The Oak Partnership

LGPS Pensions Discretionary Policy

We are committed to safeguarding and ensuring the health, safety and well-being of all pupils in accordance with safeguarding procedures and guidance for staff outlined in the schools' Health and Safety, Child Protection, Security and Safeguarding policies.

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Contents

1. Introduction

Support staff within The Oak Partnership Trust (TOP) access the Local Government Pension Scheme (LGPS) via Peninsula Pensions. Peninsula Pensions is provided by Devon County Council and is a shared service with Somerset Council.

The majority of the scheme rules are non-negotiable, but within the LGPS 2014 there are a small number of specific regulations where TOP can exercise discretion over the entitlements of its current or former employees.

This policy sets out TOP's approach to the discretionary elements of the scheme and applies to all schools within the Trust.

2. Equality

TOP is committed to treating all colleagues fairly and equitably. Proper consideration will be given to the relevant circumstances of each individual case and no individual will be treated less favourably on the grounds of a protected characteristic as defined in the Equality Act 2010 and outlined fully in TOP's Equality and Equal Opportunity Policy.

Discretionary powers will:

- not be used for an ulterior motive
- be exercised reasonably
- be used taking account of all relevant factors
- be duly recorded when used

3. Principles

TOP will consider any individual retirement case and decisions on its merits.

Employees who are members of the pension scheme are only entitled to receive pension benefits if they have 2 years or more service.

Under LGPS 2014 Regulation 18, if an employee leaves within 2 years of the start of their employment, their contributions can be repaid (Employee Contributions) or transferred to another scheme, unless there is some fraudulent offence or misconduct in connection with the employment.

TOP's decisions relating to retirement and the release of pension benefits will be in line with the current pension regulations. These regulations may be updated from time to time and the Authority will default to the regulations if the policy is not explicit on any current or future regulation.

Decisions relating to the release of deferred benefits to former employees will refer to the relevant pension policies applicable at the time of their employment. In such cases, the decision as to the release of deferred benefits will be on a case by case basis and will consider the criteria detailed in these principles. Guidance may be sought from the pension administrators as required.

4. Discretions

Within the regulations there are a number of discretionary statements that require TOP to explicitly state their position.

This section outlines our position in relation to all of these discretions.

Mandatory LGPS 2013 & 2014 discretions

Discretionary policies from 1 April 2014 in relation to post 31 March 2014 active members and post 31 March 2014 leavers (excluding councilor members)

Power of employing authority to grant additional pension (Reg 31)	**Policy Decision:**
An employer can choose to grant extra annual pension* (at full cost to themselves) to: • an active member; or • to a member, within 6 months of leaving, whose employment was terminated on the grounds of redundancy or business efficiency **(Please see [Peninsula website] for the current years maximum additional pension purchase limit)*	Although each case will be considered on its merits, awarding additional pension benefits would incur considerable costs for the Trust, therefore TOP will not exercise this discretion. The Trust board would only consider granting this this in exceptional circumstances.

Shared Cost Additional Pension Contribution (Reg 16(2)(e) & Reg 16(4)(d))	**Policy Decision:**
Where an active member wishes to purchase extra annual pension by making additional pension contributions (APCs), an employer can choose to voluntarily contribute towards the cost of purchasing that extra pension through a Shared Cost Additional Pension Contribution (SCAPC) **Note:** this discretion does not relate to cases where a member has a period of authorised unpaid leave of absence and elects within 30 days of return to work (or a longer period if the employer allows) to pay a SCAPC to cover the amount of pension 'lost' during that period of absence. In those cases, the employer must contribute 2/3rds of the cost to a SCAPC; there is no discretion (regulation 15(5) of the LGPS Regulations 2013).	Funding additional pension contributions for employees would incur considerable costs for the Trust and in line with guidelines (effective from 1 April 2014), additional pension contributions will not normally be funded in whole or in part by TOP. The Trust board would only consider granting this this in exceptional circumstances.

'Switch on' the 85-year rule	**Policy Decision:**

TPSch 2, para 1(2) & 1(1)(c)	
The 85-year rule does not automatically fully apply to members who would have had the protection under old regulations, and who choose to voluntarily draw their benefits on or after age 55 and before age 60. An employer can decide to switch the 85-year rule back on in full for such members. Where the Scheme employer does not switch back on the 85-year rule, the member's benefits will be actuarily reduced. However, the Scheme employer can exercise a discretion to waive any actuarial reductions (at cost to the Scheme employer).	TOP will not exercise this discretion. The Trust board would only consider granting this this in exceptional circumstances.
Flexible Retirement (R30(6) & TP11(2))	**Policy Decision:**
An employer can decide whether to permit flexible retirement for staff aged 55 or over who reduce their working hours and/or grade and wish to access their pension benefits. In such cases, pension benefits may be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds. The employee must reduce either their hours, and/or their grade and the employer must agree to the release of the pension. You will need to consider: • The minimum reduction in hours or grade required. *(The specific reduction required is not set out in the regulations, but instead must be determined by the employer and specified in this flexible retirement policy).* • Whether the employee should commit to a reduction in hours or grade for a minimum period. • Whether the employee should commit to remaining in employment with the employer for a minimum period	TOP will consider each application for flexible retirement on its merits, taking into account the operational, financial and compassionate grounds surrounding the request, but specifically taking into account the following: • the acceptability to the employee of the level of pension he/she would receive • the willingness of the Trust to agree to the specific flexible retirement requested TOP's policy on flexible retirement is that an application will only be approved where: • there are no pension costs for the Trust arising from the employee's flexible retirement • the flexible retirement will provide benefits to the Trust, for example

You must also state whether, in addition to the benefits the member has accrued prior to 1st April 2008 (which the member must draw), you permit the member to choose to draw: • All, part, or none of the benefits they accrued after 31st March 2008 and before 1st April 2014 and/or, • All, part, or none of the benefits accrued after 31st March 2014, and, • Whether to waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members' benefits paid on the grounds of flexible retirement before normal retirement age (R30(8)). Note: If flexible retirement is agreed for a member aged between 55 and 60, there could be a Strain cost to be paid to the Pension Fund by the employer in respect of the pension benefits paid. There would also be a Strain cost payable by the employer where you have waived any actuarial reduction, in whole or in part.	financial savings or the facilitation of organisational or staffing changes and will not result in any detriment to the level of service • the Trust's assessment of the request is to work reduced hours, is that this would not create any operational problems, or recruitment difficulties in making up the reduced hours • the request for a move to a lower graded post is subject to an appropriate vacancy arising and the operation of the Trust's normal recruitment procedures would be employed in filling the post
Waive actuarial reductions to members benefits TP3(1) & TP3(5), TPSch 2 (para 2(1), 3(1), 3(2) & 9) B30(5) & B30A(5)	**Policy Decision:**
An employer can decide whether to waive in whole or in part any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement This applies to: • active members voluntarily retiring on or after age 55 and before Normal Pension Age, who elect to immediately draw benefits, and • deferred members and suspended tier 3 ill health pensioners who elect to draw benefits (other than on ill health grounds) on or after age 55 and before Normal Pension Age.	Although each case will be considered on its merits, waiving actuarial reductions would incur considerable costs for the Trust, therefore TOP will not exercise this discretion. The Trust board would only consider granting this this in exceptional circumstances.

Recommended LGPS 2013 & 2014 discretions (non mandatory)

There is no requirement to have a written policy in respect of non-mandatory discretions. However, there are some non-mandatory discretions where it is recommended for Scheme employers to have a written policy so that both members and the Pension Fund administering authority can be clear on the employer's policy on these matters.

Shared Cost Additional Voluntary Contribution Arrangement (SCAVC) R17 (1) and TP15 (2A) and A25 (3) and definition of SCAVC in RSch 1	**Policy Decision:**
An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution through a shared cost arrangement (SCAVC). An employer will also need to decide how much, and in what circumstances to contribute to a SCAVC arrangement.	Funding additional pension contributions for employees would incur considerable costs for the Trust and in line with guidelines (effective from 1 April 2014), additional pension contributions will not normally be funded in whole or in part by TOP. The Trust board would only consider granting this this in exceptional circumstances.
Extend the time limit for member to elect for a Shared Cost Additional Pension Contribution (R16(16))	**Policy Decision:**
An employer can decide to extend the 30 day deadline for a member to elect to purchase additional pension by way of a Shared Cost Additional Pension Contribution (SCAPC) upon return from a period of unpaid absence (other than because of illness or injury, relevant child-related leave or reserve forces service leave).	Although each case will be considered on its merits, TOP will not exercise this discretion. The Trust board would only consider granting this this in exceptional circumstances.
Extend the 12-month time limit for transfer of pension rights (R100(6))	**Policy Decision:**
An employer can decide to extend the 12-month time limit for a member to elect to transfer pension rights from another registered pension scheme into the LPGS, if an election has not been made within 12	Although each case will be considered on its merits, TOP will not exercise this discretion.

months of joining the LGPS in that employment.	The Trust board would only consider granting this this in exceptional circumstances.
Extend the 12-month time limit for a member to elect not to aggregate Post 31 March 2014 deferred benefits (R22(7) and (8))	**Policy Decision:**
An employer can extend the 12 month time limit for a member to elect **not** to aggregate their Post 31 March 2014 (or combinations of Pre & Post 2014) deferred benefits with their new LGPS employment (or ongoing concurrent LGPS employment), if an election has not been made within 12 months of joining the LGPS in that employment (or within 12 months of ceasing the concurrent membership).	Although each case will be considered on its merits, TOP will not exercise this discretion. The Trust board would only consider granting this in exceptional circumstances.

Extend the 12-month time limit for a member to elect to aggregate Pre 1 April 2014 deferred benefits (TP 10(6) as amended by A27 (2018))	**Policy Decision:**
Employers can decide whether to extend the 12-month time limit for a member to elect to aggregate their Pre 1 April 2014 deferred benefits with their new LGPS employment that commenced on or after 14 May 2018 in order to purchase earned pension.	Although each case will be considered on its merits, TOP will not exercise this discretion. The Trust board would only consider granting this in exceptional circumstances.
How an employee's contribution band will be initially determined and thereafter reviewed (R9 and R10)	**Policy Decision:**
Employers must decide how the pension contribution band to which an employee is to be allocated on joining the Scheme will be determined and reviewed at each subsequent April. Circumstances in which the employer will review the pension contribution band will also need to be determined. For example, following a material change which affects the	Contribution bands for members of the LGPS will be calculated each month according to actual salary. Contribution bands may therefore fluctuate should pensionable pay change. Following a material change which affects the member's pensionable pay during the

member's pensionable pay during the Scheme year (1 April to 31 March)	Scheme year (1 April to 31 March).
Whether to include a regular lump sum payment when calculating assumed pensionable pay (APP) (Reg 21(4)(a)(iv), 21(4)(b)(iv) and 21(5))	**Policy Decision:**
When calculating assumed pensionable pay, employers can decide to include 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 employer determines there is a reasonable expectation that such a payment would be paid on a regular basis.	Although each case will be considered on its merits, TOP will not exercise this discretion. The Trust board would only consider granting this in exceptional circumstances.
Whether to substitute a higher level of pensionable pay when calculating assumed pensionable pay (R21(5A) and 21(5B) backdated to 1 April 2014 by A7 2018)	**Policy Decision:**
When calculating assumed pensionable pay (APP), an employer can decide to substitute a higher level of pensionable pay if, in their opinion, the pensionable pay received in the 3 months/12 weeks before the commencement of APP, is materially lower than the level of pensionable pay the member would have normally received.	Although each case will be considered on its merits, TOP will not exercise this discretion. The Trust board would only consider granting this in exceptional circumstances.

Pre LGPS 2014 discretions

Discretions to be exercised on and after 1 April 2014 in relation to scheme members who ceased active membership between 1 April 2008 and 31 March 2014

'Switch on' the 85-year rule TPSch 2, para 1(1)(c) & 1(2)	**Policy decision**

The 85-year rule does not automatically fully apply to members who would have had the protection under old regulations, and who choose to voluntarily draw their benefits on or after age 55 and before age 60. An employer can decide to switch the 85-year rule back on in full for such members. This also applies to members with deferred benefits or a suspended tier 3 ill health pension who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60.	Although each case will be considered on its merits, TOP will not exercise this discretion. The Trust board would only consider granting this this in exceptional circumstances

Waive actuarial reductions to members benefits B30(5), TPSch 2, para 2(1) B30A(5)	**Policy decision**
An employer can decide whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.	Although each case will be considered on its merits, TOP will not exercise this discretion. The Trust board would only consider granting this in exceptional circumstances.

Discretions to be exercised on and after 1 April 2014 in relation to scheme members who ceased active membership between 1 April 1998 and 31 March 2008

Grant application for early payment of deferred benefits R31(2) LGPS Regulations 1997	**Policy decision**
Employers can decide whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55	Although each case will be considered on its merits, TOP will not exercise this discretion. The Trust board would only consider granting this in exceptional circumstances.

'Switch on' the 85-year rule upon the voluntary early payment of deferred benefits TPSch 2, para 1(2) & 1(1)(f) & R60	**Policy decision**

The 85-year rule does not automatically fully apply to members who would have had the protection under old regulations. An employer can decide to "switch on" the 85-year rule in full for a member with deferred benefits voluntarily drawing benefits (on or after 14 May 2018) on or after age 55 and before age 60.	Although each case will be considered on its merits, TOP will not exercise this discretion. The Trust board would only consider granting this in exceptional circumstances.
Waive actuarial reductions to members benefits (R31(5) 1997 & TPSch 2, para 2(1)	Policy decision
An employer can decide whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65.	Although each case will be considered on its merits, TOP will not exercise this discretion. The Trust board would only consider granting this in exceptional circumstances.

Discretions to be exercised on and after 1 April 2014 in relation to members who ceased active membership before 1 April 1998

Grant application for early payment of deferred benefits (TP3(5A)(vi), TL4, L106(1) 1997 Transitional & D11(2)(c) 1995 Regs)	Policy Decision:
Employers can decide whether to grant applications early payment of deferred pension benefits on or after age 50 and before normal retirement age on compassionate grounds.	Although each case will be considered on its merits, TOP will not exercise this discretion. The Trust board would only consider granting this in exceptional circumstances.

Forfeiture certificates

Applicable regulation: 91 (1) (4)

If a member is convicted of a criminal offence committed in connection with the member's employment which results in the member leaving that employment, an application may be made to the Secretary of State for the issue of a forfeiture certificate which permits withholding pension benefits from that individual.

The Trust Board will consider each case on its merits, both in relation to applying for a forfeiture certificate and to the directing that any member's rights under these regulations are forfeited.

5 Review and monitoring

This policy will be reviewed annually, but may be modified or added to from time to time as advised by Peninsula Pensions.