances following approval from the DAT Pay and Performance Committee after considering the costs that will apply.</i>  |
| <b>7). Regs 22(8 &amp; 9) Whether to extend 12-month period to separate previous LG service.</b>  | <i>DAT will only allow an extension to the 12-month period to separate previous LG service where it can be shown that the member was not provided with the required information within 6 months of starting.</i>  |
| <b>8). Reg 9(3) Determine rate of employees’ contributions.</b>   | <i>DAT will review all employees’ contribution bands when there has been contractual change to a member’s salary or hours at some point during the year. A member’s contribution rate will not be reviewed as the result of one-off additional payments</i> |
| <b>9). Reg 100(6) Whether to extend 12-month period to allow a transfer-in of non-LG pension rights.</b>  | <i>DAT will only allow an extension to the 12-month period to combine previous non-LG service where it can be shown that the member was not provided with the required information within 6 months of starting.</i>   |
| <b>10). Reg 91 (1) (4) If a member is convicted of a relevant offence, the Scheme employer (or former) may apply to the Secretary of State who may issue a forfeiture certificate.</b>          | <i>Where a forfeiture certificate is issued, DAT may direct that any of the member’s rights under these Regulations are forfeited.</i>  |

#### Abbreviations

“Reg 16(2)e” means Regulation 16(2)e of the Local Government Pension Scheme Regulations 2013

[which apply from 1 April 2014]

“TP Regs” means LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014].