



EMMANUEL
SCHOOLS FOUNDATION

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LGPS Discretionary Policy



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Statement of Intent

Emmanuel Schools Foundation, as an LGPS Employer, is legally required to compose, publish and keep under a review a written policy in relation to five specific mandatory discretions in their LGPS scheme(s). "Non-mandatory"¹ discretions are included within this policy for the purposes of clarity for both members and for the Pension Fund administering authority.

Emmanuel Schools Foundation has adopted an approach that befits the scale, prevailing financial climate and current staffing requirements within the Foundation. Further, the decisions to exercise discretionary powers have been taken with the following overriding considerations in mind:

- Ensure the affordability of the Local Government Pension Scheme to all members; and
- Ensure public money is used effectively for the purposes for which it has been granted to ESF i.e. to deliver excellent educational outcomes for our students; and
- Balancing the cost to the taxpayer against the benefit to the employer to ensure there is a 'real and substantial future benefit' to the employer in return for incurring the extra costs.
- Having due regard to the extent to which the exercise of discretionary powers could lead to a serious loss of confidence in the Foundation

Emmanuel Schools Foundation is committed to equality and this policy has been written with the aim of maintaining compliance with the Equality Act 2010 and our obligations as Scheme employers.

Signed by



Finance Director 17 October 2019



Chair of Trustees 17 October 2019



Chief Executive 17 October 2019

¹ "Non- Mandatory" discretions are those which do not require a scheme employer to have a published policy.

2 Key roles and responsibilities

- 2.1 The Board of Trustees has overall responsibility for the implementation and monitoring of the LGPS Discretionary Policy at Emmanuel Schools Foundation.
- 2.2 The Board of Trustees has responsibility for ensuring that the LGPS Discretionary Policy, as written, does not unlawfully discriminate.
- 2.3 The Board of Trustees has overall responsibility for handling complaints regarding this policy.
- 2.4 In the first instance, complaints should be directed to the Head of HR.
- 2.5 The Finance Director has responsibility for the day-to-day implementation and management of the LGPS Discretionary Policy at Emmanuel Schools Foundation.
- 2.6 Staff members enrolled on the LGPS will be responsible for following the LGPS Discretionary Policy.

3 How Emmanuel Schools Foundation will apply Discretions

Emmanuel Schools Foundation, as an LGPS Employer, is legally required to publish a written policy in relation to five specific mandatory discretions in their LGPS scheme(s). Non-mandatory discretions are included within this policy for the purposes of clarity for both members and for the Pension Fund administering authorities.

In relation to active members, and members who cease active membership after 31 March 2014		
Mandatory Discretions		Emmanuel Schools Foundation Policy
3.1 Regulation 31 of the LGPS Regulations 2013	Whether to grant extra annual pension up to £6,822 p.a. ² to an employee who is dismissed, or whose employment is terminated by mutual consent, for reason of business efficiency. Additional annual pension may also be awarded to an active member.	The Foundation will not award additional pension in any circumstances.
3.2 Regulations 16(2)(e) and 16(4)(d) of the LGPS Regulations 2013	Whether to share the cost of purchasing additional pension (SCAPC) where an active member wishes to purchase extra annual pension of up to £6,822 p.a. ²	Additional contributions will not normally be funded in whole, or in part, by the Foundation.
3.3 Regulation 30(6) of the LGPS Regulations 2013	Whether all or some pension benefits can be paid, if a member aged 55+ reduces their hours/grade and continues to work (i.e. will the employer permit flexible retirement). In these circumstances actuarial reductions to the benefits will apply, and the employer has the discretion to waive some of all of the discretion at its own cost.	The Foundation will consider employee requests to take flexible retirement on a case-by-case basis after taking into consideration, HR, financial and organisational implications. If granted, the revised salary and pension benefits arising from the flexible retirement must not exceed the employee's current salary. Where a strain on fund cost arises, the Foundation will not waive actuarial reductions in any circumstances.

² The figure of £6,822 is correct as at 01 April 2018 and is subject to review each April under the Pension (Increase) Act 1971.

In relation to active members, and members who cease active membership after 31 March 2014		
Mandatory Discretions		Emmanuel Schools Foundation Policy
3.4 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 (always excludes flexible retirement) upon the voluntary early payment of deferred benefits?	The Foundation may exercise its discretion to allow the rule of 85 to be 'switched on'. Each case will be assessed on its individual merits taking into account organisational, financial and operational considerations.
3.5 Regulation 30(5) of the LGPS Regulations 2013	Whether to waive upon the voluntary early payment of benefits, any actuarial reduction on compassionate grounds or otherwise (excluding flexible retirement)?	The Foundation will only consider doing so in exceptional circumstances, and where a business case is presented which demonstrates a significant financial and/or administrative advantage to the Foundation taking into account HR and organisational implications.
Non Mandatory Discretions		Emmanuel Schools Foundation Policy
3.6 Regulation 17 of the LGPS Regulations 2013 and regulation 15(2A) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.	Whether to, how much and in what circumstances to contribute to a shared-cost Additional Voluntary Contribution (SCAVC) arrangement?	The Foundation will not normally fund in whole, or in part, Additional Voluntary Contributions.
3.7 Regulation 16(16) of the LGPS Regulations 2013	Whether to extend the time limit beyond 30 days for a member to elect to purchase additional pension by way of a shared cost additional pension contribution (SCAPC) upon return from a period of absence?	The Foundation may permit a short extension to the 30-day period to elect to purchase additional pension in circumstances where: there is no additional burden of cost to the taxpayer and the available evidence may lead a reasonable person to conclude that the failure to make an application within the time limit was not on the part of the employee.

Non Mandatory Discretions		Emmanuel Schools Foundation Policy
3.8 Regulation 100(6) of the LGPS Regulations 2013.	Whether to extend the 12-month time limit for a member to elect to transfer pension rights from another registered pension scheme into the Scheme?	<p>The Foundation may permit an extension to the 12-month period to transfer pension rights from another scheme where the available evidence shows:</p> <ul style="list-style-type: none"> the member asked for transfer investigations to be commenced within 12 months of joining the LGPS but a quotation of the transfer value had not been provided to the member within 11 months (max extension 1 month beyond the date of the letter issued by the Pension Fund administering authority notifying the member of the benefits the transfer will buy in the LGPS); or the member made an election well 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. <p>Where the available evidence may lead a reasonable person to conclude that the failure to make an application within the time limit is on the part of the employee, no such extension will be granted.</p>
3.9 Regulations 22(7) and (8) of the LGPS Regulations 2013.	Whether to extend the 12-month time limit for a member to elect not to aggregate Post 31 March 2014 (or combination of Pre April 14 & Post March 14) deferred benefits?	<p>The Foundation may permit an extension to the 12-month period to transfer pension rights from another scheme where the available evidence shows:</p> <ul style="list-style-type: none"> the member made an election well 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); and/or

		<ul style="list-style-type: none"> where the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration. <p>Where the available evidence may lead a reasonable person to conclude that the failure to make an application within the time limit is on the part of the employee, no such extension will be granted.</p>
3.10 Regulation 10(6) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 as amended by regulation 27 of the LGPS (Amendment) Regulations 2018.	Whether to extend the 12-month time limit for a member to elect to aggregate Pre 1 April 2014 deferred benefits?	<p>The Foundation may permit an extension to the 12-month period to transfer pension rights from another scheme where the available evidence shows:</p> <ul style="list-style-type: none"> the member made an election well 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. <p>Where the available evidence may lead a reasonable person to conclude that the failure to make an application within the time limit is on the part of the employee, no such extension will be granted</p>
3.11 Regulations 9 and 10 of the LGPS Regulations 2013	How an employee's contribution band will be initially determined and thereafter reviewed?	<p>The Foundation will only review employees' contribution bands as at 1 April each year, except where the member has been promoted on a permanent basis. Where a member's salary, or hours change, during the year, the member will remain on the same employee contribution rate until the following April except where they have progressed <i>permanently</i> to a higher contribution band, in which case the change will take immediate effect.</p>

Non Mandatory Discretions		Emmanuel Schools Foundation Policy
3.12 Regulations 21(4)(a)(iv), 21(4)(b)(iv) and 21(5) of the LGPS Regulations 2013	Whether to include a regular lump sum payment when calculating assumed pensionable pay (APP)?	The Foundation will not include a regular sum payment when calculating assumed pensionable pay.
3.13 Regulation 7 of the LGPS (Amendment) Regulations 2018	Whether, subject to qualification, to substitute a higher level of pensionable pay when calculating assumed pensionable pay (APP)?	The Foundation will not substitute a higher level of pensionable pay when calculating APP.
In relation to members who ceased active membership between 1 April 2008 and 31 March 2014		
Mandatory Discretions		Emmanuel Schools Foundation Policy
3.14 Paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014	Whether to 'switch on' the 85 year rule upon the voluntary early payment of deferred benefits?	The Foundation will not exercise its discretion in this regard in any circumstances.
3.15 Paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014	Whether to 'switch on' the 85 year rule upon the voluntary early payment of a suspended tier 3 ill health pension?	The Foundation will not exercise its discretion in this regard in any circumstances.

In relation to members who ceased active membership between 1 April 2008 and 31 March 2014		
Mandatory Discretions		Emmanuel Schools Foundation Policy
3.16	Regulation 30(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014	Whether to waive upon the voluntary early payment of deferred benefits, any actuarial reduction on compassionate grounds?
		The Foundation will not exercise its discretion in this regard in any circumstances.
3.17	Regulation 30A(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014	Whether to waive upon the voluntary early payment of a suspended tier 3 ill health pension, any actuarial reduction on compassionate grounds?
		The Foundation will not exercise its discretion in this regard in any circumstances.

In relation to members who ceased active membership between 1 April 1998 and 31 March 2008

Mandatory Discretions		Emmanuel Schools Foundation Policy
<p>3.18 Paragraph 1(1)(f) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014</p>	<p>Whether to 'switch on' the 85 year rule upon the voluntary early payment of deferred benefits?</p>	<p>The Foundation will not exercise its discretion in this regard in any circumstances.</p>
<p>3.19 Regulation 31(2) of the LGPS Regulations 1997</p>	<p>Whether to grant early payment of benefits on or after age 50 and prior to age 55?</p>	<p>The Foundation will not exercise its discretion in this regard in any circumstances.</p>
<p>3.20 Regulation 31(5) of the LGPS Regulations 1997 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014</p>	<p>Whether to waive upon the payment of deferred benefits, any actuarial reduction on compassionate grounds?</p>	<p>The Foundation will not exercise its discretion in this regard in any circumstances.</p>

In relation to members who ceased active membership before 1 April 1998		
Mandatory Discretions		Emmanuel Schools Foundation Policy
3.21	Regulation D11(2)(c) of the LGPS Regulations 1995.	Whether to grant early payment of benefits on compassionate grounds?
The Foundation will not exercise its discretion in this regard in any circumstances.		
In relation to Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006		
Mandatory Discretions		Emmanuel Schools Foundation Policy
3.22	Whether to base redundancy payments on an actual week's pay where this exceeds the statutory week's pay limit?	ESF will calculate redundancy payments on the basis of the statutory week's pay limit only.
3.23	Whether to award a 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	ESF will not make any termination payments in excess of the calculation for statutory redundancy pay.

In relation to Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000	
Mandatory Discretions	Emmanuel Schools Foundation Policy
	Emmanuel Schools Foundation, being a Multi Academy Trust incorporated on 17 February 2017 has never made awards of Compensatory Added Years, so the requirements to publish discretions do not apply.
In relation to regulation 14 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011	
Mandatory Discretions	Emmanuel Schools Foundation Policy
Whether to pay an injury award, and in what circumstances; how to determine the amount of an injury award and for how long it will be paid	<p>Where an employee sustains a serious injury or contracts a serious disease as a consequence of the required performance of their employed duties and</p> <ul style="list-style-type: none"> • where the employee suffers a significant reduction in remuneration (at least 25%) as a direct result, or • where the employee loses employment due to permanent incapacity as a direct result, and • a certificate from an independent registered medical practitioner (IRMP) has been obtained <p>the Foundation may pay an injury award.</p> <p>The amount of any award is at the absolute discretion of the Foundation, having due regard to all the circumstances of the case. The award will be paid either as a lump sum, or as monthly salary supplement for up to 24 months. The cost of any award (excluding any employee tax/NI liability) will be met by the Foundation.</p> <p>A recommendation for an award should be submitted, with supporting evidence, by the Principal and Chair of Governors of the Academy at which the employee works (or in the case of Support Services, by the Director of Finance) to the Finance and Resources Committee for approval.</p>