



Staploe Education Trust

Employer Discretions Statement of Policy

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| Version: | 2.0 |
| Author: | Operation Director / Payroll Manager |
| Approved by: | Infrastructure Committee |
| Date: | Autumn 2021 |
| Review date: | Autumn 2024 |

Overview

The Trustees of Staploe Education Trust, as an employer, are under a legal duty to prepare and publish a written statement of its policy relating to certain discretionary powers under Regulations which apply to the Local Government Scheme (“LGPS”).

This policy clarifies Staploe Education Trusts position on the discretions it can exercise in accordance with the relevant LGPS regulations and guidance on how they apply to retirement and other pension related options.

The policy statement applies to all members of staff who are eligible to be members of the LGPS, as defined in the regulations.

Employees who are members of the pension scheme are only entitled to receive pension benefits if they have 2 years or more LGPS qualifying service (except where the active member dies in service). Under LGPS 2014 Regulation 18, if an employee leaves the scheme with less than 2 years qualifying service, their contributions can be repaid (Employee Contributions) or transferred to another scheme, unless there is some fraudulent or misconduct connection with the employment.

This policy has been seen by an Employer Liaison Officer at LGPS Pensions Service to ensure this document meets with current and previous regulations

Principles

Staploe Education Trust will treat any individual retirement case and decisions on its merits.

Decisions relating to retirement will be made considering the business case and implications for the Trust including: financial implications, employment law consideration, the pension regulations and the specific legality of each case. It may also consider long term savings, affordability, skills and skills retention and impact on delivery of a particular function within the Trust.

Each decision will be made free from discrimination on the grounds of any protected characteristic – age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation or any other personal criteria.

The Trusts decisions relating to retirement and the release of pension benefits will be in line with the current 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 administrator as required.

Discretions

Within the pension regulations there are a number of discretionary statements that require Staploe Education Trust to explicitly state their position. The discretions detailed below relate to the current LGPS 2014 regulations and guidance. They also reflect discretions approved by the Trust for the previous pension scheme policies.

This policy will normally be reviewed on a 3-year cycle. This review may be brought forward as required by the Trust to reflect changes in supporting advice/guidance

| No. | Area | Regulation | Discretion | Policy Summary | Explanation |
|-----|--|--|---|--|---|
| 1 | Funding of Additional Pension Contributions (APC) | Regulations 16(2)(e), 16(4)(d) and 16(16) Pensions Regulations | To fund, in whole or in part, additional pension contributions on behalf of an employee where these are to be paid by regular contributions (Regulation 16(2)(e)) or by lump sum (Regulation 16(4)(d)) Note: The amount of additional pension that may be credited to an active member's pension accounts may not exceed the additional pension limit of £7,122 (figure as at 1.4.20), which is uplifted annually. | The Board of Trustees will consider each case on its merits but will not normally fund additional contributions either wholly or in part. | This means the Board of Trustees can pay additional pension contributions on behalf of current employees. The Board of Trustees will only consider this in exceptional circumstances. |
| | | Regulations 16(16) | The 30-day deadline can be extended for a member to request for a shared cost APC to buy back lost pension following a period of authorised absence from work (Regulation 16 (16)) | The Board of Trustees will consider each case on its merits but will not normally extend the 30-day deadline from the day when the employee comes back to work from their authorised unpaid leave. | |
| 2 | Flexible Retirement | Regulation 30(6) and TP11(2) Pensions Regulations | To agree to an employee aged 55 or over reducing their hours of work or grade so that they may receive all or some of their retirement pension while still employed. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade. | The Board of Trustees will consider each case on its merits but will not normally agree to requests for flexible retirement. | This means the Board of Trustees can agree to an employee aged 55 and over drawing their pension whilst they continue to work for the employing authority on reduced pay / hours or grade. |
| 3 | Waiving of Actuarial Reduction to Pensions | Regulation 30(8) Pensions Regulations | To agree to waive, in whole or in part, any reduction that would otherwise be made on the early payment of a pension to a former employee aged 55 or to the pension paid to an employee allowed to take flexible retirement under Regulation 30(6) of the Pensions Regulations. | The Board of Trustees will consider each case on its merits but will not normally agree to waive any actuarial reductions. | This means the Board of Trustees can agree to waive any reductions to an individual pension where they have left employment / been granted flexible retirement from age 55. The Board of Trustees will only consider this in exceptional circumstances. |

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| 4 | Award of Additional Pension | Regulation 31, Pensions Regulations | <p>To award additional pension to:</p> <ol style="list-style-type: none"> 1. An active member; or 2. A former active member who was dismissed by reason of redundancy or business efficiency. <p>Note: Any additional pension awarded (including any additional pension purchased by the employer under Regulation 16 of the Pensions Regulations (see above) may not exceed the additional pension limit of £7,122 (figure as of 1.4.20), which is uplifted annually.</p> <p>Additionally, in the case of a former active member falling within (2) above, the resolution to award additional pension must be made within 6 months from the date on which the employment ended.</p> | The Board of Trustees will consider each case on its merits but will not normally award additional pension. | This means the Board of Trustees has the power to award additional pension to either an active (current) member of the LGPS, or within six months of leaving if the member left on the grounds of redundancy or business efficiency. The Board of Trustees will only consider this in exceptional circumstances. |
| 5 | Aggregation of Benefits: Concurrent Employments | Regulation 22 (7) (b), Pensions Regulations | To allow an active member with concurrent employments, who ceases an employment with an entitlement to a deferred pension, a longer period than 12 months in which to elect not to have the benefits in their deferred members pension account aggregated with the benefits in their active members pension account. | The Board of Trustees will consider each case on its own merits but will not normally exercise this discretion. | This means the Board of Trustees can allow members with more than 1 pension under different employment contracts (at the same time) longer than the usual 12 months deadline to choose not to combine the pensions. The Board of Trustees will only consider this in exceptional circumstances. |

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| 6 | Aggregation of Benefits: Deferred Member becoming Active Member | Regulation 22 (8)(b), Pension Regulations | To allow a deferred member who again becomes an active member a longer period than 12 months in which to elect not to have the benefits in their deferred members pension account aggregated with the benefits in their active members pension account. | The Board of Trustees will consider each case on its merits but will not normally exercise this discretion. | <p>The benefits are usually aggregated (joined-up), unless the member elects to keep them separate.</p> <p>The Board of Trustees can agree to a former member having longer than the usual 12-month deadline to choose not to combine the pensions.</p> <p>The Board of Trustees will only consider this in exceptional circumstances.</p> |
| 7 | Early Payment of Pension in cases of Members with Transitional Protection | Schedule 2, Transitional Regulations | <p>To agree to, that the transitional protections set out in Paragraph 1 (3) of Schedule 2 to the Transitional Regulations should apply.</p> <p>This affects members with transitional protection who choose to retire between the ages of 55 and 60 with their early retirement reduction fully or partially reduced depending on their protection.</p> | The Board of Trustees will consider each case on its merits but will not normally agree to the payment of unreduced retirement benefits to a member with transitional protection who meets the 85-year rule until they are 60. | This means the Board of Trustees will only agree on compassionate grounds, to waive any reduction to pension benefits that would otherwise be made to the pension payable to a member covered by the transitional protections if there are exceptional circumstances. |
| | Waive Reduction for early retirement (other than flexible retirement) | <p>Regulation 3 (1) Schedule 2 para 2 (1) Transitional Regulation</p> <p>B30 (5) & B30A(5)</p> | <p>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 01/04/14 and post 31/03/14 membership) on</p> <p>a) compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was not in the Scheme before 1/10/06,</p> <p>b) compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the</p> | | |

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| | | | <p>member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will not attain 60 between 1/4/16 and 31/3/20</p> <p>c) compassionate grounds (pre 1/4/16 membership) and in whole or in part on any grounds (post 31/3/16 membership) if the member was in the Scheme before 1/10/06 and will be 60 by 31/3/16</p> <p>d) compassionate grounds (pre 1/4/20 membership) and in whole or in part on any grounds (post 31/3/20 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will attain 60 between 1/4/16 and 31/3/20</p> | | |
| | | Regulation 30 (8) | 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 only has post 31/03/14 membership | | |
| 8 | Inward Transfer of Pension Rights | Regulation 100, Pensions Regulations | <p>To allow a person more than 12 months beginning with the date when they first became an active member in an employment to request the acceptance of transfer value for certain accrued pension rights.</p> <p>Note: Regulation 100 of the Pension Regulations requires that a request must be made within 12 months beginning with the date on which the member became an active member in an employment or such longer period as the employer and the Administering Authority may allow. The discretion is, therefore, exercisable concurrently by the Administering Authority.</p> | The Board of Trustees will consider each case on its merits but will not normally exercise this discretion. | <p>This means the Board of Trustees can agree to allow an individual who has been a member for more than 12 months to request to transfer previous pension funds into the LGPS fund.</p> <p>The Board of Trustees will only consider this in exceptional circumstances.</p> |

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| 9 | Forfeiture Certificates | Regulation 91, Pensions Regulations | <p>To apply to the Secretary of State for the issue of a forfeiture certificate.</p> <p>Note: A forfeiture certificate may be applied where a member has been convicted of an offence committed in connection with the member's employment and because of which the member has left that employment. A forfeiture certificate is a certificate, issued by the Secretary of State that the offence was gravely injurious to the State or is liable to lead to serious loss of confidence in the public service.</p> <p>To direct, where a forfeiture certificate has been issued, that any rights under the Pensions Regulations be forfeited.</p> <p>Note: If the employer has suffered loss as a direct consequence of the offence, a direction may only be given if the loss cannot be recovered except after an unreasonable time or at disproportionate cost. A direction may only be given if the application for a forfeiture certificate was made within a period of three months beginning with the date of conviction.</p> | The Board of Trustees will consider each case on its merits, both in relation to applying for a forfeiture certificate and to the giving of a direction that pension benefits will be forfeited where a forfeiture certificate has been issued. | This means the Board of Trustees can apply for a certificate from the Secretary of State which permits withholding pension benefits from an individual who has been convicted of certain offences. |

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| 10 | Recovery of Money Owed as a result of Misconduct | Regulation 93, Pensions Regulations | <p>To recover money owing to the former employer where a person has left employment as a result of grave misconduct or of a criminal, negligent or fraudulent act or omission in relation to that employment and owes money to the employer arising out of such that misconduct, act or omission.</p> <p>Note: If there is a dispute about the amount owed, the Board of Trustees may only recover the money from the employees' pension benefits under a court order or the award of an arbitrator.</p> | The Board of Trustees will normally seek to recover any money owing as a result of a former employee's grave misconduct, or criminal, negligent or fraudulent acts or omissions from the employees' pension benefits. | This means the Board of Trustees can look to recover money from an ex-employee where they have left employment as a result of grave misconduct, negligent or fraudulent act or omission in relation to that employment. |
| 11 | Redundancy Payments | Regulation 5, Compensation Regulations | To base redundancy pay on actual pay where actual pay exceeds the statutory maximum under the Employment Rights Act 1996. | The Board of Trustees will base redundancy payments on an employee's actual pay in all cases. | This means the Board of Trustees can base the calculations of an individual's redundancy pay on their actual weeks' pay where it exceeds the statutory maximum weekly redundancy pay. |
| 12 | Shared Cost Additional Voluntary Contribution Agreement | Regulation R17(1) & TP15(1)(d) & A25(3) | <p>An employer can choose to pay for or contribute towards a members Additional Voluntary Contribution arrangement entered into on or after 1st April 2014 via a shared cost AVC.</p> <p>An employer can choose to pay for or contribute towards a members Additional Voluntary Contribution arrangement entered into before 1st April 2014 via a shared cost AVC.</p> | The Board of Trustees will not normally exercise this discretion. | This means the Board of Trustees has the power to pay for or contribute towards the cost of an AVC however, the Board of Trustees will only consider this in exceptional circumstances. |

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| 13 | Compensation for loss of Employment | Regulation 6, Compensation Regulations | <p>To pay compensation to a person whose employment ceases</p> <ul style="list-style-type: none"> - By reasons of redundancy; - In the interests of the efficient exercise of the employing authority's functions; or in the case of a joint appointment, because the other holder of the appointment leaves. <p>Note: Compensation may not be paid under this Regulation if;</p> <ul style="list-style-type: none"> - A person's period of membership of the Pension Scheme has been increased under Regulation 12 of the Benefits Regulations (see above); or - A person has been awarded an additional pension under Regulation 13 of the Benefits Regulations (see above). <p>In all cases the amount of compensation paid under this Regulation may not exceed 104 weeks' pay.</p> <p>In all cases the decision to pay compensation under this Regulation must be made no later than 6 months after the date of termination of the persons employment.</p> | <p>The Board of Trustees will not normally pay compensation under this Regulation except to ensure that an employee whose employment is terminated by reason of redundancy, receives, under Regulation 5 of the Compensation Regulations and this Regulation a total of up to 30 weeks' pay calculated in accordance with the Statutory Redundancy Pay Table.</p> <p>Note: The effect of the Board of Trustees policy on the exercise of its discretions under Regulation 5 and 6 of the Compensation Regulations is that a person whose employment is terminated by reason of redundancy will be paid up to 30 weeks' pay calculated in accordance with the Statutory Redundancy Pay Table. A person whose employment is terminated in the interests of the efficient exercise of the Trusts functions. Or where the other holder of a joint appointment leaves, will not normally be paid compensation under these Regulations.</p> | <p>This means the Board of Trustees will only pay an employee who is made redundant using the statutory redundancy calculation up to 30 weeks' pay.</p> |

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| 14 | Pensionable Pay | Regulation 21 (5A) and (5B) | Assumed Pensionable Pay (APP) is usually calculated using last 3 months (or 12 weeks) just prior to the relevant authorised leave started. | The Board of Trustees will base pensionable pay on the previous 12 months where the pensionable pay received in the last 3 months (or 12 weeks) of employment is materially lower than the level the member would normally receive. | This means that the Board will pay the amount that most closely reflects the members usual pay. |
| 15 | Employee Contribution Rates | Regulation 9 (1) and (3) | Determining the rate of employee's contributions. | <p>The board of Trustees will ensure that employee's contributions rates will be set at the commencements of the membership and reset annually on the 1st April following an assessment of the previous year's pensionable pay.</p> <p>The Board of Trustees will ensure that employee's contribution rates will be re-set during the financial year when a material occurs and changes the members pensionable pay.</p> | This means that employees will contribute to their pension based on an assessment of the previous year's pensionable pay and in line with the contribution bands. |