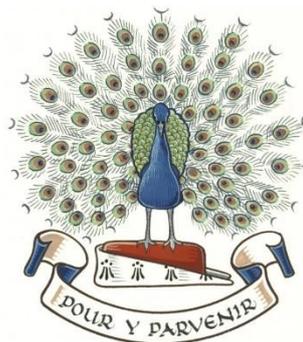


# **LADY MANNERS SCHOOL**

## **LOCAL GOVERNMENT PENSION SCHEME EMPLOYER DISCRETIONS**

### **POLICY**



## **AIMS STATEMENT**

At Lady Manners School we strive to attain the highest standards in our work, have respect for others and develop our individual talents.

## **INTRODUCTION**

Lady Manners School operates two pension schemes; the Local Government Pension Scheme (LGPS) (for support staff) and the Teachers' Pension Scheme (TPS) (for teaching staff).

The Local Government Pension scheme requires the school, as an employer, to specify the approach to various scheme discretions which are detailed in this policy.

## **DISCRETIONS IN RELATION TO ACTIVE MEMBERS OR LEAVERS FROM 1 APRIL 2014**

### **Additional Pension Contribution - Regulation 16(2)(e) and 16(4)(d)**

The employer can decide whether, how much, and in what circumstances to contribute to a shared cost Additional Pension Contribution (APC).

An APC is payment of pension contributions to cover a break in pensionable service. If the break in service is an authorised break (for example, the period of nil pay during maternity leave) and the person opts to pay for the break within 30 days from the end of the break, the shared cost APC automatically applies. The shared cost is split two thirds employer, one third scheme member.

The Personnel Committee of the Governing Body will consider a shared cost APC in exceptional circumstances, where a person opts to pay for the break after 30 days up to a period of 12 months, from the end of the break.

If the person opts to pay an APC to buy extra pension the shared cost option does not apply.

### **Calculation of Assumed Pensionable Pay (APP) – Regulation 7 (21)**

Where APP applies, regulation 21(4) sets out how APP is calculated. However, there may be occasions where the outcome of the prescribed calculation is, in the employer's opinion, materially lower than the actual level of pensionable pay the member would normally receive had they been at work. In these circumstances, the employer may substitute a higher level of pensionable pay than the APP value to reflect the level of pay the member would normally have received when calculating APP.

If the member has not received any pensionable pay in the previous 12 months, this does not prevent an employer from making a determination to substitute a higher level of pensionable pay.

The Personnel Committee of the Governing Body will consider substituting a higher level of pensionable pay that the APP value on a case by case basis.

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**Flexible Retirement - Regulation 30(6) and Transitional Provision Regulation 11(2)**

The employer can decide whether all or some pension benefits can be paid if an employee reduces their hours or grade on flexible retirement.

The Personnel Committee of the Governing Body will allow all pension benefits to be paid.

**Flexible Retirement (Routine Cases) - Regulation 30(8)**

The employer can decide whether to waive, in whole or in part, actuarial reduction on pension benefits paid on flexible retirement.

The Personnel Committee of the Governing Body will not waive the actuarial reduction for routine flexible retirements.

**Policy for Flexible Retirement (Routine Cases)**

The employer can consent to a reduction in an employee's hours or grade and consent to the release of pension benefits where the employee is aged 55 and over.

For the purpose of this policy, requests for flexible retirement can be categorised as follows:

- Category one - Employee is age 60 or over. There is no cost to the school as the employee is at, or past, their earliest retirement date. If the Rule of 85<sup>1</sup> is not met the pension benefits will be reduced to reflect early payment.
- Category two - Employee is age 55 or over but less than age 60 and does not meet the Rule of 85 until on or after their 60th birthday. In this case the regulations allow for the cost of the early payment of pension benefits to be borne by the employee so as to avoid a pension fund shortfall. The benefits are actuarially reduced to reflect early payment.
- Category three - Employee is age 55 or over but less than 60 and does meet the Rule of 85 either at the date of flexible retirement or at a later date that is before their 60th birthday. In this case the employer would have to meet the Pension Fund shortfall arising from the early payment of pension benefits from the date when the Rule of 85 is met.

For those cases that fall within categories one and two above, the general policy is to consent to the payment of benefits from the Local Government Pension Scheme subject to a reduction of half of the employee's contractual hours.

A reduction of less than half of the employee's contractual hours may be considered:

- i) In exceptional circumstances, and provided that this would also bring an ongoing financial benefit to the school or
- ii) Where the needs of the school require a working pattern that constitutes more than half the contractual hours.

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<sup>1</sup> The Rule of 85 is where the sum of the scheme member's age plus period of membership in the Pension Scheme (both in whole years) is 85 or greater.

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The Personnel Committee of the Governing Body, taking account of HR, legal and financial advice under the established process, makes the decision regarding routine cases of flexible retirement.

Where the benefits payable are reduced to reflect early payment the employer can agree to waive in whole or in part the reduction and pay the cost to the pension fund. It is the school's policy, as a general rule, not to agree to this. However, the Personnel Committee will consider applications where it is considered that it would be in the school's interests to meet this cost.

For category three cases, as there would be a cost to the school, the general policy is not to agree to the early release of pension benefits. However, where it is considered to be in the school's interests, taking into account all the relevant factors including the cost, the Personnel Committee will consider category three applications for flexible retirement.

In every case the needs of the school will be paramount.

The current policy does not provide for flexible retirement for a grade reduction. Further guidance will be formulated if the policy needs to be extended to include this.

#### **Increases in hours after taking flexible retirement**

Where an employee has been allowed to reduce their hours for the purposes of flexible retirement they will not be allowed to increase them on a permanent basis. Where it is in the school's interest, a temporary increase in hours for a period not exceeding six months can be permitted. The temporary increase in hours will be authorised by the Headteacher.

An employee who has reduced their hours and taken flexible retirement must only be allowed to work additional hours or overtime at the same level that applied prior to the reduction in contractual hours. The aim is to prevent employees compensating for a reduction in contractual hours by working additional hours and overtime. The Headteacher will approve requests for temporary increases in additional hours and overtime in advance.

#### **Appeals**

An employee who is dissatisfied with the Personnel Committee's decision in response to a request for flexible retirement can appeal in writing within 14 days of receiving the decision to the Chair of the Governing Body.

Category three - where a reduction in hours has been approved but the application for the payment of pension benefits on flexible retirement is refused, a dissatisfied employee can appeal under the pensions internal dispute resolution procedure.

Details of the internal dispute resolution procedure can be found in **APPENDIX 1**.

#### **Retirement at age 55 - Regulation 30(8)**

An employer can decide whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age.

The Personnel Committee of the Governing Body will not waive any actuarial reduction on benefits which a member voluntarily draws before normal pension age.

**Switching on the Rule of 85 - Transitional Provision Schedule 2, paragraph 2(2)**

An employer can decide to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.

The Personnel Committee will not switch on the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.

**Compassionate Grounds - Transitional Provision 3(1), Transitional Provision Schedule 2, paragraph 2(1) and 2(2), B30(5) and B30A(5)**

An employer can decide to waive any actuarial reduction on pre and/or post April 2014 benefits paid early on compassionate grounds.

Such cases will be taken to the Personnel Committee in order for it to consider whether an actuarial reduction is appropriate.

**Additional Pension - Regulation 31**

An employer can decide to grant additional pension to an active member, or within six months of ceasing to be an active member, by reason of redundancy or business efficiency (by up to £6,500 p.a.)

The Personnel Committee will not grant any additional pension to an active member, or within six months of ceasing to be an active member, by reason of redundancy or business efficiency.

**DISCRETIONS IN RELATION TO SCHEME MEMBERS WHO CEASED ACTIVE MEMBERSHIP ON OR AFTER 1 APRIL 2008 AND BEFORE 1 APRIL 2014****Early Payment of Deferred Benefits - Regulation B30(2)**

An employer can decide to grant application for the early payment of deferred benefits on or after age 55 and before age 60.

The Personnel Committee will grant application for the early release of deferred benefits on or after age 55 and before age 60 where there is no cost to the school.

**Compassionate Grounds - Regulation 30(5)**

An employer can decide whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30

Such cases will be taken to the Personnel Committee in order for it to consider whether an actuarial reduction is appropriate.

**Suspended Tier 3 Ill Health - Regulation 30A(3)**

An employer can decide to grant an application for early payment of a suspended tier three ill health pension on or after age 55 and before age 60.

The Personnel Committee will grant an application for early payment of a suspended tier three ill health pension on or after age 55 and before age 60, where there is no cost to the school.

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**Compassionate Grounds - Regulation 30A(5)**

An employer can decide whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A.

Such cases will be taken to the Personnel Committee in order for it to consider whether an actuarial reduction is appropriate.

**DISCRETIONS IN RELATION TO SCHEME MEMBERS WHO CEASED ACTIVE MEMBERSHIP ON OR AFTER 1 APRIL 1998 AND BEFORE 1 APRIL 2008****Early Payment - Regulation 31(2)**

An employer can decide whether to grant application from a post 31 March 1998/pre 1 April 2008 leaver for early payment of benefits on or after age 50/55 and before age 60.

The Personnel Committee will grant an application from a post 31 March 1998/pre 1 April 2008 leaver for early payment of benefits on or after age 50/55 and before age 60, where there is no cost to the school.

**Compassionate Grounds - Regulation 31(5)**

An employer can decide whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31 March 1998/pre 1 April 2008 leaver.

Such cases will be taken to the Personnel Committee in order for it to consider whether an actuarial reduction is appropriate.

**Optant Out Payments - Regulation 31(7)**

An employer can decide whether pre 1 April 2008 employee optant outs should have benefits paid from the normal retirement date (NRD).

The Personnel Committee will allow pre 1 April 2008 employee optant outs to only get benefits paid from normal retirement date (NRD).

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**APPENDIX 1****ADJUDICATION OF DISAGREEMENTS PROCEDURE**

The Local Government Pension Scheme has a disputes procedure which aims to resolve matters locally, wherever possible. It is a two stage process, although most cases are normally resolved before stage 2.

If a member is dissatisfied with a decision made regarding their pension scheme benefits they should initially contact the Pensions Section explaining what they feel is wrong. The Pensions Section will then review the case and provide a reply. Most cases are solved at this point. However, if this does not resolve the dispute the process is as follows:

**Stage 1**

If the employer has made the decision that the member is disputing, the member can make a formal complaint in writing to the Clerk to Governors using the IDR form available on the link below. The complaint should be made within 6 months of the date of the original decision.

A Staff Appeals Committee comprising three governors (excluding any governors previously involved and staff governors) will consider the complaint as soon as possible (and within 3 months of the receipt of the complaint) and is a formal review of the initial decision and an opportunity to reconsider the matter.

The employer will ensure that the Pensions Section is aware of the dispute.

If the member is disputing the decision of Derbyshire County Council as administering authority the IDR form should be sent to Kay Riley, Assistant Director of Legal Services.

The disputes procedure only applies to the main pension scheme and can not be used for other areas such as awards of compensation.

**Stage 2**

You can ask the pension scheme administering authority to take a fresh look at your complaint in any of the following circumstances:

- you are not satisfied with the adjudicator's first-stage decision,
- you have not received a decision or an interim letter from the adjudicator, and it is 2 months since you lodged your complaint.

This review would be undertaken by a person not involved in the first stage decision.

You will need to send your complaint in writing to the pension scheme administering authority:

- within 6 months of the date of the adjudicator's decision, or
  - within 9 months from the date you submitted your complaint if the adjudicator has not given you a decision within 3 months of the date you originally submitted your complaint, or
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- if the adjudicator gives you an interim decision but not a final decision, within 7 months of the date the adjudicator had promised to give you a final decision.

The administering authority will consider your complaint and give you their decision in writing.

If you are still unhappy following the administering authority's second stage decision, you can take your case to the Pensions Ombudsman provided you do so within 3 years from the date of the original decision (or lack of a decision) about which you had complained.

Further information and the Application for Adjudication of Disagreements form can be found on the Pensions Section website:

[https://www.derbyshire.gov.uk/working\\_for\\_us/pensions/about\\_us/complaints/default.asp](https://www.derbyshire.gov.uk/working_for_us/pensions/about_us/complaints/default.asp)

or from Pensions Section, Derbyshire County Council, County Hall, Matlock, Derbyshire, DE4 3AG