



***William Brookes Academy Trust***

# Discretions Policy

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January 2017



## ***Discretions Policy*** ***William Brookes Academy Trust***

This policy was written and adopted **January 2017**  
It is due for review in 12 months

### **William Brookes Academy Trust discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations**

#### **1. Summary**

This report makes recommendations for **William Brookes Academy Trust** policies on discretions to be exercised:

- i) under the LGPS Regulations 2013 from 1 April 2014 in respect of members of the Career Average Revalued Earnings (CARE) scheme,
- ii) under earlier LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014,

#### **2. Background**

- 2.1 On **23<sup>rd</sup> January 2017** the **Board of William Brookes Academy Trust** agreed the discretionary policies **William Brookes School** would operate under the provisions of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006.
- 2.2 On **23<sup>rd</sup> January 2017** the **Board of William Brookes Academy Trust** agreed the discretionary policies **William Brookes School** would operate in relation to the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.
- 2.3 On **23<sup>rd</sup> January 2017** the **Board of William Brookes Academy Trust** agreed the discretionary policies **William Brookes School** would operate in relation to the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011.

- 2.4 In March 2011, the Independent Public Service Pensions Commission, chaired by Lord Hutton, published its final report of the review of public service pensions. The report made clear that change was needed to “make public service pension schemes simpler and more transparent, [and] fairer to those on low and moderate earnings”.
- 2.5 As a result, it was decided that the Local Government Pension Scheme (LGPS) should be reformed so that, from 1 April 2014, benefits accrue on a Career Average Revalued Earnings (CARE) basis rather than on a final salary basis.
- 2.6 The provisions of the CARE scheme, together with the protections for members’ accrued pre 1 April 2014 final salary pension rights, are contained in the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.
- 2.7 As a result of the changes, **William Brookes Academy Trust** is legally required to formulate, publish and send to the LGPS pension fund administering authority a written Statement of Policy on certain discretions under the LGPS which **William Brookes Academy Trust** has the power to exercise on and from 1 April 2014 in relation to members of the CARE scheme.
- 2.8 **William Brookes Academy Trust** is also legally required to (or where there is no requirement, is recommended to) formulate, publish and keep under review a Statement of Policy on certain other discretions it may exercise:
- i) under earlier LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014, and
- 2.9 Any amended policy under paragraph 2.8(i) above must be published and sent to the LGPS pension fund administering authority within one month of the date the revisions to the policy were made.
- 2.10 Any amended policy under paragraph 2.8(i) above must be published and, in respect of any changes relating to awards under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000, the change must be published within one month of the decision to amend the policy.
- 2.11 Overall, **William Brookes Academy Trust** is:
- i) required to formulate, publish and keep under review a written Statement of Policy on certain discretions in accordance with:
- regulation 60 of the Local Government Pension Scheme Regulations 2013,

- paragraph 2(2) of Schedule 2 to the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014,
- regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008 (in respect of former employees who were members of the LGPS and who left between 1 April 2008 and 31 March 2014),

2.12 In formulating and reviewing its policies under the LGPS Regulations referred to in paragraphs 2.11(i) above **William Brookes Academy Trust** is required to have regard to the extent to which the exercise of its discretionary powers might lead to a serious loss of confidence in the public service.

### 3. Decisions required

**William Brookes Academy Trust Board of Trustees** is asked:

- i) to approve the policies on the discretions to be exercised under the LGPS Regulations in respect of those employees who are active scheme members after 31 March 2014 and members and who cease active membership after 31 March 2014, as set out in the table at Annex 1, and
- ii) to approve the policies on the discretions to be exercised under the LGPS Regulations in respect of former employees who were scheme members and who left prior to 1 April 2014, as set out in the table at Annex 2, and

### 4. Consultation

**William Brookes Academy Trust** is not required to consult with **recognised unions** when **William Brookes Academy Trust** intends to adopt new, or change existing, discretionary policies. However, it is considered appropriate to give advance notification to **recognised unions** that this report would be considered by **the Board of Trustees of William Brookes Academy Trust**.

### 5. Effective date of policies

The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date **23<sup>rd</sup> January 2017** agrees the policies. Any change to the policies on existing discretions to be exercised under the LGPS Regulations in respect of former employees who were members of the scheme and who left pre 1 April 2014 take immediate effect from the date **William Brookes Academy Trust** agrees the policies.

### 6. Non-fettering of discretions

The recommendations contained within this report, if approved, will form **William Brookes Academy Trust** policies on pension and compensation discretions. It should be noted that:

- the policies will confer no contractual rights
- subject to Section 5 above, **William Brookes Academy Trust** will retain the right to change the policies at any time without prior notice or **but William Brookes Academy Trust will endeavour to discuss changes with recognised unions,** and
- 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.

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Date: 23<sup>rd</sup> January 2017

## Annex 1

### **William Brookes Academy Trust policy**

**William Brookes Academy Trust** will not make use of the discretion to grant extra annual pension of up to £6,675 (figure at 1 April 2015) to an active scheme member or, within 6 months of leaving, to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency except in exceptional circumstances where **William Brookes Academy Trust** considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward.

**William Brookes Academy Trust** will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) in two situations. Firstly, where:

- an active scheme member returns from a period of authorised leave of absence, and;
- the member does not, within 30 days of returning from the leave of absence, make an election to buy-back the amount of pension 'lost' during that period of leave of absence, and;
- the member subsequently makes an election to do so whilst an active member and it can be demonstrated that the reason for the member missing the original 30 day deadline was because the member had not been made aware of that deadline, and;
- the election is made no more than 3 months after the member returns from the period of leave of absence or such longer period as **William Brookes Academy Trust** may deem reasonable in any individual case.

A decision on whether the member meets the above criteria (and on whether the 3 month period referred to should be extended in any individual case) will be taken by **the Board of Trustees of William Brookes Academy Trust** and, where it is agreed that the conditions are met, **William Brookes Academy Trust** will be required to contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.

Secondly, in exceptional circumstances where **William Brookes Academy Trust** considers it is in its financial or operational interests to do so. Each case to contribute to a SCAPC (and a decision on the amount to be contributed) will be considered on the merits of the financial and / or operational business case put forward.

## **Flexible Retirement**

**William Brookes Academy Trust** will not agree to flexible retirement except in circumstances where **William Brookes Academy Trust** considers it is in its financial or operational interests to do so. Each case:

- will be considered on the merits of the financial and / or operational business case put forward,
- will set out whether, in addition to any pre 1 April 2008 benefits, the member will be permitted, as part of the flexible retirement agreement, to take:
  - a) all, some or none of their 1 April 2008 to 31 March 2014 benefits, and /or
  - b) all, some or none of their post 31 March 2014 benefits, and;
- will require the approval of **the Board of Trustees of William Brookes Academy Trust**.

## **Waiver of any actuarial reduction on flexible retirement**

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. **William Brookes Academy Trust** will only waive any such reduction, in whole or in part, where it considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward and will require the approval of **the Board of Trustees of William Brookes Academy Trust** including, where the reduction is only to be waived in part, approval for the amount of reduction to be waived.

**William Brookes Academy Trust** 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 **William Brookes Academy Trust** considers it is in its financial or operational interests to do so. Each case:

- will be considered on the merits of the financial and / or operational business case put forward, and
- will require the approval of **the Board of Trustees of William Brookes Academy Trust**.

Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age **William Brookes Academy Trust** 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 **William Brookes Academy Trust** considers it is in its financial or operational interests to do so or there are compelling compassionate<sup>1</sup> reasons for doing so.

Each case:

- will be considered on the merits of the financial and / or operational business case put forward, or
- will be considered on the merits of the compassionate case put forward, and
- will require the approval of **the Board of Trustees of William Brookes Academy Trust** including, where the reduction is only to be waived in part, approval for the amount of reduction to be waived

**William Brookes Academy Trust** will not enter into a shared cost AVC arrangement other than:

- a) in exceptional circumstances in which case the decision to contribute, and the amount of the contribution, will be subject to the approval of **the Board of Trustees of William Brookes Academy Trust**, or
- b) where the scheme member enters into a SCAVC salary sacrifice arrangement<sup>2</sup>

**William Brookes Academy Trust** will only extend the 12 month time limit within which a scheme member who has a deferred LGPS benefit in England or Wales following the cessation of an employment (or cessation of a concurrent employment) after 31 March 2014 may elect not to have the deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment):

- a) where **William Brookes Academy Trust** agrees that the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration;
- b) where **William Brookes Academy Trust** agrees that the available evidence indicates the member had made an election within 12 months of joining the LGPS but the election was not received by the Pension Fund administering authority (e.g. the election form was lost in the post); or
- c) where the member has pre 1 April 2014 membership and **William Brookes Academy Trust** agrees the available evidence indicates that, due to maladministration, the member had not been informed of the implications of having benefits aggregated and would, in consequence, suffer a detriment to their pension benefits (for example, where member's whole-time equivalent

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<sup>1</sup> There is no definition in the Regulations of "compassionate grounds". However, one could take the view that, for example, releasing benefits because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

<sup>2</sup> See the article on SCAVCs in Circular 244 at [http://www.local.gov.uk/c/document\\_library/get\\_file?uuid=f5665e21-e865-4f54-ad18-81f7e5df57bd&groupId=10180](http://www.local.gov.uk/c/document_library/get_file?uuid=f5665e21-e865-4f54-ad18-81f7e5df57bd&groupId=10180)

pensionable pay on commencing with **William Brookes Academy Trust** is, in real terms after allowing for inflation, significantly less than the whole-time equivalent pensionable pay upon which the deferred benefits were calculated).

**William Brookes Academy Trust** will only extend the 12 month time limit within which a scheme member must make an election to transfer other pension rights into the LGPS after joining the LGPS:

- where the member asked for transfer investigations to be commenced within 12 months of joining the LGPS but a quotation of what the transfer value will purchase in the LGPS has not been provided to the member within 11 months of joining the LGPS. The time limit for such a member to make a formal election to transfer pension rights into the LGPS will be extended to one month beyond the date of the letter issued by the Pension Fund administering authority notifying the Scheme member of the benefits the transfer will buy in the LGPS;
- where the available evidence indicates the member made an election within 12 months of joining the LGPS, but the election was not received by the Pension Fund administering authority (e.g. the election form was lost in the post);
- where the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration.

- a) allocating a member to a contribution rate on 1 April 2014 will be assessed by the annual rate of contractual pay and the weekly contractual rate multiplied by 52.143 (or whatever multiplier an employer deems appropriate)**
- b) allocating a member to a contribution rate on joining the Scheme (after 1 April 2014) will be assessed by the annual rate of contractual pay and the weekly contractual rate multiplied by 52.143 (or whatever multiplier an employer deems appropriate)**
- c) reallocating a member to a new contribution rate during a Scheme year (1 April to 31 March) following a material change which affects the member's pensionable pay will be assessed by the annual rate of contractual pay and the weekly contractual rate multiplied by 52.143 (or whatever multiplier an employer deems appropriate)**
- d) reallocating a member to a new contribution rate each 1 April will be assessed by the annual rate of contractual pay and the weekly contractual rate multiplied by 52.143 (or whatever multiplier an employer deems appropriate)**

In assessing Assumed Pensionable Pay (APP) **William Brookes Academy Trust** will not, other than in exceptional circumstances, include in the calculation any 'regular lump sum payments' in which case the decision to include the 'regular lump sum payment' will be subject to the approval of **the Board of Trustees of William Brookes Academy Trust**

## Annex 2

### **William Brookes Academy Trust policy**

Where a former scheme member who left the scheme between 1 April 2008 and 31 March 2014 requests early release of deferred benefits on or after age 55 and before age 60 (on grounds other than permanent ill health), approval will only be given on compassionate grounds<sup>3</sup>. Each case will be considered on its merits and will be subject to the approval of **Board of Trustees of William Brookes Academy Trust**. Subject to entry 2 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.

**William Brookes Academy Trust** will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. Each case will be considered on its merits and will be subject to the approval of **the Board of Trustees of William Brookes Academy Trust**.

Where a former scheme member who left the scheme between 1 April 2008 and 31 March 2014 requests early release of deferred benefits on or after age 55 and before age 60 (on grounds other than permanent ill health), approval will only be given on compassionate grounds<sup>4</sup>. Each case will be considered on its merits and will be subject to the approval of **the Board of Trustees of William Brookes Academy Trust**. Subject to entry 4 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.

**William Brookes Academy Trust** will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to a suspended Tier 3 ill health pension which is brought back into payment before age 65. Each case will be considered on its merits and will be subject to the approval of **the Board of Trustees of William Brookes Academy Trust**.

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<sup>3</sup> There is no definition in the Regulations of "compassionate grounds". However, one could take the view that, for example, releasing benefits because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

<sup>4</sup> There is no definition in the Regulations of "compassionate grounds". However, one could take the view that, for example, releasing benefits because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

## William Brookes Academy Trust policy

Where a former scheme member who left the scheme between 1 April 1998 and 31 March 2008 requests early release of deferred benefits on or after age 50 and before age 60 (on grounds other than permanent ill health), approval will only be given on compassionate grounds<sup>5</sup>. Each case will be considered on its merits and will be subject to the approval of **the Board of Trustees of William Brookes Academy Trust**. Subject to entry 2 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.

**William Brookes Academy Trust** will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. Each case will be considered on its merits and will be subject to the approval of **the Board of Trustees of William Brookes Academy Trust**.

Where a former scheme member who left the scheme before 1 April 1998 requests early release of deferred benefits on or after age 50 and before age 65 on compassionate grounds, the case will be considered on its merits and will be subject to the approval of **the Board of Trustees of William Brookes Academy Trust**.

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<sup>5</sup> There is no definition in the Regulations of "compassionate grounds". However, one could take the view that, for example, waiving a reduction because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.