

## **Flexible Retirement Policy**

### **Summary**

1. In response to written requests from eligible employees for Flexible Retirement, the Council will:
  - Consider all requests for flexible retirement.
  - Approve requests only when it is in the Council's interests to do so.
2. A request should normally involve a reduction in salary of at least 40%, either through reduced hours or level of responsibility (grade)
3. The employee's contract of employment will be amended by mutual agreement to reflect the new hours or grade, as agreed, and continuity of service will be preserved for terms and conditions purposes.
4. The waiving of pension benefit reductions will only be considered in exceptional circumstances.

### **What is flexible retirement?**

5. Flexible retirement enables employees to:
  - reduce their working hours and/or
  - move to a job on a lower salary and
  - receive their pension early to offset the reduction in salary.
6. This has several potential benefits including:
  - Providing a more flexible approach to retirement so that people can plan their retirement and make a gradual adjustment at the end of their working lives.
  - Helping the Council to retain experienced staff with valuable skills and enabling better succession planning.
  - Giving an option of redeployment to a part time or lower graded job where employees are at risk of losing their employment. For example, through redundancy or re-structure.
7. Any employee will have a reduction applied to his or her pension if the rule of 85 is not met, for example, if an employee aged 60 has less than 25 years' pension scheme membership. (For further details see below).

## **Who is eligible?**

8. Eligibility is limited to those employees who:
  - Are over 50 (55 from 2010)
  - Are members of the Local Government Pension Scheme
  - Have a permanent contract of employment
  - Can reduce their hours of work or pay by at least 40%
9. Although there can be benefits for the employee, flexible retirement can impact on service delivery and can have a cost to the Council. Therefore the decision whether or not to allow flexible retirement is the Council's alone.
10. There is no trial period for flexible retirement and once it has been agreed, the decision cannot be varied.

## **How are the reductions in pay or hours managed?**

11. A reduction in hours in the current job will be by mutual agreement and has no effect on the other terms and conditions of employment which will continue.
12. A move to a different job will be subject to the normal recruitment considerations and employees may need to apply for such a post. The employee will have a new contract of employment and, provided local government service is continuous, without a break, this will be recognised for purposes of annual leave and sick pay and for employment rights, such as redundancy payments and unfair dismissal.
13. It is not possible to remain in the same job but to reduce the grade of that job to enable flexible retirement.

## **Financial Implications for Employees**

14. Employees are responsible for obtaining their own financial advice as the Council can not provide this, but the following information might be helpful.
  - The annual pension and lump sum retirement grant are paid with effect from the date of flexible retirement, but Additional Voluntary Contributions (AVC's) cannot be paid until the employee finally retires completely.
  - Flexible retirement will have the effect of reducing salary and partially replacing this with pension benefits. Depending on the level of salary reduction and the amount of accrued pension benefits, the overall level of

- income received during the period of flexible retirement, or at the eventual date of retirement from the Council, might be less than that received by continuing to work in the original contract until the age of 65.
- Different inflation awards are applied to pension benefits and salaries. This means that each element will increase at a different rate throughout the period of flexible retirement, whereas pay could increase more overall.
  - The pension is treated as taxable income and will, therefore, be subject to income tax deductions, in the same way as salaries.
  - On reaching state pension age, employees might become entitled to state pension benefits over and above their local government pension benefits. There are also some options in relation to state benefits – such as deferring them so as to receive a larger state benefit later or a lump sum.
  - Employees taking flexible retirement may contribute to the Local Government Pension Scheme in the new or part time job in the form of an additional pension that will be drawn when they finally retire. This would be a separate pension accrual. This means that the previous service (relating to the pension put into payment as a result of flexible retirement) will not count as accrued service in respect of the later benefits. This might affect entitlement to benefits such as ill health and could also affect any safeguarded rule of 85 protections.
15. The amount of pension benefits awarded under flexible retirement is calculated in the same way as for voluntary early retirement. These benefits will be subject to a reduction, as they are being drawn before the scheme's normal retirement age of 65.
16. Employees who were members of the pension scheme on or before 30 September 2006 might be able to draw their benefits before the age of 65 either without reduction, or with less reduction. This will depend on the protection arrangements for the rule of 85.

### **Protection of the Rule of 85**

17. This rule requires that your age in whole years, when added to the number of years of contributions made to the local government pension scheme total 85 or more at the time of retirement. In the past, individuals who met the 'rule of 85' at the time of retirement did not have any reduction in their pension benefits and those who did not meet the 'rule of 85' at retirement only had a reduction in respect of the period up to the date when they would have met the 'rule'.
18. The 'rule of 85' has been removed from the pension scheme legislation from 1 October 2006, although some transitional protection has been

introduced for those individuals who previously had an expectation of meeting the 'rule of 85'. Consequently their pension benefits will be either unreduced or subject to a lesser reduction.

19. Those who joined the pension scheme prior to 30 September 2006 wishing to retire voluntarily before the age of 65 will receive some protection, as follows:
  - those who reach the age of 60 by March 2016 will not have any reduction to their pension benefits in respect of the period up to that date;
  - those who will be 60 between 1 April 2016 and 31 March 2020 and would satisfy the rule of 85 by 31 March 2020 will receive partial protection and therefore will have a 'tapered' reduction to their pension benefits in respect of the period from 1 April 2008 to their date of leaving (or 31 March 2020 if earlier);
  - those who do not meet any of the above two categories will be subject to a full reduction to their pension benefits in relation to the period on or after 1 April 2008. They will not, however, receive any reduction to their pension benefits in respect of the period prior to 1 April 2008.
20. Those who joined the pension scheme on or before 30 September 2006, but who would not have met the 'rule of 85' by age 65 or those who joined the pension scheme after this date and who retire voluntarily before age 65, will have a reduction applied to their pension benefits in respect of all of their service - i.e. they do not have any protection.
21. No reduction will apply to those members who retire at or after the age of 65.
22. The Local Government Pension Scheme regulations allow employers the discretion to waive the pension reduction. This will only be possible in exceptional circumstances, for example, on compassionate grounds or as an alternative to retirement on grounds of redundancy or efficiency, if there is a strong business case. The Council has adopted the County Council's definition of "compassionate grounds" for waiving pension reductions which is;
  - compelling domestic reasons which will affect the ability of the individual to continue with his/her present working arrangements
  - ill-health which does not meet the ill-health retirement criteria for an enhanced pension.

## **Applying for flexible retirement**

23. Employees interested in flexible retirement should write to their Head of Department setting out as much detail as possible on their proposal and asking for a meeting to discuss it. The meeting must be held and must include someone from the Personnel Unit.
24. The purpose of the meeting is to agree exactly on what basis the business case analysing the retirement is to be prepared e.g. what is proposed, from when.
25. The employee must be given an estimate of pension benefits before any flexible retirement is agreed.
26. The business case must include details of the impact on service delivery, the benefit to the department and the individual and the associated costs.
27. The completed business case will be reviewed by the Director of Finance and Community Services and the Head of Business Services.

## **Approving requests for flexible retirement**

28. Decisions on flexible retirement must not be made before a business case has been prepared.

### ***Where there is no cost:***

29. Once validated and there is no cost implication, approval will be by:

- for the Chief Executive and Heads of Department i.e. the Corporate Management Team, the Employment Committee
- for all other employees, the appropriate Head of Department

### ***Where there is a cost***

30. In cases where the validation process shows a flexible retirement is only possible with a restructuring that adds to the Council's recurring base budget, a decision on whether the overall proposal is in the Council's best interest and a decision that funding will be provided from the base budget, shall be made by Cabinet
31. In other cases with one-off non recurring costs, the decision will be made by Employment Committee provided that funds are available to cover the cost in the reserve for dealing with "Change Management and Capacity".

## **Other issues**

32. Flexible retirement is not transferable between local authorities and if an employee moves to another local authority or returns to the Council after retirement, then flexible retirement will not be possible.
33. The abatement rules that prevent a retired employee being re-employed in local government (or with an associated employer) and earning more when added to the annual pension, than the salary on which the original local government pension was calculated, do not apply when employees draw their pensions under the flexible retirement policy.