Endeavour Multi Academy Trust

PENSIONS – SUPPORT STAFF

This document outlines Endeavour Multi Academy Trusts policy on the employer discretions specified in the Local Government Pension Scheme Regulations 2013, which come into effect from 1 April 2014 (hereafter referred to as the Trust).

Introduction

1. The Local Government Pension Scheme (LGPS) in England and Wales is being amended from 1 April 2014 so that benefits accruing for service after 31 March 2014 will accrue on a Career Average Revalued Earnings (CARE) basis, rather than on a final salary basis.

2. The provisions of the CARE scheme, together with the protections for members accrued pre 1 April 2014 final salary rights, are contained in the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.

3. As a result of the changes, scheme employers participating in the LGPS in England or Wales will have to formulate, publish and keep under review a statement of policy on certain discretions which they have the power to exercise in relation to members of the CARE scheme.

4. Scheme employers are also required to (or where there is no requirement, are recommended to) formulate, publish and keep under review a statement of policy on certain other discretions they may exercise in relation to members of the LGPS.

Background Regulations

- Local Government Pension Scheme Regulations 2013 (LGPS 2013)
- Local Government Pension Scheme (Transitional Provisions, savings and Amendment) Regulations 2014 (TP 2014)

Areas of Discretion

There are 5 areas of discretion where a Scheme Employer must publish a policy by 30 June 2014 under Regulation 60 of LGPS 2013 and TP 2014.

- Regulation 16 LGPS 2013 (funding of additional pension)
- Regulation 30(6) LGPS 2013 (Flexible Retirement)
- Regulation 30(8) LGPS 2013 (waiving of actuarial reduction included with
- Regulation 30(6) Regulation 31 LGPS 2013 (award of additional pension)
- Schedule 2 TP 2014 (application of Rule of 85)

In addition this document details the Trust's policy for the allocation of LGPS employee contribution bands and the Scheme of Delegation for decision making powers.

Regulation 16 LGPS 2013: Funding of Additional Pension 16 (2)(e) and 16(4)(d)

Regulation 16 refers to Additional Pension Contributions (APCs) which an active member of the Scheme can elect to pay under certain circumstances. The options are:

- Option 1 - To buy extra pension;
- Option 2 - To buy 'lost' pension for unpaid leave of absence or unpaid child-related leave;
- Option 3 - To buy 'lost' pension due to a trade dispute (strike).

Where the employee is contributing to the MAIN section of the Scheme they can enter into an APC contract in respect of all three options listed above. However, where an employee is contributing to the 50/50 section of the Scheme they can only enter into an APC contract in respect of options 2 and 3.

Options 1 and 3 are at full cost to the employee whereas option 2 is a shared cost contribution between the employee and their employer providing that the employee elects to enter into a Shared Cost APC (SCAPC) contract within the first 30 days of returning to work following the unpaid period of absence.

Policy

Where a Scheme member makes an election after the 30 day deadline to "buy" back an amount of lost pension, as a result of unpaid authorised absence, and it can be demonstrated that the reason for missing the deadline was because the member was not informed by the Trust that this deadline existed, the Trust as a Scheme employer will accept a late election up to 30 days after the receipt of the first Annual Benefit statement received by the member, following the employees return to work from the period of unpaid authorised absence.

The Trust as a Scheme employer will only contribute to the cost of "buying" additional pension where the Scheme member is "buying" additional pension in respect of a period of authorised absence where an election form was received from the Scheme member within 30 days of returning to work.
For the purposes of the employer policy statement it is only option 1 for which a policy has to be made. The employer must determine whether or not they would ever be likely to enter into a shared cost APC arrangement with an employee.

There is a limit to the amount of additional pension that can be purchased which is set every 1st April and is increased in line with the Pensions (Increase) Act 1971. The initial limit, on 1st April 2014, was £6,500. Of course a member does not have to purchase the full amount but every time an APC arrangement is entered into, either by payment of regular contributions or by payment of a lump sum, it must specify the amount to be credited to the member's pension account at the end of the Scheme year.

The amount of contribution to be paid is to be determined in accordance with actuarial guidance issued by the Secretary of State and is based on the age and gender of the member.

Policy

Additional pension contributions (APC) will not be funded in whole or in part by the Trust.

Regulation 30(6) LGPS 2013: Flexible Retirement

An active member who has attained the age of 55 or over, and with the agreement of their employer reduces either their hours of work or grade of their employment may, with the further consent of their employer, elect to receive immediate payment of all or part of their retirement pension built up to the date that their hours or grade is reduced. The amount of pension payable would be adjusted in accordance with actuarial guidance issued by the Secretary of State.

The purpose of flexible retirement is to allow an individual the opportunity to move gradually into retirement by reducing their hours of work or the level of responsibility required of them rather than facing the perceived 'cliff edge' of retirement. Although the employee's level of income will reduce this is in some part or wholly compensated for by the release of all or part of their accrued pension benefits.

As part of any agreement to permit flexible retirement a Scheme employer must consider whether, in addition to the benefits the member has 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 31 March 2014.

Flexible retirement can be used as a very good management tool although there can be cost implications for Scheme employers subject to the amount of actuarial reduction that may or may not be applied to the member's benefits.

When deciding upon the policy to be adopted Scheme employers need to be aware of the potential financial implications of allowing one of their employees to draw part or all of their retirement benefits earlier than their normal retirement age.

A Scheme employer may also as part of their policy statement wish to consider and define by how much an employee's hours or grade might need to be reduced before allowing any employee to take flexible retirement.

Policy

That the Trust as the employing authority will consider an application received in writing from a Scheme member to elect for flexible retirement under Regulation 30(6). Each case will be considered by the Trust on its merits and will be subject to the approval of the relevant Manager under the Trust's Scheme of delegation, and in giving that approval they are satisfied that:

- There are no pension costs to the School arising from the employee's flexible retirement
- There is an operational, business or financial case for permitting flexible retirement which will not result in any detriment to the level of service.
- A reduction to the total costs of employing the person of at least 40%
- Any agreed change to the employee's contract under this policy will be a permanent change to their contractual terms and conditions
- Where a request for release of retirement benefits under this provision has been refused, no further application under the provision may be considered until the following financial year

Regulation 30(8) LGPS 2013: Waiving of actuarial reduction

Paragraph 8 of regulation 30 provides a Scheme employer with the power to waive all or part of any actuarial reduction (percentage reduction to benefits to reflect their early payment) that may be applied to one of their employee's pension benefits as a result of them agreeing to take those benefits early in line with their employer's policy on flexible retirement.

The discretion available to a Scheme employer under this paragraph is linked very closely to the discretion available under Regulation 30(6) but whereas that discretion refers to a Scheme employer's policy to allow an employee to take all or part of their benefits due to flexible retirement, this policy relates purely to whether or not a Scheme employer will consider waiving all or part of any actuarial reduction applied to the employee's benefits thereby allowing the employee to enjoy the full or increased value of their accrued benefits.

The purpose of applying an actuarial reduction is to protect the Pension Fund against a loss of funding. All Scheme members will have a date from which their benefits are expected to be released (commonly referred to as their Eligible Retirement Date (ERD) or sometimes their Normal Retirement Date (NRD) or Critical Retirement Age (CRA)). This is a known event and as such the amount of contributions paid by both the employee and the employer plus the investment returns received by the Pension Fund over the period that the employee is a member of the Scheme, should be sufficient to ensure that by the time the member's benefits become payable from their ERD, NRD or CRA, there is sufficient money in the Pension Fund to pay for those benefits for the rest of the member's lifetime (and the lifetimes of their entitled survivors).

Where benefits are paid from an earlier date than ERD, NRD or CRA, the pension benefits have to be paid for longer and in order to reflect this extended payment period, benefits are reduced so that less is paid over a longer time even though ultimately, an equivalent amount is expected to be paid from the Pension Fund. Of course, the unknown factor is how long the member is going to live but assumptions as to life expectancy are built into the reduction percentages applied to the pension benefits.

If the early reduction factors were not applied to the member's benefits the Pension Fund would not have sufficient funds to pay for the member's benefits over their lifetime. Therefore, if a Scheme employer takes a decision to waive or reduce that actuarial reduction, they have to pay an amount to the Pension Fund to ensure that the Pension Fund does have sufficient funds to pay those benefits to the member. This is often referred to as a strain cost.

Policy

The Trust will not waive in whole or in part any reduction applied to individuals drawing their pension benefits before their normal retirement age under regulations 30(5) or 30(6).

Regulation 31 LGPS 2013: Power of the employing authority to award additional pension to active members

Regulation 31 gives a Scheme employer the power to award an active member of the Scheme, or a member who was active but dismissed by reason of redundancy or business efficiency, additional pension up to a value of the additional pension limit as set out in Regulation 16 and as previously described in note 1 i.e. £6,500 from 1st April 2014 subject to re-valuation each subsequent 1st April in line with the Pensions (Increase) Act 1971.

In the case of an active member (one who is currently contributing to the Scheme) a Scheme employer can award the additional pension at any time with the amount being credited to the relevant active member pension account in the Scheme year in which the resolution to award the additional pension is made.

In the case of a member who was an active member but has been dismissed due to redundancy or business efficiency, the resolution to award additional pension must be made within the period of 6 months of the date that the member's employment was terminated. The amount awarded is treated as being credited to the relevant active member pension account on the day before the date of termination of employment.

By awarding extra pension to a Scheme member there is potential for that Scheme member's benefits to exceed the permitted Annual or Lifetime Allowances resulting in a tax charge being made to the Scheme member. This is, however, solely the responsibility of the Scheme member to ascertain.

Policy

The Trust will only consider using this discretion where a sufficient benefit to the organisation can be justified.

Schedule 2 TP 2014 (application of Rule of 85)

In order to make a policy in respect of this particular Regulation, Scheme employers need to be somewhat aware of the 85 year rule that existed under former Scheme Regulations, a rule under which many employees will retain protected rights as carried forward into the LGPS 2013 Regulations.

In brief, the 85 year rule states that where a Scheme member's age in whole years when added to their Scheme membership in whole years equals 85 that is the point from which their pension benefits can be released without actuarial reduction being applied. So, for example, an employee aged 60 with 25 years of Scheme membership would meet their 85 year rule date. Whilst the Regulations governing the 85 year rule are complex for the purposes of producing a policy statement it is not deemed necessary to go into that level of detail.

Until the introduction of the LGPS 2013 Regulations it was not possible for a Scheme member to voluntarily elect to draw their pension benefits before the age of 60 – they had to have their employer's consent. With effect from 1 April 2014, however, any Scheme member can voluntarily elect to retire (leave their employment) from the age of 55 and draw their pension benefits without the need to have their employer's consent. Now clearly, in many cases this would result in a large actuarial reduction being applied to those benefits to reflect their early payment but if a Scheme member has protection under the 85 year rule it would appear, initially at least, that by voluntarily retiring they would be protected against that actuarial reduction thereby generating a capital or strain cost that the Scheme employer would be required to pay to the pension fund.

However, the LGPS (Transitional Provisions, Savings & Amendment) Regulations 2014 'switches off' the protections afforded to Scheme members who meet the 85 year rule before the age of 60 thereby requiring Scheme member benefits to be actuarially reduced irrespective of whether or not the member satisfies the conditions of the 85 year rule.

The purpose of this policy is to determine the circumstances under which a Scheme employer might consider 'switching back on' the 85 year rule protection for those affected employees thereby agreeing to reduce or waive entirely any actuarial reduction being applied to those pension benefits that would otherwise have been protected under the 85 year rule. This would generate a capital or strain cost for which the Scheme employer would become liable.

Policy

The Trust will not waive in whole or in part any reduction applied to individuals drawing their pension benefits before their normal retirement age under schedule 2 2(1). *Rule of 85 protections.*

Regulation 9(1) & (3) – Contributions

Paragraph 2 of Regulation 9 of the LGPS Regulations 2013 provides a table of contribution rates to be applied to all active Scheme members subject to the relevant pay range applicable to their employment. It is important to note that where an employee holds more than one job with a Scheme employer each job is to be treated separately when determining the contribution rate to be applied (unless an employer determines that a single employment relationship exists).

Each year a Scheme employer is required to assess each of its Scheme members' actual pensionable pay as at 1st April, for every post that the employee may hold and apply the appropriate contribution rate.

It is important to note that from 1st April 2014 Scheme employers must assess their scheme members' contribution bandings based on their actual annual pensionable pay and not the full time equivalent (or term time equivalent) rate of pay as under former Regulations. This is particularly important as with effect from that date non-contractual overtime and pay received in respect of any additional hours worked became pensionable.

Paragraph 3 of Regulation 9, however, provides a Scheme employer with the opportunity to apply a different contribution rate from a different pay band at any time during the Scheme year where either the employee has a change in employment or has a material change which affects their pensionable pay during the financial year.

Clearly this could be as a result of either an increase or a decrease to the employee's rate of pay and so a Scheme employer needs to consider carefully under what circumstances, if any, they may wish to apply a change to a Scheme member's contribution rate from any date other than 1st April each year. As pension benefits are funded in the main by the amounts of employee and employer contributions paid, a certain amount of over or under funding could occur should adjustments to employee contribution rates not be made to reflect the change in levels of pay at the time that they arise. However, a Scheme employer may simply view this as immaterial and consider that for every one employee whose rate should have been increased there will one for whom the rate should have been decreased. In any event, the correct rate must be applied from 1st of April next.

Policy

The Trust will make changes to employee contribution rates throughout the year from the effective date of any change in employment or material change to the rate of pensionable pay received.

Endeavour Multi Academy Trust
Scheme of Delegation for LGPS

LGPS Policy Determination

Academy Trust

LGPS Policy Implementation

CEO

LGPS Policy Implementation

Employee Right of Appeal

Finance and HR Committee

This Scheme of Delegation is subject to review every 3 years or at the point of statutory, regulatory or organisational change.