

1. Scope

- 1.1. This policy applies to all Administering Authorities for the various LGPS funds where the Trust is a Scheme Employer.
- 1.2. In accordance with Regulation 60 of the Local Government Pension Scheme Regulations 2013 (the “**2013 Regulations**”), Empower Learning Academy Trust (the “Trust”) as a Scheme Employer **must** prepare a written statement of its policy in relation to the exercise of its functions under Regulations:
- 16(2)(e) and 16(4)(d) (funding of additional pension);
 - 30(6) (flexible retirement);
 - 30(8) (waiving of actuarial reduction); and
 - 31 (award of additional pension).
- 1.3. In addition and in accordance with Paragraphs 2(2) of Schedule 2 to the Local Government Pension Scheme (Transitional Provisions, Savings & Amendment) Regulations 2014 the Trust as a Scheme Employer **must** also prepare a written statement on whether, in respect of benefits relating to pre 1st April 2014 membership, to ‘switch on’ the 85 year rule for a member who voluntarily retires (leaves employment) and elects to draw their benefits on or after the age of 55 and before the age of 60 thereby agreeing to waive in full or part any actuarial reduction applied to the member’s benefits.
- 1.4. In accordance with Regulation 14 of the Local Government Pension Scheme (Discretionary Payments) (Injury Allowances) Regulation 2011, the Trust must formulate, publish and keep under review the policy that it applies in the exercise of its discretionary powers to make any award under the Regulations.
- 1.5. The Trust as a Scheme Employer **must** send a copy of its statement to the Administering Authority and must publish its statement, which the Trust will do on its website.
- 1.6. The Trust as a Scheme Employer **must** keep its statement of policy under review and make such revisions as are appropriate following a change of its policy. **The Trust will review the policy in March each year.**
- 1.7. Where a revision to the statement of policy is made, the Trust **must** send a copy of its revised statement to the Administering Authority before the expiry of one month beginning with the date that any such revision is made. The Trust must also publish its revised statement.
- 1.8. In preparing, or reviewing and making revisions to its statement, the Trust **must** have regard to the extent to which the exercise of its discretionary functions could lead to a serious loss of confidence in the public service.

THIS POLICY DOES NOT IMPOSE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

1.9. Whilst it is compulsory for a Scheme Employer to prepare a statement in respect of the regulations detailed in 1.1 above, there are a number of other discretions available to the Trust which do not require such a statement of policy to be made. The Trust has decided to make a statement of policies in relation to these matters.

2. **Scheme Employer Declaration**

The Trust has prepared this written statement of policy in relation to its exercise of certain discretionary functions available under the Local Government Pension Scheme Regulations 2013. The Trust declares that it will keep this statement under review and publish the statement (and any amendments made thereto) in a place that is easily accessible to all of its eligible Scheme employees and that it will provide to the administering authority the most up to date version of the statement at all times.

3. **LGPS Regulations 2013**

3.1. **Regulation 16 Funding Additional Pension Contributions**

3.1.1. Regulation 16 allows a scheme employee to chose to pay Additional Pension Contributions under one of three options:

- Option 1: to buy extra pension;
- Option 2: to buy “lost” pension for unpaid leave of absence or unpaid child related leave;
- Option 3: to buy “lost” pension due to a strike.

3.1.2. The Trust has considered in what (if any) circumstances it would consider funding such Additional Pension Contributions in whole or in part.

3.1.3. The Trust has determined that as such funding is not mandatory and that it has a duty to use tax payers’ money prudently, it will never fund a scheme employee’s Additional Pension Contribution.

3.2. **Regulation 30(6) – Flexible Retirement**

3.2.1. An active member who has attained the age of 55 or over and who with the agreement of the Trust reduces their working hours or grade of employment may, with the further consent of the Trust, elect to receive immediate payment of all or part of the retirement pension to which they would be entitled in respect of that employment as if that member were no longer an employee in local government service on the date of the reduction in hours or grade (*adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State – (see 3.3 below)*).

3.2.2. As part of any agreement to permit flexible retirement decision, the Trust must consider whether, in addition to the benefits the member may have accrued prior to 1 April 2008 (which the member must draw), to permit the member to choose to draw all, part or none of the pension benefits they built up

THIS POLICY DOES NOT IMPOSE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

after 31 March 2008 and before 1 April 2014 and all, part or none of the pension benefits they built up after 1 April 2014.

3.2.3. The Trust's policy is to consider a request by a Scheme employee for flexible retirement on its merits which include:

- (a) whether the financial cost to the Trust is reasonable and sustainable;
- (b) whether there is no detrimental impact on the service.

3.2.4. Approval for such flexible retirement must be given by a panel of at least three Trustees, with an appeal against the result to the remaining Trustees.

3.3. **Regulation 30(8) – Waiving of Actuarial Reduction**

3.3.1. Where the Trust consents to flexible retirement under regulation 30(6) and to the immediate release of benefits in respect of an active member who is aged 55 or over, those benefits must be adjusted by an amount shown as appropriate in actuarial guidance issued by the Secretary of State (commonly referred to as actuarial reduction or early payment reduction).

3.3.2. The Trust may agree to waive in whole or in part (and at its own cost) any actuarial reduction that may be required by the Scheme Regulations.

3.3.3. The Trust has decided that it will never consent to waive the actuarial reduction (either in whole or in part).

3.4. **Regulation 31 – Award of Additional Pension**

3.4.1. The Trust has power to resolve to award:

- (a) an active member, or
- (b) a member who was an active member but dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency,

additional annual pension of, in total (including any additional pension purchased by the Scheme employer under Regulation 16), not more than the additional pension limit (£6,500 from 1st April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

3.4.2. Any additional pension awarded is payable from the same date as any pension payable under other provisions of the Scheme Regulations from the account to which the additional pension is attached.

THIS POLICY DOES NOT IMPOSE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

3.4.3. In the case of a member falling within sub-paragraph 3.4.1 (b) above, the resolution to award additional pension must be made within 6 months of the date that the member’s employment ended.

3.4.4. The Trust has decided that it will never resolve to make any award of additional pension under Regulation 31.

3.5. **Regulation 9(1) & (3) – Contributions**

3.5.1. The employee contribution rates 1 April 2021 – 31 March 2022 can be found on the relevant LGPS Scheme websites that Trust employees are members of.

3.5.2. Where an active member changes employment or there is a material change which affects the member’s pensionable pay during the course of a financial year, the Trust may determine that a contribution rate from a different band (as set out in Regulation 9(2)) should be applied.

3.5.3. Where the Scheme Employer makes such a determination it shall inform the member of the revised contribution rate and the date from which it is to be applied.

3.5.4. The Trust has determined to set employee contribution costs at 1 April each year and make no changes throughout the year (this means employees may be overpaying or underpaying).

3.6. **Regulation 17(1) – Shared Cost Additional Voluntary Contributions**

3.6.1. An active member may enter into arrangements to pay Additional Voluntary Contributions (AVCs) or to contribute to a Shared Cost Additional Voluntary Contribution arrangement (SCAVCs) in respect of an employment. The arrangement must be a scheme established between the appropriate administering authority and a body approved for the purposes of the Finance Act 2004, registered in accordance with that Act and administered in accordance with the Pensions Act 2004.

3.6.2. The Trust needs to determine whether or not it will make contributions to such an arrangement on behalf of its active members.

3.6.3. The Trust has determined not to make contributions to any SCAVA arrangement.

3.7. **Regulation 22 (7) and (28) – Merging of Deferred Member Pension Accounts with Active Member Pension Accounts**

3.7.1. A deferred member’s pension account is automatically aggregated with their active member’s pension account unless the member elects within the first 12 months of the new active member’s pension account being opened to retain their deferred member’s pension account.

THIS POLICY DOES NOT IMPOSE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

3.7.2. The Trust can, at their discretion, extend the 12 month election period.

3.7.3. The Trust will agree to any request by an active member provided that there is no financial risk to the Trust.

3.8. **Regulation 100(6) – Inward Transfers of Pension Rights**

3.8.1. A request from an active member to transfer former pension rights from a previous arrangement into the LGPS as a result of their employment with a Scheme employer must be made in writing to the administering authority and the Trust before the expiry of the period of 12 months beginning with the date on which the employee first became an active member in an employment (or such longer period as the Trust and administering authority may allow).

3.8.2. The Trust has determined that it will accept transfers in beyond the 12 month deadline where there is no financial risk to the Trust and subject to the administering authority's agreement.

3.9. **Regulation 21(5) – Assumed Pensionable Pay**

3.9.1. The Trust needs to determine whether or not to include in the calculation of assumed pensionable pay, any 'regular lump sum payment' received by a Scheme member in the 12 months preceding the date that gave rise to the need for an assumed pensionable pay figure to be calculated.

3.9.2. Assumed pensionable pay is calculated when a member:

- enters a period of reduced contractual pay or no pay due to sickness or injury;
- is absent during a period of child related leave;
- is absent in reserve forces service leave;
- retires with an entitlement to a Tier 1 or Tier 2 ill health retirement;
- dies in service.

3.9.3. The Trust's policy is that each case will be examined at the appropriate time subject to affordability.

3.10. **Regulation 19(2) – Exclusion of Rights of Return of Contributions**

3.10.1. Under certain circumstances Scheme members are entitled to a refund of contributions.

3.10.2. However when a person leaves an employment because of an offence of a fraudulent character or because of a grave misconduct in connection with that employment the Trust may direct payment out

THIS POLICY DOES NOT IMPOSE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

of the Pension Fund of a sum equal to all or part of the member's contributions to the member, the member's spouse, civil partner, cohabiting partner or any of the member's dependents.

3.10.3. The Trust's policy is that it will consider any such situation in its merits.

3.11. **Regulation 201(b) – Meaning of Pensionable Pay**

3.11.1. Only payments explicitly referred to in a Scheme member's contract of employment count as pensionable emoluments.

3.12. **Regulation 37(3) & (4) – Tier 3 Ill Health Retirement**

3.12.1. When a Scheme member becomes permanently incapable of undertaking the duties of their employment and the Independent Registered Medical Practitioner (IRMP) certifies a Tier 3 ill health retirement, the member's accrued benefits come into payment immediately, without enhancement, for up to a maximum period of three years, with a review taking place after 18 months.

3.12.2. The Scheme member is required to inform the Trust upon starting any employment whilst those benefits are in payment and to answer any reasonable questions about the employment status including details of pay and hours worked.

3.12.3. If the Trust determines that the Scheme member has entered into gainful employment or the Scheme member fails to answer the questions raised by the Scheme employer, the Trust may determine to cease payment of the Tier 3 benefit and to recover any payment made in respect of any period it determines that the member has been in gainful employment.

3.12.4. Gainful employment means paid employment for not less than 30 hours in each week for a period of not less than 12 months.

3.12.5. The Trust's policy will be to cease such payments and to recover any payments made.

3.13. **Regulation 38(3) & (6) – Early payment of retirement pension on ill health grounds: deferred and deferred pensioner members**

3.13.1. A deferred member (or deferred pensioner member) who, because of ill health or infirmity of mind or body, becomes permanently incapable of discharging efficiently the duties of the employment they were engaged in at the date they became a deferred member and who is unlikely to be capable of undertaking gainful employment before normal pension age, or for at least three years, whichever is sooner, may ask to receive immediate payment of their deferred benefits regardless of their age.

THIS POLICY DOES NOT IMPOSE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

- 3.13.2. Under these circumstances the deferred member must make a request in writing to the Trust as their former Scheme employer who, having obtained a certificate from their Independent Registered Medical Practitioner (IRMP) setting out their opinion as to whether or not the former employer meets the qualifying conditions for ‘ill health retirement’, may or may not agree to the release of the deferred benefits.
- 3.13.3. The Trust’s policy is to consider each request on its merits, which include affordability.
- 3.14. **Regulations 91, 92, 93 & 95 – Forfeiture of pension rights after conviction for employment-related offences etc**
- 3.14.1. If a person who is a member of the Scheme is convicted of a relevant offence committed in connection with an employment because of which the person has left that employment, the Trust may apply to the Secretary of State for the issue of a forfeiture certificate and it is the Trust’s policy that it will do so.
- 3.14.2. Where such a forfeiture certificate is issued, the Trust may direct that any of the member’s rights under the LGPS Regulations are forfeited and will do so. The Trust must serve a notice of its decision to make a direction on the member.
- 3.14.3. The Trust can also decide whether to direct interim payments of the Pension Fund to anyone that they consider to be entitled to receive payment of a benefit from the Scheme as if no forfeiture direction was given.
- 3.14.4. The Trust can also consider whether or not to recover from the Pension Fund any monetary obligation or, if less, the value of the member’s benefits, where the obligation was incurred as a result of a grave misconduct or a criminal, negligent or fraudulent act or omission in connection with the employment.
- 3.14.5. The Trust’s policy is to consider each issue on its merits, which include affordability.
4. **Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014**
- 4.1. **Schedule 2 – paragraphs 2 and 3**
- 4.1.1. Where a scheme member retires or leaves employment and elects to draw their benefits at or after the age of 55 and before the age of 60 those benefits will be actuarially reduced unless their Scheme employer agrees to meet the full or part cost of those reductions as a result of the member otherwise being protected under the 85 year rule as set out in previous LGPS Regulations.

THIS POLICY DOES NOT IMPOSE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

4.1.2. So as to avoid the member suffering the full reduction to their benefits the Trust could ‘switch on’ the 85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Trust paying a strain (capital) cost to the Pension Fund.

4.1.3. The Trust has decided that it will never agree to ‘switch on’ the 85 year rule.

5. **Local Government (Discretionary Payments) Injury Allowance Regulations 2011**

5.1. **Regulation 4(5) Discretionary Allowance for Permanent Incapacity.**

5.1.1. In the event that an employee to whom an allowance for permanent incapacity is paid secures gainful employment the Trust will suspend or discontinue the allowance.

5.2. **Regulation 6(1) Allowance for pensioners.**

5.2.1. The Trust will not pay an allowance on cessation of employment.

5.3. **Regulation 7(2) Death Benefits.**

5.3.1. The Trust will not make an allowance or payment of death benefits.

6. **Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006**

6.1. **Regulation 5 Statutory Redundancy Payments.**

6.1.1. The Trust will not increase the amount of a statutory redundancy payment so that the limit of a week’s pay used in the calculation of the redundancy payment is retained.

6.2. **Regulation 6 Discretionary Compensation.**

6.2.1. Where an employee is made redundant and does not receive additional payments under the 2013 Regulations or additional membership under the Regulations the Trust may offer up to 104 weeks’ compensation.

6.2.2. The Trust will never use this discretion.

7. **Regulation 74 – Applications for Adjudication of Disagreements**

7.1. Each Scheme employer must appoint a person (“the adjudicator”) to consider applications from any person whose rights or liabilities under the Scheme are affected by:

THIS POLICY DOES NOT IMPOSE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

- (a) a decision under regulation 72 (first instance decisions); or
 - (b) any other act or omission by a Scheme employer or Administering Authority,
- and to make a decision on such applications.

- 7.2. Responsibility for determinations under this first stage of the Internal Disputes Resolution Procedure (IDRP) rests with “the adjudicator” as named below.
- 7.3. The Trust appoints the Trust CEO or the Trust COO as Adjudicator under Regulation 72 of the LGPS Regulations 2013.

THIS POLICY DOES NOT IMPOSE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST