



ATLAS Multi Academy Trust

EXERCISE OF EMPLOYER DISCRETIONS POLICY (Statutory)

Trust sub-committee: Resources Committee

Co-ordinator: Phil O'Neill

Last Reviewed: Summer 2020

Next Review: Summer 2022

St Albans Girls' School : Beech Hyde Primary School and Nursery : The Adeyfield Academy

**Signed by:
Margaret Chapman
Executive Head Teacher**

**Signed by:
Rachael Kenningham
Chair of ATLAS Board of Directors**

**LOCAL GOVERNMENT PENSION SCHEME
PAYMENT OF DISCRETIONARY COMPENSATION TO EMPLOYEES
POLICY ON EXERCISE OF EMPLOYER DISCRETIONS**

1.	RATIONALE
1.1	ATLAS MAT as an employer is under a legal duty to prepare and publish a written statement of its policy relating to certain discretionary powers under the Regulations which apply to the Local Government Pension Scheme (“the LGPS”).
1.2	ATLAS is also under a duty to formulate, publish and keep under review the policy that the school applies in exercising discretionary powers under Regulations relating to the payment of compensation to employees whose employment is terminated as a result of redundancy or certain other reasons.
2.	AIMS
2.1	This document is intended to comply with these duties and, in the following table, sets out the discretionary powers concerned, identifies the relevant Regulation that gives ATLAS the discretion and describes how the discretion will be exercised.
2.2	The policy set out in this document will not be departed from except as provided for in the policy or following a variation to the policy approved by the Board of Directors.
2.3	This statement is not a definitive statement of the law and is subject to the provisions of the relevant Regulations.
2.4	The Regulations that apply to the LGPS are: <ul style="list-style-type: none"> • The Local Government Pension Scheme Regulations 2013 (these are referred to as the “Pensions Regulations”);

	<ul style="list-style-type: none"> The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (referred to as the “Transitional Regulations”); The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 applied to the LGPS before 1 April 2014, are preserved in part on a transitional basis by the Transitional Regulations (these are referred to as the “Benefits Regulations”)
2.5	<p>The Regulations which apply to the payment of compensation to employees whose employment is terminated as a result of redundancy or other specified reasons are:</p> <ul style="list-style-type: none"> The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (referred to as the “Compensation Regulations”).
3.	PROCEDURES
	In the following table:
3.1	“The Scheme” or “the Pension Scheme” means the LGPS and “the Fund” or “the Pension Fund” means the fund maintained under the LGPS;
3.2	“Member” means a member of the LGPS;
3.3	“Active member” means a member in employment and paying, or treated as paying, contributions to the LGPS, or absent from employment for a reason mentioned in Regulation 11 of the Pensions Regulations.
3.4	References to a member with transitional protection are those who can count membership accrued before 1 October 2006 <u>and</u> who have statutory transitional protection under the Transitional Regulations, wholly or partly, from changes that would otherwise be made to their pension entitlements and/or from actuarial reductions that would otherwise be applied to their pension benefits as a result of the coming into force of the Pensions Regulations on 1 April 2014.
3.5	References to a member meeting “the 85-year rule” are those members whose age in whole years when added to the member’s total membership in whole years is 85 years or more.
<p>The power to exercise and to take any decision in relation to the each of the discretions is delegated to the Executive Headteacher as Principal Accounting Officer.</p> <p>This statement was approved by the Board of Directors and is intended to comply with ‘ATLAS’ duties under Regulation 60 of the Pensions Regulations and Regulation 7 of the Compensation Regulations.</p>	
4.	MONITORING
4.1	ATLAS MAT has in place a direct link with the administrators of the LGPS and will ensure that any changes in National Pensions Policy are reflected in the Exercise of Employers’ Discretions policy as required.
4.2	Notwithstanding this Directors will review this policy every two years.

No	Area	Regulation	Discretion	Policy Summary	Explanation
1	Funding of Additional Pension Contributions	Regulations 16(2)(e) and 16(4)(d) Pensions Regulations	To fund, in whole or in part, additional pension contributions on behalf of an employee where these are to be paid by regular contributions (Regulation 16(2)(e)) or by lump sum (Regulation 16(4)(d)) Note: The amount of additional pension that may be credited to an active member's pension accounts may not exceed the additional pension limit of £6,500 (uplifted annually)	ATLAS will increase pension during employment or upon leaving only when there has been prior approval of the FGB and only where there is a clear financial or operational advantage to be gained by ATLAS by so doing. Decisions regarding early payment of benefits are, within the above policy, delegated to the Headteacher. Each case will be considered on its individual merits.	This means ATLAS can pay additional pension contributions of behalf of current employees but only in wholly exceptional circumstances. ATLAS will consider each case on its own merits.

2	Flexible Retirement	Regulation 30(6), Pensions	To agree to an employee aged 55 or over reducing their hours of work or grade so that they	ATLAS will only agree to requests for flexible retirement only where there is a clear financial or operational advantage to	This means that ATLAS can agree to an employee aged 55 or over drawing
No	Area	Regulation	Discretion	Policy Summary	Explanation
3	Waiving of Actuarial Reduction to Pensions	Regulation 30(8), Pensions Regulations	retirement pension while still employed. To agree to waive, in whole or in part, any reduction that would otherwise be made on the early payment of a pension to a former employee aged 55 or over to the pension paid to an employee allowed to take flexible retirement under Regulation 30(6) of the Pensions	additional cost to ATLAS (payments to the Pension Fund) will be offset by the potential savings from the reduction in hours and/or grade. Waiving of actuarial reductions and the application of 85-year rule protection in such cases will be considered only where there is a clear financial or operational advantage in doing so. Each case will be considered on its individual merits.	This means that ATLAS can agree to waive any reductions to an individual's pension where they have left employment and/or where they have requested and been approved for flexible retirement from age 55. ATLAS will only do this where

No	Area	Regulation	Discretion	Policy Summary	Explanation
			Regulations	Each case will be considered on its individual merits.	there is no cost to ATLAS or in a case where the employee is suffering
			Note: Any additional pension awarded (including any additional pension purchased by the employer under Regulation 16 of the Pensions Regulations (see above) may not exceed the additional pension limit of £6,500 (uplifted annually). Additional, in the case of a former		exceptional compassionate grounds.
4	Award of Additional Pension	Regulation 31, Pensions Regulations	To award additional pension to: (1) an active member; or (2) a former active member who was dismissed by reason of redundancy or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency	ATLAS will increase pension during employment or upon leaving only when there has been prior approval of the FGB and only where there is a clear financial or operational advantage to be gained by ATLAS by so doing. Each case will be considered on its individual merits.	This means that ATLAS has power to award additional pension to either a current employee in the LGPS or an employee who has left by way of redundancy or business efficiency.

			active member falling within (2) above, the resolution to award additional pension must be made within 6 months from the date on which the employment ended.		
5	Aggregation of Benefits: Concurrent Employments	Regulation 22 (7)(b), Pensions Regulations	To allow an active member with concurrent employments, who ceases an employment with an entitlement to a deferred pension, a longer period than 12 months in which to elect not to have the benefits in their deferred member's pension account aggregated with the benefits in their active member's pension account.	ATLAS will consider each case on its merits, the length of any longer period allowed to be determined having regard to the facts of the particular case.	This means that ATLAS can allow individuals with more than 1 pension under different employment contracts longer than the usual 12-month deadline to choose not to combine the pensions.

No	Area	Regulation	Discretion	Policy Summary	Explanation
6	Aggregation of Benefits: Deferred Member becoming Active Member	Regulation 22 (8)(b), Pensions Regulations	To allow a deferred member who again becomes an active member a longer period than 12 months in which to elect not to have the benefits in their deferred member's pension account aggregated with the benefits in their active member's pension account.	ATLAS will consider each case on its merits, the length of any longer period allowed to be determined having regard to the facts of the particular case.	This means that ATLAS can agree to an employee who has ceased to be an active member of the LGPS who again becomes an active member, longer than the usual 12-month deadline to choose not to combine the pensions.
7	Early Payment of Pension in cases of Members with Transitional Protection	Schedule 2, Transitional Regulations	To agree that the transitional protections set out in Paragraph 1(3) of Schedule 2 to the Transitional Regulations should apply. This affects members with transitional protection who choose to retire between the ages of 55 and 60. The transitional protections offer complete or partial protection from actuarial reductions depending on the circumstances. To agree to apply the 85-year rule protections to members who choose to voluntarily draw their benefits on or after age 55 and before age 60.	It is not ATLAS policy to agree to the application of Paragraph 1 (3) of Schedule 2 to the Transitional Regulations, which means that ATLAS will not agree to the payment of unreduced retirement benefits to a member with transitional protection unless there is a clear financial and operational advantage to so doing. Each case will be considered on its individual merits.	This means that ATLAS will not normally agree to the payment of unreduced pension benefits to a pension scheme member who is covered by the transitional protections who meets the '85-year rule' until they are aged 60.

No	Area	Regulation	Discretion	Policy Summary	Explanation
8	Waiver of Actuarial Reductions to Pension in cases of Members with Transitional Protection	Schedule 2, Transitional Regulations	To waive on compassionate grounds, any Reduction that would otherwise be made to a member's pension payable on early retirement.	ATLAS will only agree, on compassionate grounds, to waive any reduction that would otherwise be made to the pension payable to a member with transitional protection if there are exceptional circumstances. Each case will be considered on its individual merits.	This means that ATLAS will only agree on compassionate grounds, to waive any reduction to pension benefits that would otherwise be made to the pension payable to a member covered by the transitional protections if there are exceptional circumstances.
9	Inward Transfer of Pension Rights	Regulation 100, Pensions Regulations	To allow a person more than 12 months beginning with the date when they first became an active member in an employment to request the acceptance of a transfer value for certain accrued pension rights. Note: Regulation 100 of the Pensions Regulations requires that a request must be made within 12 months beginning with the date on which the member became an active member in an employment or such longer period as the employer and the Administering Authority may allow. The discretion is, therefore, exercisable concurrently by the Administering Authority.	ATLAS will consider each case on its merits, the length of any longer period to be determined having regard to the facts of the particular case.	This means that ATLAS can agree to allow an individual who has been employed for more than 12 months to request to transfer previous pension funds into the LGPS fund.

No	Area	Regulation	Discretion	Policy Summary	Explanation
10	Forfeiture Certificates	Regulation 91, Pensions Regulations	<p>To apply to the Secretary of State for the issue of a forfeiture certificate.</p> <p>Note: A forfeiture certificate may be applied for where a member has been convicted of an offence committed in connection with the member's employment and because of which the member has left that employment. A forfeiture certificate is a certificate, issued by the Secretary of State that the offence was gravely injurious to the State or is liable to lead to serious loss of confidence in the public service.</p> <p>To direct, where a forfeiture certificate has been issued, that any rights under the Pensions Regulations be forfeited.</p>	ATLAS will consider each case on its merits, both in relation to applying for a forfeiture certificate and in relation to the giving of a direction, where a forfeiture certificate has been issued, that pension benefits be forfeited.	This means that ATLAS can apply for a certificate from the secretary of state which permits withholding pension from an individual who has been convicted of certain offences.

No	Area	Regulation	Discretion	Policy Summary	Explanation
			<p>Note: If the former employer has suffered loss as a direct consequence of the offence, a direction may only be given if the loss cannot be recovered except after an unreasonable time or at disproportionate cost.</p> <p>A direction may only be given if the application for a forfeiture certificate was made within a period of three months beginning with the date of the conviction</p>		
11	Recovery of Money Owed as a result of Misconduct	Regulation 93, Pensions Regulations	<p>To recover money owing to the former employer where a person has left employment as a result of grave misconduct or of a criminal, negligent or fraudulent act or omission in relation to that employment and owes money to the employer arising out of such that misconduct, act or omission.</p> <p>Note: If there is a dispute about the amount owed STAGS may only recover the money from the employee's pension benefits under a court order or the award of an arbitrator.</p>	<p>ATLAS will normally seek to recover any money owing as a result of a former employee's grave misconduct, or criminal, negligent or fraudulent acts or omissions from the employee's pension benefits.</p> <p>Each case will be considered on its individual merits.</p>	<p>This means that ATLAS can look to recover money from an ex-employee where they have left employment as a result of grave misconduct or of a criminal, negligent or fraudulent act or omission in relation to that employment.</p>

No	Area	Regulation	Discretion	Policy Summary	Explanation
12	Redundancy Payments	Regulation 5, Compensation Regulations	To base redundancy pay on actual pay where actual pay exceeds the statutory maximum under the Employment Rights Act 1996	ATLAS will base redundancy payments on an employee's actual pay in all cases. Each case will be considered on its individual merits.	This means that ATLAS can base the calculation of an individual's redundancy pay on their actual weeks pay where it exceeds the statutory maximum weekly redundancy pay.
13	Compensation for loss of Employment	Regulation 6, Compensation Regulations	<p>To pay compensation to a person whose employment ceases</p> <ul style="list-style-type: none"> - by reason of redundancy; - in the interests of the efficient exercise of STAGS' functions; or <p>in the case of a joint appointment, because the other holder of the appointment leaves</p> <p>Note: Compensation may not be paid under this Regulation if:</p> <ul style="list-style-type: none"> - a person's period of membership of the Pension Scheme has been increased under Regulation 12 of the Benefits Regulations; or - a person has been awarded an additional pension under Regulation 13 of the Benefits Regulations. In all cases the amount of compensation 	ATLAS will not normally pay compensation under this Regulation except to ensure that an employee whose employment is terminated by reason of redundancy receives, under Regulation 5 of the Compensation Regulations and this Regulation a total of up to 30 weeks pay calculated in accordance with the Statutory Redundancy Pay Table Note: The effect of ATLAS' policy on the exercise of its discretions under Regulations 5 and 6 of the Compensation Regulations is that a person whose employment is terminated by reason of redundancy will be paid up to 30 weeks' pay calculated in accordance with the Statutory Redundancy Pay Table. A person whose employment is terminated in the interests of the efficient exercise of ATLAS' functions, or where the other holder of a joint appointment leaves, will not normally be paid compensation under these Regulations.	This means that ATLAS will only pay an employee who is made redundant using the statutory redundancy calculation up to 30 weeks pay.

			paid under this Regulation may not exceed 104 weeks' pay. In all cases the decision to pay compensation under this Regulation must be made no later than 6 months after the date of termination of the person's employment.		
--	--	--	---	--	--



ATLAS Multi Academy Trust

Equality Impact Analysis

When reviewing all Trust policies, the following Equality Impact Analysis (EIA) should be undertaken to ensure fairness of the new proposals/policy and to identify any action needed to redress any potential discrimination, positively promoting equal opportunities, improved access and participation for all.

Title of Policy:	Exercise of Employer Discretions
Date:	Summer 2020
EIA carried out by:	Phil O'Neill
EIA reviewed by:	Resources Committee

1. Identify the aims and objectives of the policy, what will be the proposed change and how will it be implemented	
<ul style="list-style-type: none"> Policy contains information about: Overall aims and objectives? What is the proposed change? Who is intended to benefit from the proposal and in what way? Outcomes of the policy? How will it be put into practice and who is responsible for this?	ATLAS MAT has a legal duty to prepare and publish a written statement of its policy relating to certain discretionary powers under the Regulations which apply to the Local Government Pension Scheme ("the LGPS"). This document is intended to comply with these duties and, in the table that forms part of the policy, sets out the discretionary powers concerned, identifies the relevant Regulation that gives ATLAS the discretion and describes how the discretion will be exercised.

2. Assessment of Impact? <i>To include impact of policy, any plans needed to mitigate any negative impact, equality issues to be addressed</i>		
Characteristic	Group	Effect/Impact
<ul style="list-style-type: none"> Age Disability Gender reassignment Marriage/civil partnership Pregnancy/Maternity Race Religion or Belief Sex Sexual orientation 		No impact

3. Consultation	
<ul style="list-style-type: none"> • New policy contains information about: Policy audience, expected actions and outcomes Consultation and communication process Accessibility for all Fair access to the consultation process Lessons learnt from previous consultation, if appropriate 	<p>This statement is intended to comply with ATLAS' duties under Regulation 60 of the Pensions Regulations and Regulation 7 of The Compensation Regulations.</p>
4. Decision	
<ul style="list-style-type: none"> • Should the new proposal/policy be agreed and any impacts identified following consultations? • What reasonable adjustments are required? 	<p>No adjustments required</p>
5. Action Planning	
<ul style="list-style-type: none"> • Any actions identified to address inequality for different groups? • Any actions identified to promote equality and diversity? • Where are these actions recorded and who is responsible for them? 	<p>None required</p>
6. Monitoring and Review	
<ul style="list-style-type: none"> • When will the impact assessment be reviewed? • Who is responsible? 	<p>Summer 2022</p> <p>COO</p>
7. Publication of the results of the impact assessment	
<ul style="list-style-type: none"> • Results of EIA are published – where and when? • The results are kept as a public record of the EIA – where and when? 	<p>Kept with copy of policy</p>