LGPS Pensions Discretionary Payments Policy

Date Policy Introduction:	6th May 2023 by Trust Strategic HR Manager
Date policy approved:	17th November 2022, by SCRCAT – Directors HR Committee
Shared with Trade Unions:	Local Secretary TU's (SCJCC)
Date of next review	Summer Term 2025

Purpose:

The purpose of this policy is to set out how the trust will exercise its discretions as an employer within the regulations of the Local Government Pension Scheme (LGPS).

Scope:

This policy applies to Trust employees who are active members of the LGPS and Trust employees who become deferred members of the scheme.

Roles and responsibilities:

St Cuthbert's RC Academy Trust Board of Directors will monitor the application of this policy, particularly to ensure that practices comply with it and are not discriminatory. Responsibility for decisions made under this policy are delegated in accordance with the Scheme of Delegation agreed by the Board.

Legal Considerations:

LGPS regulations require each employer to prepare a written statement of its policy in relation to the exercise of the following discretions:

- whether to grant extra additional pension;
- whether to share the cost of purchasing additional pension (SCAPS);
- whether to permit flexible retirement;
- whether to "switch on" the 85 year rule (excluding flexible retirement) upon the voluntary early payment of deferred benefits; and
- whether to waive upon the voluntary early payment of benefits, any actuarial reduction on compassionate grounds or otherwise (excluding flexible retirement).

The other discretions in this policy are not mandatory and are included to provide transparency and ensure consistency of decision-making.

Statement of policy on the Local Government Pension Scheme Regulations (LGPS) 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.

This document sets out St Cuthbert's RC Academy Trust's (the Scheme Employer) policy on the operation of each of the compulsory discretions (and optional discretions where chosen) available under the LGPS Regulations.

It states whether or not discretions will be operated and the circumstances and criteria for applying them, in relation to active and deferred members of the LGPS.

There are other non-compulsory discretions available for the Scheme Employer to consider, and cases where these may arise in the future will be considered on an individual basis; the merits of each case being fully investigated.

In exercising the discretionary powers available under the above Regulations, the Scheme Employer has acted with due prudence and propriety and considered the financial impact of applying the discretions.

These policies may be subject to review from time to time.

Any subsequent change in this Policy Statement will be notified to affected employees and any changes will be notified to East Riding Pension Fund (ERPF) within 30 days of the revised policy taking effect.

For the full list of discretions policies go to https://www.lgpsregs.org/resources/guidesetc.php and view the latest version of the "Discretions" documents.

PART A – Compulsory Discretions ***(The 2 detailed below are the most frequently used under Regulations but remain optional – see LGA Discretions for the full list of optional employer discretions).***
Power to award additional pension Regulation 31
Whether, at the full cost to the Scheme employer, to grant extra annual pension of up to £7,026 (figure at 1 April 2019) to an active member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.
A member whose employment is terminated on the above grounds over the age of 55 will have access to their unreduced pension; the employer would meet the cost of these reductions by paying a strain cost. Members that are made redundant under the age of 55 do not have these protections so there would be no strain cost. In either case, the employer may choose to pay Additional Pension Contributions (APCs) to buy extra annual pension for the member, effectively paying both the employer and employee contributions to make this up.
St Cuthbert's Policy Decision (1)
St Cuthbert's RC Academy Trust will not make use of the discretion to grant extra pension of up to £7026 except in exceptional circumstances where it is considered to be in the employer's financial or operational interests to do so.
Shared cost additional pension contributions Regulation 16(2e) (4d)
Whether, how much, and in what circumstances to contribute to a Shared Cost APC scheme.

Where an active scheme member has decided to make Additional Pension Contributions (APCs) to purchase extra pension benefits up to £7,026 per annum (figure as at 1 April 2019), the employer can resolve to ***voluntarily*** contribute towards the cost of this too.

Note: This does not include instances where the employee is paying for ***lost*** pension via an APC where the election was made in the first 30 days (or longer if the employer allows) – in this circumstance the employer ***must*** pay two-thirds of the cost of such purchase

St Cuthbert's Policy Decision (2)

The employer will not make us of the discretion to grant extra pension of up to £7026 except in exceptional circumstances where it is considered to be in the employer's financial or operational interests to do so.

Whether to allow flexible retirement
Regulation 30 (6) & TP11(2) & R30(8)

Whether to allow flexible retirement for staff aged 55 or over who, with the agreement of the Scheme employer, reduce their working hours or grade [regulation 30(6) of the LGPS Regulations 2013] and, if so, as part of the agreement to allow flexible retirement:

- whether, in addition to the benefits the member has built up prior to 1 April 2008 (which the member must draw), to allow the member to choose to draw
- all, part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014, and / or
- all, part or none of the pension benefits they built up after 31 March 2014 [regulations 11(2) and 11(3) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014], and
- whether to waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA) [regulation 3(5) of the LGPS (Transitional Provision).

Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up whilst still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.

In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives the reduction either fully or in part or a member has protected rights.

Please be aware, if you allow members to retire under flexible retirement, and they meet the 85 year rule between the ages of 55 and 60, there may be a cost to the employer as there is no option to switch the 85 year rule off in this instance.

St Cuthbert's Policy Decision (3)

The employer will not agree to requests for flexible retirement except in circumstances where it is considered to be in the employers financial or operational interests to do so

Where flexible retirement is agreed, the benefits payable will be subject to any actuarial reduction applicable under the Local Government Pension Scheme Regulations and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014. Where flexible retirement is being considered, this must be in conjunction with the Trust's Flexible Retirement Scheme for Employees.

Each case will be considered individually and on the merits of the financial and/or operational business case put forward and will require the approval of the Board of Directors.

Switching on the 85 year rule
Paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.

Active members are now able to voluntarily retire between ages 55 and 60. If they were a member of the LGPS on 30 September 2006 then some of their benefits could be protected from reductions applied to early payment under the 85 year rule. This rule only applies automatically to members voluntarily retiring from age 60 but the employer has the discretion to "switch it on" for voluntary retirements between age 55 and 60.

This discretion does not apply to flexible retirement (see Regulation 30(6)) whereby the 85 year rule is always switched on.

Where the employer does not choose to "switch on" the rule, then benefits built up would be subject to reduction in accordance with actuarial guidance issued by the Secretary of State regardless of whether a member meets the rule or not.

If the employer does agree to "switch on" the 85 year rule, the employer will have to meet the
cost of any strain on fund resulting from the payment of benefits before age 60 i.e. where the member has already met the 85 year rule or will meet it before age 60.

St Cuthbert's Policy Decision (4)

The employer will not agree to apply the 85 year rule where members choose to voluntarily draw their benefits on or after age 55 and before age 60 except in circumstances where the employer considers it is in its financial or operational interests to do so.

Each case will be considered individually and on the merits of the financial and/or operational business case put forward and will require the approval of the Board of Directors.
Waiving of actuarial reductions **Regulation 30(8), TP3(1), TPSch 2, para 2(1), B30(5) and B30A(5)**
Whether to waive, in whole or in part, any actuarial reductions on benefits which a member voluntarily draws before normal pension age (other than on the grounds of flexible retirement).
Employers can agree to waive any actuarial reductions due in the case of employees retiring any time after age 55. Employers should also note that the strain cost of any such retirements would need to be met by the employer and paid into the Pension Fund at the appropriate time. **There are 4 member groups which you would be making the discretions policy on, the below covers in what circumstance reductions can be waived and to which benefits these would apply:** Members joined before 1 October 2006 and who reached 60 before 1 April 2016 – **Group 1** • To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2016 • To waive on any grounds, actuarial reductions applied to benefits built up after 1 April 2016 Members joined before 1 October 2006 and who reach age 60 between 1 April 2016 and 31 March 2020 and also meet their critical retirement age before 1 April 2020 (date member meets the 85 year rule)– **Group 2** • To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2020 • To waive on any grounds, actuarial reductions applied to benefits built up after 1 April 2020 Members joined before 1 October 2006 and who reach age 60 after 1 April 2016 but before 31 March 2020 and don't meet their critical retirement age before 1 April 2020 (date member meets the 85 year rule)– **Group 3** • To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2014 • To waive on any grounds, actuarial reductions applied to benefits built up after 1 April 2014 Members joined after 1 October 2006 – **Group 4** • To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2014 • To waive on any grounds, actuarial reductions applied to benefits built up • after 1 April 2014.
St Cuthbert's Policy Decision (5)
Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age the employer will not agree to waive in whole or in

part any actuarial reduction that would otherwise be applied to their benefits except in circumstances where the employer considers it is in its financial or operational interests to do so or there are compelling compassionate reasons for doing so.

Each case will:

• be considered individually and on the merits of the financial and / or operational business case put forward, or

• be considered individually and on the merits of the compassionate case put forward, and

• require the approval of the Board of Directors, including, where the reduction is only to be waived in part, approval for the amount of reduction to be waived.

Whether, how much, and in what circumstances to contribute to a SCAVC arrangement [regulation 17 of the LGPS Regulations 2013 and regulation 15(2A) of the LGPS (Transitional Provisions, Savings and amendment] Regulations 2014].

St Cuthbert's Policy Decision (6)

St Cuthbert's Roman Catholic Academy Trust will pay Shared Cost AVC contributions where an employee has elected to pay AVCs by salary sacrifice. The amount of these employer Shared Cost AVC contributions will not exceed the amount of salary sacrificed by the employee. This is a discretion of St Cuthbert's Roman Catholic Academy Trust which is subject to the employee meeting the conditions for acceptance into the salary sacrifice Shared Cost AVC scheme and may be withdrawn or changed at any time.

Whether to extend the 30 day deadline for a member to elect for a 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) [regulation 16(16) of the LGPS Regulations 2013].

St Cuthbert's Policy Decision (7)

St Cuthbert's Trust will not agree to exceed the deadline in this case except in exceptional circumstances. Each case will be considered individually and on the merits of the financial and/or operational business interest to do so, taking account of the business case put forward, and will require the approval of the Board of Directors.

Whether, with the agreement of the Pension Fund administering authority, 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 [regulation 100(6) of the LGPS Regulations 2013].

St Cuthbert's Policy Decision (8)
St Cuthbert's Trust will not agree to exceed the deadline in this case except in circumstances where The Trust considers it is in its financial and/or operational interests to do so or other circumstances where it would be reasonable to accept a late election, however these will be considered on an individual basis, and will require the approval of the Board of Directors.
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) after 31 March 2014 may elect not to have their deferred benefits aggregated with their 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) [regulations 22(7) and (8) of the LGPS Regulations 2013].
St Cuthbert's Policy Decision (9)
St Cuthbert's Trust will not agree to exceed the deadline in this case except in circumstances where The Trust considers it is in its financial and/or operational interests to do so or other circumstances where ii would be reasonable to accept a late election however these will be considered on an individual basis, and will require the approval of the Board of Directors.
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 before 1 April 2014, to elect to aggregate their deferred benefits with their new LGPS employment that commenced on or after 14 May 2018, to purchase earned pension [regulation 10(6) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 as amended by regulation 27 of the LGPS (Amendment) Regulations 2018].
St Cuthbert's Policy Decision (10)
St Cuthbert's Trust will not agree to exceed the deadline in this case except in circumstances where The Trust considers it is in its financial and/or operational interests to do so or other circumstances where it would be reasonable to accept a late election however these will be considered on an individual basis.
Whether, when calculating assumed pensionable pay when a member is: - on reduced contractual pay or no pay on due to sickness or injury, or **- absent during ordinary maternity, paternity or adoption leave, or paid shared parental leave, or during paid additional maternity or adoption leave, or** **- absent on reserve forces service leave, or** **- retires with a Tier 1 or Tier 2 ill health pension, or**

- dies in service 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 [regulations 21(4)(a)(iv), 21(4)(b)(iv) and 21(5) of the LGPS Regulations 2013].
St Cuthbert's Policy Decision (11)
St Cuthbert's Trust will not agree to include a regular lump sum payment when calculating assumed pensionable pay (APP) in this case except in circumstances where The Trust considers it is in its financial and/or operational interests to do so or other circumstances where it is reasonable to do so however these cases will be considered on an individual basis, and will require the approval of the Board of Directors.
When a member is: - on reduced contractual pay or no pay due to sickness or injury, or - absent during ordinary maternity, paternity or adoption leave, or paid shared parental leave, or during paid additional maternity or adoption leave, or - absent on reserve forces service leave, or - retires with a Tier 1 or Tier 2 ill health pension, or - dies in service 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 [regulations 21(5A) and 21(5B) of the LGPS Regulations 2013]. Although, this discretion is NEW, its effective date is backdated to 1 April 2014 by way of regulation 7 of the LGPS (Amendment) Regulations 2018.
St Cuthbert's Policy Decision (12)
St Cuthbert's Trust will not agree to substitute a higher level of pensionable pay when calculating assumed pensionable pay (APP) except in circumstances where The Trust considers it is in its financial and/or operational interests to do so or other circumstances where it is reasonable to do so however these cases will be considered on an individual basis. and will require the approval of the Board of Directors.