

# Local Government Pension Scheme Discretions Policy

## Approval Arrangements

All statutory policies in the Trust are ultimately the responsibility of the Trust Board. To enable it to discharge this responsibility appropriately and in collaboration with the constituent schools, the Trust Board will

1. set a full Trust wide policy,
2. set a 'policy principles' document (a framework within which Headteachers develop a full and appropriately customised policy),
3. or delegate to Headteachers or LGBs the power to develop their own policy.

This is a level 1 policy which was adopted by the Trust Board's Pay & HR Committee, for implementation in Tenax Schools Trust on the date below and supersedes any previous LGPS discretions policy.

<b>Review Body:</b>	<b>Pay &amp; HR Committee</b>
<b>Date Approved:</b>	<b>17.03.2020</b>
<b>Author:</b>	<b>HR Director</b>
<b>Next review:</b>	<b>Spring 2023</b>
<b>Review period:</b>	<b>3 years</b>

## **Scope**

This Policy sets out how The Tenax Schools Trust (the Trust”) will exercise its discretionary functions under the Local Government Pension Scheme (LGPS), which is administered currently by Kent and East Sussex.

This statement of policy applies to employees of the Trust who are members of the Local Government Pension Scheme ‘LGPS’ and should be read in accordance with the Local Government Pension Regulations relating to the pension fund for which the employee is eligible. The term ‘LGPS member’ will be used within this document to refer to all employees who are members of the LGPS (irrespective of local authority the scheme falls under).

In preparing, or reviewing and making revisions to this policy, the Trust will have regard to the extent to which the exercise of any of the functions, in accordance with this policy could lead to a serious loss of confidence in the public service and be satisfied that this policy is workable, affordable and reasonable having regard to foreseeable costs. The Trust will also take into account its obligations under the Equality Act 2010 in making any decisions regarding the exercise of its discretions under this policy.

This policy does not form part of any contract of employment and may be amended from time to time. Only the version of the policy which is current at the time when the relevant event occurs will be the version applied to that member for that event. Each case will be treated fairly based on its circumstances and merits. Where discretionary policies laid out in this document contradict statutory regulations, the statutory regulations will take priority.

## **Policy decisions**

Policy decisions are stated in the supporting schedules (in Appendices).

## **Implementation**

This Policy and supporting schedules will be published on the Trust’s website. The Trust will send a copy of its revised statement to each relevant administering authority.

## **Process**

Existing employees of the Trust who are LGPS members and ex-employees with deferred LGPS benefits, may make an application under the discretions set out in this policy (where applicable) by putting the request in writing to:

Mrs C Isaacs, HR Director, Tenax Schools Trust c/o Bennett Memorial Diocesan School, Culverden Down, Tunbridge Wells, TN4 9SH or via email at [isaccs@tenaxschoolstrust.co.uk](mailto:isaccs@tenaxschoolstrust.co.uk)

Decisions made under this Policy will be referred to Trust Board’s Pay & HR Committee. Decisions will be confirmed in writing (usually within 30 school days from receipt of the request), though timescales may vary, for example, where additional financial advice is required before a decision can be made. Applicants will be informed where there is likely to be a delay in timescales including reasons for delay and when a decision may be expected.

Disputes regarding decisions made, must be referred and put in writing to the Trust's CEO by setting out the grounds for appeal in writing within 30 school days of receipt of outcome.

Mr I Bauckham CBE, CEO, Tenax Schools Trust c/o Bennett Memorial Diocesan School, Culverden Down, Tunbridge Wells, TN4 9SH or via email at [enquiries@tenaxschoolstrust.co.uk](mailto:enquiries@tenaxschoolstrust.co.uk)

The Trust's CEO will arrange for an impartial person(s) such as the receiving authority (where appropriate) or external independent person(s) to hear any appeal. The appeal process will review how the initial decision was reached. Details of arrangements for any appeal, will be confirmed in writing (usually within 30 school days from the date the appeal was received in writing), although timescales may vary. Applicants will be informed where there is likely to be a delay in timescales including reasons for delay and expected timescales.

### **Responsibilities**

The HR Director of the Trust takes overall responsibility for the implementation of policies and procedures in relation to this policy including providing reports to Trustees as appropriate. The Trust Board's Pay & HR Committee is responsible for ruling on areas where discretion is permitted. The school's HR and Finance Team, in conjunction with the payroll provider, will manage the day to day administration of the pension scheme, make timely payments to the LGPS fund.

LGPS members are required to give timely notice of any intended changes to employment that may affect their pension, in order to enable all requirements of the LGPS authority to be fulfilled. The Trust's HR Director is responsible for providing advice under this policy and reviewing and updating the policy as required; ensuring continuing relevance and effectiveness in line with any developments in employment legislation, good employment practice and other Trust policies. The HR Director is responsible for collating data for regular HR reports to Trustees and where appropriate, providing confidential reports as required.

<b>Employer</b>	Tenax Schools Trust
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<b>Date of Policy Statement</b>	<b>05.03.2020</b>
<b>Date for Review</b>	<b>March 2023</b>

### **Discretions under the Local Government Pension Scheme 1995**

Applicable to members who ceased active membership before 1 April 1995

These discretions are Employer discretions under The Local Government Pension Scheme 1995 on which Employers are **required** to formulate and publish a policy.

Regulation	Discretion	Employer's Policy on the exercise of this discretion
<b>D11(2)(C)</b>	Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before NRD on compassionate grounds <sup>1</sup> .	The Trust will not have a general policy for exercising this discretion. Each case will be considered on its individual merits

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<sup>1</sup> It should be noted that benefits paid on or after age 50 and before age 55 will be subject to an unauthorised payments charge under the Finance Act 2004 and, where applicable, an unauthorised payments surcharge under that Act, but there would be no Scheme sanction charge.

<b>Employer</b>	Tenax Schools Trust
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<b>Date of Policy Statement</b>	<b>05.03.2020</b>
<b>Date for Review</b>	<b>March 2023</b>

### **Discretions under the Local Government Pension Scheme 2008**

Applicable to members who ceased active membership between 1 April 2008 and 31 March 2014

These discretions are Employer discretions under The Local Government Pension Scheme (Administration) Regulations 2008 (prefix **A**), LGPS (Benefits, Membership and Contributions) Regulations 2007 (prefix **B**), and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix **TP**) on which Employers are **required** to formulate and publish a policy.

Regulation	Discretion	Employer's Policy on the exercise of this discretion
<b>TP1(1)(c) &amp; TP1(2) of Schedule 2</b>	Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members	The Trust will not have a general policy for exercising this discretion. Each case will be considered on its individual merits
<b>B30(5) and TP2(1) of Schedule 2</b>	Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.	The Trust will not have a general policy for exercising this discretion. Each case will be considered on its individual merits
<b>B30A(5) &amp; T2(1) of Schedule 2</b>	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	The Trust will not have a general policy for exercising this discretion. Each case will be considered on its individual merits

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<b>Date of Policy Statement</b>	<b>05.03.2020</b>
<b>Date for Review</b>	<b>March 2023</b>

### **Discretions under the Local Government Pension Scheme 2014**

These discretions are Employer discretions under The Local Government Pension Scheme Regulations 2013 (prefix **R**) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix **TP**) on which Employers are required to formulate and publish a policy on.

<b>Regulation</b>	<b>Discretion</b>	<b>Employer's Policy decision on the exercise of this discretion</b>
<b>The Local Government Pension Scheme Regulations 2013</b>		
<b>R16(2)(e)</b>	Where Additional Pension Contributions are to be paid by regular contributions in order to purchase additional pension, whether to fund in whole or in part a member's additional pension contribution. The maximum additional pension which can be purchased is £7,026 with effect from 1 April 2019.	The Trust will not contribute to a shared cost contribution scheme.
<b>R16(4)(d)</b>	Where an Additional Pension Contribution is to be paid by a lump sum contribution in order to purchase additional pension, whether to fund in whole or in part a member's additional pension contribution. The maximum additional pension which can be purchased is £7,026 with effect from 1 April 2019	The Trust will not contribute to a shared cost contribution scheme.
<b>R30(6) &amp; TP11(2)</b>	Whether to allow an active member who has attained the age of 55 or over, reduces their working hours or grade to receive immediate payment of all or part of their retirement pension to which the member is entitled in respect of that employment subject to an actuarial reduction.	A flexible retirement may be considered on: <ul style="list-style-type: none"> <li>• Reduction of hours and/or grade, or</li> <li>• Reduction of hours and/or grade with the release of pension benefits, or</li> <li>• Appointment to new continuing employment within the Trust on reduced hours and/or grade.</li> </ul> <p>Flexible retirement will be</p>

		<p>subject to: • Reduction in salary similar to the level of pension to be received, and • A minimum period of employment of 12 months in the reduced grade and/or hours following Flexible Retirement, and • No return to the higher hours/grade</p> <p>Employees must be therefore be made aware that where a Flexible Retirement request has been improved, any actuarial reduction will be borne by them. In some cases, employer “strain” cost may apply. These cases will be looked at on an individual basis.</p>
<b>R30(8)</b>	<p>Whether to waive in whole or in part any reduction in a member’s pension benefits as a result of a member who has not attained normal pension age but who has attained the age of 55 or over and has elected, under R30(5), to receive immediate payment of a retirement pension.</p> <p>Whether to waive in whole or in part any reduction in a member’s pension benefits where a member flexibly retires under R30(6).</p>	This may be considered in exceptional circumstances where there are business benefits.
<b>R31</b>	Whether to award additional pension up to the maximum (£7,026 with effect from 1 April 2019) to an active member or a member who was an active member who was dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency within 6 months of the date the member’s employment ended.	This may be considered in exceptional circumstances where there are business benefits.

**The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014**

<b>TP Schedule 2, para 1(1)(c) and 1(3)</b>	Whether to “switch on” the 85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	It is not the Trust’s general policy to make use of the discretion to ‘switch back on’ the 85 year rule protections unless there are clear financial or operational
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		<p>advantages.</p> <p>This may be considered in exceptional circumstances where there are business benefits.</p>
<p><b>TP3(1), TP Schedule 2, para 2(1), R30(8).</b></p>	<p>Whether to waive upon the voluntary early payment of benefits, any actuarial reduction on compassionate grounds or, for periods of service to which the compassionate service discretion does not apply, to waive any actuarial reduction on any grounds.</p>	<p>This may be considered in exceptional circumstances where there are business benefits.</p>

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<b>Date of Policy Statement</b>	<b>05.03.2020</b>
<b>Date for Review</b>	<b>March 2023</b>

### **Discretions under the Local Government Pension Scheme 1998**

Applicable to members who ceased active membership between 1 April 1998 and 31 March 2008

These discretions are Employer discretions under The Local Government Pension Scheme 1997 Regulations (prefix **L**) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix **TP**) on which Employers are required to formulate and publish a policy.

Regulation	Discretion	Employer's Policy decision on the exercise of this discretion
<b>TP1(1)(f) &amp; TP1(2) of Schedule 2</b>	Whether, as the 85 year rule <sup>42</sup> does not automatically fully apply to members who would otherwise be subject to it <sup>43</sup> and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members	The Trust will not have a general policy for exercising this discretion. Each case will be considered on its individual merits
<b>L31(2)</b>	Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55 <sup>1</sup>	The Trust will only exercise this discretion in exceptional circumstances where there are business benefits
<b>L31(5) &amp; TP 2(1) of Schedule 2</b>	Whether, on compassionate grounds, to waive any actuarial reduction <sup>47</sup> that would normally be applied to benefits which are paid before age 65	The Trust will only exercise this discretion in exceptional circumstances where there are business benefits

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<sup>1</sup> It should be noted that benefits paid on or after age 50 and before age 55 will be subject to an unauthorised payments charge under the Finance Act 2004 and, where applicable, an unauthorised payments surcharge under that Act, and a Scheme sanction charge on any benefits built up after 5 April 2006.

<b>Employer</b>	
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<b>Date of Policy Statement</b>	
<b>Date for Review</b>	

### Discretions under the Local Government Pension Scheme 2014

These discretions are Employer discretions under The Local Government Pension Scheme Regulations 2013 (prefix **R**) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix **TP**) on which Employers are recommended to formulate and publish a policy.

Regulation	Discretion	Employer's Policy on the exercise of this discretion
<b>R17 &amp; TP15(2A)</b>	Whether, how much, and in what circumstances to contribute to a Shared Cost Additional Voluntary Contribution (SCAVC) arrangement	The Trust will not contribute to a shared cost contribution scheme.
<b>R16(16)</b>	Whether to extend the 30 day deadline for member to elect for a Shared Cost Additional Pension Contribution (SCAPC) upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave)	The Trust will not contribute to a shared cost contribution scheme.
<b>R100(6)</b>	Whether, <b>with the agreement of the Pension Fund administering authority</b> , to permit a member to elect to transfer pension rights from another registered pension scheme into the LGPS, if they had not made such an election to do so within 12 months of first joining the LGPS in that employment	The Trust will not exercise this discretion unless there are exceptional circumstances, and only with the agreement with the administering authority.
<b>R22(7) and (8)</b>	Whether to extend the 12 month time limit within which a member who has a deferred LGPS benefit in England or Wales following the cessation of employment (or cessation of a concurrent employment) <b>after</b> 31 March 2014 may elect <b>not to have</b> their deferred benefits aggregated with their	LGPS members who have previous LGPS pension benefits in England and Wales will automatically have these aggregated with their new LGPS employment unless they elect

	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 that new employment (or within 12 months of ceasing the concurrent membership)	within 12 months of commencing membership of the LGPS in the new employment to retain separate benefits. The Trust has may exercise its discretion to extend this period beyond 12 months, with the agreement of the administrating authority, and each case will be considered on its own merits.
<b>TP10(6)</b>	Whether to extend the 12 month time limit within which a member (who has not elected to be treated as a member who, in the same employment, was contributing to the Scheme on both 31 March 2014 and 1 April 2014) who has a deferred LGPS benefit in England or Wales following the cessation of employment <b>before</b> 1 April 2014, to elect to aggregate their deferred benefits with their new LGPS employment that commenced on or after 14 May 2018	The Trust will not exercise this discretion unless there are exceptional circumstances, and only with the agreement with the administering authority.
<b>R9&amp;R10</b>	How the pension contribution band to which an employee is to be allocated on joining the Scheme, and at each subsequent April, will be determined and the circumstances in which the Scheme employer will, in addition to the review each April, review the pension contribution band to which an employee has been allocated following a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March)	The Trust will apply the administering authority determined employee contribution rates and bands. These are subject to change and may be varied.
<b>R21(4)(a)(iv), R21(4)(b)(iv) and R21(5)</b>	Whether, 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 paid shared parental leave, or during paid additional maternity 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</li> </ul>	This may be considered in exceptional circumstances where there are business benefits.

	<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. A 'regular lump sum payment' is a payment for which the member's Scheme employer determines there is a reasonable expectation that such a payment would be paid on a regular basis</p>	
<p><b>R21(5A) and R21(5B)</b></p>	<p>When a member is:</p> <ul style="list-style-type: none"> <li>– on reduced contractual pay or no pay 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, 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>if, in the Scheme 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 when calculating APP, having had regard to the level of pensionable pay received by the member in the previous 12 months</p>	<p>This may be considered in exceptional circumstances where there are business benefits.</p>