



**FRAYS**  
*Academy Trust*

**Frays Academy Trust**

**Employer Discretions – Statement of  
Policy for Wokingham Local  
Government Pension Scheme**

**Date Ratified: July 2023**

## Approval

<b>Signed by Chair of Directors</b>	
<b>Date of Approval/Adoption</b>	July 2023
<b>Date of Review</b>	<b>July 2026</b>

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This policy will be subject to ongoing review and may be amended prior to the scheduled date of the next review in order to reflect changes in legislation, statutory guidance, or best practice (where appropriate).

To enable continuous improvement, all readers are encouraged to notify the author of errors, omissions and any other form of feedback.

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## **Statements of Policy About Exercise Of Discretionary Functions Local Government Pension Scheme Regulations 2013**

### **1 Scheme Employer Declaration**

The Scheme employer known as Frays Academy Trust has prepared this written statement of policy in relation to its exercise of certain discretionary functions available under the Local Pension Scheme Regulations 2013.

The Scheme employer 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.

### **2 Part A – Formulation of Compulsory Policy in Accordance with Regulation 60 of the Local Government Pension Scheme Regulations 2013**

#### **2.1 Regulation 16 – Additional Pension Contributions**

The Scheme employer may resolve to fund in whole or in part any arrangement entered into by an active scheme member to pay additional pension contributions by way of regular contributions in accordance with **Regulation 16(2)(e)**, or by way of a lump sum in accordance with **Regulation 16(4)(d)**.

The Scheme employer may enter into an APC contract with a Scheme member who is contributing to the MAIN section of the Scheme in order to purchase additional pension of not more than the additional pension limit (£6,500 from 1<sup>st</sup> April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

The amount of additional contribution to be paid is determined by reference to actuarial guidance issued by the Secretary of State.

Consideration needs to be given to the circumstances under which the Scheme employer may wish to use their discretion to fund in whole or in part an employee's Additional Pension Contributions.

#### **Frays Academy Trust Policy for Wokingham concerning the whole or part funding of an active member's additional pension contributions**

The Trust will not use this discretion to fund employees' APCs.

#### **2.2 Regulation 30(6) – Flexible Retirement**

An active member who has attained the age of 55 or over and who with the agreement of their employer reduces their working hours or grade of employment may, with the further consent of their employer, 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 – separate policy required under Regulation 30(8)).

As part of the policy making decision the Scheme employer 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 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.

Due consideration must be given to the financial implications of allowing an employee to draw all or part of their pension benefits earlier than their normal retirement age.

### **Frays Academy Trust Policy for Wokingham concerning flexible retirement**

Where the benefits are to be actuarially reduced or there are no additional costs to the Trust approval need only be obtained from the Board of Directors

Members consent is required where an employee makes a request for the reduction of benefits to be waived. This means that where there is an additional cost to the Trust, Board of Directors approval must be obtained.

### **2.3 Regulation 30(8) – Waiving of Actuarial Reduction**

Where a Scheme employer's policy under regulation 30(6) (flexible retirement) is to consent 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).

A Scheme employer (or former employer as the case may be) may agree to waive in whole or in part and at their own cost, any actuarial reduction that may be required by the Scheme Regulations.

Due consideration must be given to the financial implications of agreeing to waive in whole or in part any actuarial reduction.

### **Frays Academy Trust Policy for Wokingham concerning the waiving of actuarial reduction**

Members may use their discretion to waive the reduction of benefits to e.g. enable the Trust to retain key skills in posts that are difficult to recruit to; in the case of an employee with responsibilities for care or for individuals with ill health (other than where ill-health retirement applies) or disability. The Trust's policy is that additional benefits will only be released where exceptional circumstances apply.

### **2.4 Regulation 31 – Award of Additional Pension**

A Scheme employer may resolve to award

- an active member, or
- 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 1<sup>st</sup> April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

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.

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

### **Frays Academy Trust Policy for Wokingham concerning the award of additional pension**

The Trust will not apply this Regulation 31 discretion to award additional pension.

### **2.5 Local Government Pension Scheme (Transitional Provisions, Savings & Amendment) Regulations 2014**

#### **Schedule 2 – paragraphs 2 and 3**

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 Regulations.

So as to avoid the member suffering the full reduction to their benefits the Scheme employer can 'switch on' the 85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund

**Frays Academy Trust Policy for Wokingham concerning the 'switching on' of the 85 year rule**

The discretion to "switch on" the 85 year rule will only be used where there will be a financial or other benefit to the employer or in exceptional circumstances judging each case on its merits. Members will need to consider the financial and other reasons for using this discretion and a strong business case must be stated in a report to members. The Board of Directors must approve any recommendation for any additional payment.

**3 Part B – Formulation of Recommended Policy In Accordance With The Local Government Pension Scheme Regulations 2013**

**3.1 Regulation 9(1) & (3) – Contributions**

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 Scheme employer may determine that a contribution rate from a different band (as set out in Regulation 9(2)) should be applied.

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.

**Frays Academy Trust Policy for Wokingham concerning the re-determination of active members' contribution bandings at any date other than 1<sup>st</sup> April**

The Trust provides that (except in exceptional circumstances or where the employee requests a review as a result of a change in employment or material change in pensionable pay) employee contributions will be calculated on pensionable pay as at the 1st April each year.

**3.2 Regulation 17(1) – Additional Voluntary Contributions**

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.

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

**Frays Academy Trust Policy for Wokingham concerning payment of Shared Cost Additional Voluntary Contributions**

No SCVAC scheme should be instituted.

**3.3 Regulation 22 – Merging of Deferred Member Pension Accounts with Active Member Pension Accounts**

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.

A Scheme employer can, at their discretion, extend the 12 month election period.

**Frays Academy Trust Policy for Wokingham concerning merging of Deferred Member Pension Accounts with Active Member Pension Accounts**

An election must be made by an active member within 12 months from the date that the member re-joins the Local Government Pension Scheme.

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

A request from an active member to transfer former pension rights from a previous arrangement into the Local Government Pension Scheme as a result of their employment with a Scheme employer must be made in writing to the administering authority and the Scheme employer 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 Scheme employer and administering authority may allow).

**Frays Academy Trust Policy for Wokingham concerning the extension of the 12 month transfer application period**

The Trust provides that an active scheme member may request to transfer into the Local Government Pension Scheme relevant pension rights held elsewhere. The member must request the transfer rights within 12 months of becoming a member of the Local Government Pension Scheme (or in exceptional circumstances such longer period at Members' discretion where there is no financial risk to the Trust subject to the administering authority's agreement). It is recognised that all the process should be initiated within 12 months, however in some circumstances it may take longer to complete the process.

**3.5 Regulation 21(5) – Assumed Pensionable Pay**

A Scheme employer 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.

**Frays Academy Trust Policy for Wokingham concerning inclusion of 'regular lump sum payments' in assumed pensionable pay calculations**

Regular lump sum payments will be included in the calculation of assumed pensionable pay, as regular lump sum payments are currently deemed to be pensionable.

**3.6 Regulation 74 – Applications for Adjudication of Disagreements**

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:

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

Responsibility for determinations under this first stage of the Internal Disputes Resolution Procedure (IDRP) rests with "the adjudicator" as named by the Scheme employer.

#### 4 Scheme Employer Confirmation

It is understood that the discretions contained within this statement of policy are applicable to all eligible members of the Scheme. The Scheme rules allow for a revised statement to be issued at least one month in advance of the date that any new policy takes effect. The revised statement must be sent to the administering authority and the employer must publish its statement as revised in a place that is accessible to all of its eligible scheme members.

The policies made above:

Have regard to the extent to which the exercise of the discretions could lead to a serious loss of confidence in the public service;

Will not be used for any ulterior motive;

Will be exercised reasonably;

Will only be used when there is a real and substantial future benefit to the employer for incurring the extra costs that may arise;

Will be duly recorded when applied.

Signed on behalf of the Scheme Employer:



Name in Block Capitals: JANETTE GAFFNEY

Position: C.O.O.

Scheme Employer's Name: Frays Academy Trust

Date: 20/7/23