

# LGPS Discretions Policy

Hampton Academies Trust



Date Ratified: October 2020

Discretion Policy for:	Hampton Academies Trust	Date Applicable	Ratified April 2016 Updated and approved by Trustees May 2020
<p>This policy confers no contractual rights. Hampton Academies Trust retains the right to change the policies at any time without prior notice or consultation, and will notify the Pension Fund and members as appropriate. Only the policy which is current at the time a relevant event occurs to an employee/scheme member will be the one applied to that employee/member.</p> <p>* Definition of compelling, compassionate reasons:</p> <ul style="list-style-type: none"> <li>• The member can clearly demonstrate that they have a dependant, with a lifetime expectancy of more than twelve months, who is in need of the member's constant supervision due to a long term illness and as a result the member is suffering from severe financial hardship OR</li> <li>• There is another substantial reason (not relating to caring for a dependant who is ill) where the member can demonstrate that they are facing very severe, ongoing financial hardship and will be doing so on a long term basis.</li> </ul> <p>In exceptional circumstances, and only with the prior approval of the Chair of Trustees, Hampton Academies Trust may vary the terms of this policy on an individual basis.</p> <p>This policy is subject to statute, regulations and HAT policy. The policy confers no contractual rights, and may be changed at any time as necessary. Only the version of the policy which is current at the time a relevant event occurs (to the member or deferred member) will be the one applied to that member / deferred member.</p> <p>Each discretion will be dealt with independently.</p>			

Discretions from 1.4.14. in relation to post 31.3.14. active members (excluding councillor members) and post 31.3.14 leavers

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>
Granting additional pension	Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency	R31	Employer	Hampton Academies Trust would not usually grant additional pension, however each application will be considered on an individual basis.
Shared Cost APCs	Whether, where an active Scheme member wishes to purchase extra annual pension by making Additional Pension Contributions (APCs), to (voluntarily) contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC)	R16(2)(e) & R16(4)(d)	Employer	Hampton Academies Trust would not usually consider contributing to a SCAPC, however each application will be considered on an individual basis.

	Whether to extend 30 day deadline for member to elect for a shared cost APC 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 force service leave)	R16(16)	Employer	Hampton Academies Trust would only consider extending the deadline if the scheme member can prove they missed the deadline through circumstances outside of their control.
Flexible retirement	Whether all or some benefits can be paid if an active member aged 55 or over and with at least 2 years qualifying service reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	Employer	Hampton Academies Trust would accept applications for flexible retirement on a case by case basis and may agree to the member receiving immediate payment of all or part of their retirement pension where there is no cost to Hampton Academies Trust from the Pension Fund and no detrimental impact on service resulting from the reduction in hours and/or grade.
	Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	Hampton Academies Trust would not usually waive actuarial reduction but this may be considered in exceptional circumstances
	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31 March 2014 membership)	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	Hampton Academies Trust would not usually waive actuarial reduction on benefits but this may be considered in exceptional circumstances.
85 Year Rule	Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits at or after age 55 and before age 60.	TPSch 2, paras 1(1)(c), 1(2)	Employer (or Admin. Authority where Employer has become defunct)	<p>It is not the policy of Hampton Academies Trust to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 unless:-</p> <ul style="list-style-type: none"> <li>it is to bring an earlier deferred benefit into payment following redundancy, or efficiency retirement of an existing employee from a current job in Peterborough City Council, or</li> <li>if there are compelling, compassionate* reasons to do so.</li> </ul>

Waive Reduction	<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 1/4/14 and post 31/3/14 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 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>	TP3(1), TPSch 2 para 2(1), B30(5) & B30A(5)	Employer (or Admin. Authority where Employer has become defunct)	Hampton Academies Trust will not usually waive any actuarial reduction for active members who wish to retire from age 55 however each application will be considered on an individual basis.
	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31/3/14 membership)	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	Hampton Academies Trust will not usually waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age, however each application will be considered on an individual basis.
Shared cost AVCs	Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements.	R17(1) & definition of SCAVC in RSch 1	Employer	Hampton Academies Trust would not usually contribute to any shared cost AVC. However each application will be considered on an individual basis

Transferring in non LGPS pension rights	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	Employer and Admin. Authority	Hampton Academies Trust would not usually consider extending the deadline however each application will be considered on an individual basis.
Joining LGPS membership	Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with a new employment	R22(8)(b)	Employer	Hampton Academies Trust would not usually extend the normal time limits, however each application will be considered on an individual basis.
	Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with an ongoing concurrent employment	R22(7)(b)	Employer	Hampton Academies Trust would not usually extend the normal time limits, however each application will be considered on an individual basis.
Employee contribution rate	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 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)	R9(1) & R9(3)	Employer	Hampton Academies Trust's employee contribution bands are assessed on an ongoing basis and reviewed with every contract change.

Regular lump sum payments	In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	Employer	Hampton Academies Trust would not usually include regular lump sum payments when determining Assumed Pensionable Pay, however each application will be considered on an individual basis.
Pensionable Pay	Where in the 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 (AP), 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 having had regard to the level of pensionable pay received by the member in the previous 12 months.	R21(5A) & R21(5B)	Employer	Hampton Academies Trust will not usually substitute a higher level of pensionable pay, however each application will be considered on an individual basis.
Deferred benefits	Whether to extend the 12 month option period for a member (who did not become a member of the 2014 Scheme by virtue of TP5(1)) to elect that pre 1 April 2014 deferred benefits should be aggregated with a new employment	TP10(6)	Employer	Hampton Academies Trust will not usually extend the 12 month option period for a member to elect that pre 1 April 2014 deferred benefits should be aggregated with a new employment, however each application will be considered on an individual basis.

**Discretions in relation to scheme members who ceased active membership on or after 1.4.08. and before 1.4.14**

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>
85 year rule	Whether to switch on the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60	TPSch 2, para1(2) & 1(1)C		It is not the policy of Hampton Academies Trust to grant an application for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60 unless there are compelling, compassionate* reasons for doing so.
Waive reduction	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30 and B30A	B30(5) B30 TPSch 2, A para 2(1)	Employer (or Admin. Authority where Employer has become defunct)	Hampton Academies Trust would not usually waive the actuarial reduction, however this may be considered in exceptional circumstances.

Discretions under the Local Government Pension Scheme Regulations 1997 (as amended) in relation to:

A) any other scheme members who ceased active membership on or after 1.4.98. and before 1.4.08.

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>
Employer consent retirement	Grant an application for early payment of deferred benefits on or after age 50 and before age 55.	31(2)	Employer	It is not the policy of Hampton Academies Trust to release pension early unless:- <ul style="list-style-type: none"> <li>• it is to bring an earlier deferred benefit into payment following redundancy, or efficiency retirement of an existing employee from a current job in HAT, or</li> <li>• (ii) if there are compelling, compassionate* reasons to do so</li> </ul>
85 year rule	Whether to switch on the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60. Note: TPSch2, para 2(2) does not reference para 1(1)(f) so there is strictly speaking no requirement to publish a policy under this regulation or R60. LGSS recognises this is a regulatory omission and the employer should publish a policy accordingly	TPSch 2, para 1(2) & 1(1)(f) & R60	Employer	Hampton Academies Trust will not "switch on" the 85 year rule unless there are compelling, compassionate* reasons for doing so.
Waive reduction	Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early	31(5)	Employer	It is not the policy of Hampton Academies Trust to waive the actuarial reduction on early payment of pension unless:- <ul style="list-style-type: none"> <li>• the payment relates to someone who is being made redundant or taking efficiency retirement from active employment with HAT or</li> <li>• if there are compelling, compassionate* reasons to do so.</li> </ul>

Discretions under the Local Government Pension Scheme Regulations 1995 (as amended) in relation to scheme members who ceased active membership before 1.4.98.

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>
Employer consent retirement	Grant an application for early payment of deferred benefits on or after age 50 on compassionate grounds. Note: although the common provisions of the 1997 Transitional provisions regulations do not specify regulation D11(2)(c), their intention was that it should apply to this regulation	D11(2)(c)	Employer	Hampton Academies Trust will not grant application for early payment of deferred benefits unless there are compelling, compassionate* reasons for doing so.

Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>
Redundancy Pay on actual weeks pay	To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit.	5	Employer	Hampton Academies Trust will base redundancy payments on the statutory weeks pay limit.
Lump sum compensation	To award lump sum compensation of up to 104 weeks pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.	6	Employer	Hampton Academies Trust will not usually award lump sum compensation, however each application will be considered on an individual basis.

Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)

These Regulations still apply to any Compensatory Added Years previously awarded by a Scheme Employer before 1 April 2007. Scheme employers (other than admission bodies) who made awards of Compensatory Added Years are required to have a policy on the following:

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>
Abatement during re-employment	Whether and to what extent to reduce or suspend the member's annual compensatory added years payment during any period of re-employment in the Trust.	17	Employer	Hampton Academies Trust will not reduce or suspend the member's annual compensatory added years payment during any period of re-employment in the Trust unless there is a financial or practical reason to do so.
Reduction following cessation of re-employment	How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in the Trust.	19	Employer	Hampton Academies Trust will not reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in the Trust unless there is a financial or practical reason to do so.



Apportionment of survivor benefit	How to apportion any surviving spouse's or civil partner's annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner	21(4)	Employer	Hampton Academies Trust will not apportion any surviving spouse's or civil partner's annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner unless there is a financial or practical reason to do so.
Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments	Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be disapplied i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid	21(7)	Employer	Hampton Academies Trust would not usually consider applying the normal pension suspension rules, however each application will be considered on an individual basis.
	If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation	21(5)	Employer	If, normal pension suspension rules are applied under the preceding decision, the spouse's or civil partner's annual compensatory added years payment would not usually be reinstated after the end of the remarriage, new civil partnership or cohabitation, however each individual case will be considered on its own merits.

**Discretions under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011**  
**Scheme employers (other than admission bodies) must have a policy on:**

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>
Injury Allowances	Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	3(1)	Employer	Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.
	Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	3(4) and 8	Employer	Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits. If an injury allowance is granted under the preceding decision, the amount will depend on the individual circumstances, each case will be considered on its own merits.

Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1) (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	3(2)	Employer	Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.
Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(1)	Employer	Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.
Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(3) and 8	Employer	Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.  If an injury allowance is granted under the preceding decision, the amount will depend on the individual circumstances, each case will be considered on its own merits.
Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity)	4(2)	Employer	Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.
Whether to suspend or discontinue injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.	4(5)	Employer	Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.
Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a regulation 3 payment (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) was being made at date of cessation of employment but reg 4 does not apply.	6(1)	Employer	Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.

	Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following the cessation of employment)	6(1)	Employer	<p>Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.</p> <p>If an injury allowance is granted under the preceding decision, the amount will depend on the individual circumstances, each case will be considered on its own merits.</p>
	Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowance following the cessation of employment)	6(2)	Employer	<p>Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.</p>
	Whether to grant an injury allowance to the spouse, civil partner, co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	7(1)	Employer	<p>Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.</p>
	Determine amount of any injury allowance to be paid to the spouse, civil partner, nominated co-habiting partner (for awards made on or after 1 April 2008 the requirement to nominate a cohabiting partner has ceased due to the outcome of Elmes v Essex CC high court judgement) or dependent under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	7(2) and 8	Employer	<p>Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.</p> <p>If an injury allowance is granted under the preceding decision, the amount will depend on the individual circumstances, each case will be considered on its own merits.</p>

	Determine whether and when to cease payment of an injury allowance payable under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job)	7(3)	Employer	Hampton Academies Trust will not usually grant an injury allowance, however each case will be considered on its own individual merits.
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**Approved by Trustees:**

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