An Daras Multi Academy Trust

Pensions Discretions Policy

1.1 The An Daras Multi Academy Trust (ADMAT) Company

An Exempt Charity Limited by Guarantee

Company Number/08156955

Status: Approved	
Recommended	
Statutory	Yes
Adopted	**Sep 2024**
Reviewed	**11th November 2026**
Next Review	**November 2027**
Advisory Committee	FRS

1. PURPOSE

This procedure sets out the process for the consideration of requests by employees for the Trust to exercise a discretion under the Local Government Pension Scheme ("LGPS"), which is administered by Cornwall Council and Peninsula Pensions.

2. REGULATIONS

2.1 The Local Government Pension Scheme ("LGPS") in England and Wales was amended from 1 April 2014. The new LGPS rules, together with protections for members benefits accrued before 1 April 2014, are now contained in the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional provisions, Savings and Amendment) Regulations 2014. ("Regulations").

2.2 Under the Regulations, employers are required to formulate an employer discretions policy in respect of certain Regulations where a decision made by such employer will or may incur a financial cost to the employer. This policy seeks to underpin the criteria which could be considered and inform the Trust's decision on such employer discretions in respect of member benefits under the LGPS.

3. GENERAL APPROACH

3.1 The approach to exercising a discretion under the Scheme is to allow the Trust to make a reasonable decision in individual cases but also to be clear as to the factors it will take into account in making a decision.

3.2 In preparing, or reviewing and making revisions to this policy, the Trust must have regard to the extent to which the exercise of any of the functions, in accordance with this policy could lead to a serious loss of confidence in the public service and be satisfied that this policy is workable, affordable and reasonable having regard to the foreseeable costs.

3.3 None of the criteria set out in this policy will be taken into account in such a way as to limit or fetter the discretion of an employer under the Regulations in breach of the law.

4. FLEXIBLE RETIREMENT – REGULATION R30 (6) AND TP11 (2)

4.1 Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.

4.2 In such cases pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.

4.3 As a general principle the Trust requires a reduction in working hours or a significant reduction in grade for an efficiency to be considered material in flexible retirement requests as set out in the relevant LGPS scheme.

A flexible retirement may be considered on:

- Reduction of hours and/or grade, or
- Reduction of hours and/or grade with the release of pension benefits, or
- Appointment to new continuing employment within the Trust on reduced hours and/or grade

Flexible retirement will be subject to:

- Reduction in salary similar to the level of pension to be received, and
- A minimum period of employment of 12 months in the reduced grade and/or hours following Flexible Retirement, and
- No return to the higher hours/grade

Employees must be therefore be made aware that where a Flexible Retirement request has been improved, any actuarial reduction will be borne by them. In some cases, employer "strain" cost may apply. These cases will be looked at on an individual basis.

4.4 Other factors that should be taken into consideration include:

- the need to retain the employee (and their skills) where they might otherwise have left and taken up employment elsewhere
- any planned structural changes and the need for greater flexibility in managing workforce planning decisions enabling better succession planning and mentoring (skills transfers, etc)
- improving employee wellbeing and/or enabling the employee to have a smoother transition into retirement
- whether the employee is willing to commit to a reduction for a minimum period of time or remain in employment for a minimum period
- the additional costs associated with recruiting and training a replacement for the "residual hours" of the post and/or the potential inability to reorganise the residual work amongst existing staff
- any detrimental effect on the Trust's ability to meet customer demand

and/or on the quality or performance of the service in question

- insufficiency of work during the periods the employee proposes to work.

5. WAIVING OF ACTUARIAL REDUCTION ON EARLY RETIREMENT –REGULATION 30 (8)

5.1 The LGPS defines the term "compassionate" in terms of qualifying for consideration for waiver of an actuarial reduction on early retirement.

5.2 If an active member of the LGPS is allowed to retire early in circumstances which are not related to compassionate grounds, the cost of any strain must be mitigated by the salary saving over three years in order for consent to be given in any case. This decision is not automatic and will be considered in exceptional circumstances based on business impact. This will not apply to any decision relating to a deferred member.

6. FUNDING OF ADDITIONAL PENSION AND AWARDING ADDITIONAL PENSION

6.1 Under regulation R16 (2) (e) and R16 (4) (d) an employer can choose to pay for or contribute towards a member's Additional Pension Contract via a Shared Cost Additional Pension Contract (SCAPC).

6.2 The Trust does not contribute to a shared contribution scheme.

6.3 Under regulation R17 (1) and TP15(1) (d) and A25 (3) an employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution arrangement entered into before, on or after 1st April 2014 via a shared cost AVC.

6.4 The Trust will not contribute to a shared cost contribution scheme.

7. 85 YEAR RULE

7.1 Under regulation TPSch 2, para 2(2) & 2(3) and employer can choose whether to 'switch on' the 85 year rule for members who voluntarily retire on or after the age of 55 and before age 60.

7.2 An employer can also choose to waive, on compassionate grounds, the actuarial reduction applied to benefits for a member voluntarily drawing benefits on or after age 55 and before age 60.

7.3 These options may be considered in exceptional circumstances based on business need and benefits.

8. AUTHORITY TO GRANT ADDITIONAL PENSION

8.1 Regulation R31 allows the employer to choose 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 (by up to £6,500 1st April 2014, this figure is increased on 1st April each year under Pensions Increase orders)

8.2 This may be considered in exceptional circumstances based on business need and benefits.

9. REGULATION 22

9.1 R22(8)(b) Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment.

9.2 R22(7)(b) Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment.

9.3 These requests will be reviewed on a case-by-case.

10. LGPS 2008 DISCRETIONS

10.1 Regulation B18 allows employers to allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.

10.2 In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.

10.3 A flexible retirement may be considered on:

10.3.1 Reduction of hours and/or grade, or
10.3.2 Reduction of hours and/or grade with the release of pension benefits, or
10.3.3 Appointment to new continuing employment within the trust on reduced hours and/or grade

Flexible retirement will be subject to:

- Reduction in salary similar to the level of pension to be received, and
- A minimum period of employment of 12 months in the reduced grade and/or hours following Flexible Retirement, and
- No return to the higher hours/grade

Employees must be therefore be made aware that where a Flexible Retirement request has been improved, any actuarial reduction will be borne by them.

In some cases, employer "strain" cost may apply. These cases will be looked at on an individual basis.

11. REGULATION B30 – CHOICE OF EARLY PAYMENT OF PENSION

11.1 B30(2) Employers can also allow the early payment of deferred benefits to former members of the LGPS between the ages of 55 and 59. Please note where a deferred member left the LGPS before 1 April 2008 the employer policy under the 1997 Regulations will apply.

11.2 B30A(3) Employers may also grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60.

11.3 B30(5) & B30A(5) In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.

11.4 These may be considered in exceptional circumstances where there are business benefits.

12. PROCEDURE FOR REQUESTING DISCRETION

12.1 The employee should make an application in writing to the Trust Operations Officer, detailing the reasons for their request, together with any supporting documentation. The application will be acknowledged by the Trust's HR team within ten working days with an indicated timeline and procedure so the employee is aware of what will be involved, when he or she may receive a decision, and what the contact details are.

12.2 The response will also set out the appeals procedure. The HR team will at an early stage decide what information is needed to enable a pack to be put together to assist the Panel in its deliberations. If it appears that the timescale will not be met, the employee will be informed of this in writing and a new timescale disclosed.

12.3 The Panel will meet to consider the employee's request in accordance with the indicated timeline. The decision reached by the Panel will be notified to the employee within five working days of the meeting. This will be in writing and will include details of the appeals process.

12.4 If the employee wishes to appeal against the decision they should submit their appeal in writing to HR, detailing the reasons for their appeal.

12.5 The appeal will be acknowledged by the Trust's HR team within ten working days with an indicated timeline and procedure so the employee is aware of what will be involved, when he or she may receive a decision, and what the contact details are.

12.6 The appeal will be considered by the Trust's designated adjudicator and his/her decision will be notified to the employee within five days of the decision being made.

12.7 The Chief Finance Officer is designated as the Trust's adjudicator for appeals. The Trust reserves the right to nominate another Director or senior manager or such other procedure determined by the Trust to act as adjudicator to cover for absence and to ensure the fair consideration of any appeal.

12.8 This policy contains no contractual rights. The Trust retains the right to review this policy at any time, only the policy in place at the time of the relevant event will be the one applied to the employee.