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## DRAFT FLEXIBLE RETIREMENT POLICY & PROCEDURE

### 1. Purpose and Scope

This policy relates to all Lewes District Council staff that are eligible members of the Local Government Pension Scheme (LGPS) and establishes guidelines for managers, staff and HR in relation to a staff member requesting flexible retirement. The policy will help managers and staff members to understand the options which are available in relation to flexible retirement.

The regulations are complex and while the Council is legally prohibited from giving direct financial advice, we are encouraged to provide information and interpretation.

We hope that the policy framework that is set out here will help to inform staff to make personal retirement arrangements that take account of the wishes of the individual as well as the needs of the Council.

This policy and procedure does not form part of any staff member's contract of employment. It may be amended from time to time with appropriate consultation with recognised trade unions representatives.

### 2. What is Flexible Retirement?

Flexible retirement means being able to draw part of your pension benefits, whilst continuing in pensionable employment and building up further pension rights. In general terms, this means that an **eligible staff member** can take flexible retirement at any point from age 55 years with the agreement of the Council, and draw part of their accrued benefits. To do so, they must reduce both their working hours and salary within the provisions of the pension scheme guidelines.

### 3. Eligibility to apply for flexible retirement

To be considered for flexible retirement the staff member must be an active member of the local government pension scheme (LGPS) which operates a flexible retirement scheme, they must be eligible for flexible retirement and be at least 55 years old.

### 4. The terms of a flexible retirement application

Once eligible, a staff member can choose when to make an application for flexible retirement. By applying, the staff member is agreeing to a long-term reduction in their current working hours and salary of at least 40%. An application requires approval by the Council and the agreement of the LGPS. Any effective date must be at least two months in the future after the approval date.

### Protection of the Rule of 85

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

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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'.

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.

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.

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. No reduction will apply to those members who retire at or after the age of 65.

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

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.

### 5. Increasing working hours after the commencement of flexible retirement

It is not normally possible to increase working hours again after flexible retirement has been processed and has commenced. However, in exceptional circumstances, a staff member's application to increase their hours after flexible retirement will be considered by the Council, subject to line management support, and where a reduction in hours and salary has been effective for a minimum period of 12 months. The staff member will not accrue pension benefits on the additional hours worked.

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## **6. Reversing flexible retirement actions**

Once a flexible retirement request is processed and has commenced, it cannot be amended or reversed. Any changes would need to be subject to a new application.

## **7. Fully retiring after flexible retirement**

If the staff member wishes to fully retire after taking flexible retirement, they should do this in the normal way please contact your line manager for more information.

## **8. Advice on flexible retirement**

Staff are encouraged to take independent financial advice before making a decision about flexible retirement.

## **9. Other Pension Arrangements**

When planning for retirement, staff should take into consideration any state pension entitlements or other pension benefits that they have. The Council cannot provide information about these arrangements.

## **10. Disputes**

Staff that are unhappy with a decision in respect of their flexible retirement arrangements are advised to contact Human Resources (HR) in the first instance to determine whether an informal resolution can be achieved. Staff who wish to formally dispute a decision in respect of the flexible retirement policy should do so via the Appeals process outlined in section 11.5.

## **11. PROCEDURE FOR FLEXIBLE RETIREMENT**

### **11.1 Submitting an Application**

The staff member must submit the application form FXR1 to their Head of Department. The Head of Department may choose to discuss the application with the staff members line manager (if they are not the staff members direct line manager) to add context to the application and to ensure a full understanding of operational needs.

### **11.2 Considering an Application**

The Head of Department and the Head of Finance must hold a meeting with the staff member to consider the request within 14 days of the application being received. The staff member can be accompanied by a recognised trade union representative or by another person of his/her choice who must be a staff member of the Council. A representative from HR may also be present. If the Head of Department is away consideration of the application may be referred upwards or delayed until his/her return, depending on what is appropriate under the circumstances.

The meeting will provide the manager and the staff member with the opportunity to discuss the flexible retirement request in depth and consider how it might be accommodated. At the meeting the staff member should be prepared to expand on any points within his/her application. It may be necessary for both sides to compromise and both should be prepared to be flexible.

Following the meeting, the Head of Department will write to the staff member, informing him/her of the decision within 14 days of the date of the meeting. It may be necessary to extend this period i.e. the manager may need extra time to consult

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with other staff members about covering the work. Where additional time is required, the staff member will be kept informed.

If a staff member is asked to provide more information on their application and they unreasonably refuse, the application will be considered to have been withdrawn.

### 11.3 Where the Flexible Retirement Application is agreed

Where the application for flexible retirement is agreed by the Council, the HR Department will obtain a full quotation based on the agreed level of flexing from the pension provider for the staff member's consideration. The HR Department will contact the staff member to discuss the quotation with them.

It is possible that the flexible retirement will be agreed with the additional condition of an end date at which the member of staff will fully retire/leave the Council's employment. This enables the Council to plan and budget accordingly for forthcoming years. This agreement on both sides may also be subject to a signed compromise agreement.

The staff member then chooses whether to formally accept the agreed flexible retirement by confirming in writing to HR within 14 days from receipt of the figures. If the staff member accepts the flexible retirement, HR will write to the individual confirming this and will make the change to the employment contract. The date of this letter is the "approval date". They will agree an effective date with the staff member of a minimum of two months in the future from the formal written acceptance (or "approval date").

Once formal agreement has been confirmed by HR, the Head of Department/Line Manager (as appropriate) will complete the pensions paperwork with the staff member. If the staff member rejects the flexible retirement, the process ends and no further action is taken. The Head of Department/Line Manager will inform HR, who will inform the LGPS of the staff member's decision not to proceed.

The staff member can withdraw a **request** for flexible retirement up until the effective date. However, it is important to note that if it is withdrawn, another application cannot be made for another 12 months from the date of the original application. A withdrawal needs to be made as soon as possible and in writing, to avoid misunderstandings.

### 11.4 Where the Flexible Retirement application is refused

The Council can refuse the application on business grounds. (A non-exhaustive list is shown below):

- The reduction in hours or change to the working pattern will carry with it additional costs
- The reduction in hours will have a detrimental effect on the ability to meet Council's customers' and service user's demands
- The reduction in hours will have a detrimental effect on the ability of the Council to provide expected operational services
- The workplace is unable to re-organise the work amongst existing staff
- The Council is unable to recruit additional staff members to perform the outstanding work
- The change will lead to a detrimental affect on quality and/or individual performance

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If a request has been rejected, the notification to the member of staff will state the business reason(s) for refusal, together with an explanation on why this applies in his/her particular case.

### 11.5 Appeals Process

Where a staff member has had his/her flexible retirement request refused and the member of staff wishes to discuss further, the matter should be referred first to their Head of Department for informal resolution. If the matter cannot be resolved to the satisfaction of the staff member, he/she may lodge an appeal.

The staff member must lodge the appeal in writing to HR for referral to the Chief Executive within 14 days of receipt of the decision. It must be dated and state clearly the grounds on which the appeal is being made. The appeal should be no more than 500 words, additional text in excess of 500 words will not be considered as part of the appeal. The Chief Executive will also receive a copy of the staff members original application form FXR1.

There are no constraints on the grounds under which a staff member can appeal, although the following grounds of appeal are given for guidance:

- Procedure - a failure to follow procedure had a material effect on the decision;
- Decision - the evidence did not support the conclusion reached or is inconsistent
- With other decisions within the Council.
- New evidence

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### FLEXIBLE RETIREMENT APPLICATION FORM (FXR1)

Please ensure you complete all sections of the form in full in order that sufficient information is available to enable proper consideration of your request. When completing sections 3 and 4 - think about what effect your reduction in working hours will have on both the work you do and on your colleagues. Once you have completed the form you should immediately forward it to your Head of Department. **You will need to have made contact with the LGPS and obtained a pension estimate before submitting this application form.**

#### 1. Personal details

Your full name: _____
Name of Line Manager: _____

#### 2. Application Details

I would like to apply for flexible retirement.

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2a. Describe your current working pattern (days/hours/times worked)

2b. Describe the working pattern you would like to work in future (days/hours/times worked). This should be at least a reduction of 40% in working hours.

2c. I would like this working pattern to commence from \_\_\_\_\_

*This is an estimated date, and will be confirmed once the flexible retirement quote from the pension provider is accepted by the staff member. It should be at least two months from that acceptance date.*

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### 3. Impact of the new working hours

I think the proposed change in my working pattern through flexible retirement will affect my Department and my colleagues as follows;



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## 4 Accommodating the new working hours

I think the effect on the Department and my colleagues can be dealt with as follows;

I confirm that I have discussed flexible retirement with the HR Department and they have confirmed I am eligible to apply for flexible retirement. I have contacted the LGPS direct to obtain a pension estimate before applying.

Signed: \_\_\_\_\_ (Staff Member)

Name: \_\_\_\_\_

Date: \_\_\_\_\_

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To be completed by Head of Department

Meeting held to discuss request on: \_\_\_\_\_

In the presence of \_\_\_\_\_

Brief Details of Discussion:

Flexible Retirement Request - \*Accepted/\*Rejected (*\*please delete as necessary*).

ACCEPTED: If accepted, please give details of reduction in hours:

Hours worked (per week): \_\_\_\_\_

If accepted, line manager to notify HR Department.

Date HR Department notified: \_\_\_\_\_

REJECTED:

If rejected, please give reason:

Date HR Department notified: \_\_\_\_\_

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HR notifies the staff member that the application has been accepted and will then obtain an official quotation from the pension provider. Once received, the staff member formally accepts or rejects (by writing to HR) both the contractual changes offered and pension benefits offered. If accepted, HR will write to the member of staff confirming the flexible retirement, the change to contract and the effective date, informing the Payroll Department so that they can take the necessary action. If the employee rejects the offer no further action is necessary.

Employee accepts quotation: YES/NO

If YES, effective date of flexible retirement: (at least two months from date of formal acceptance)

Signed: \_\_\_\_\_  
Employee

Signed: \_\_\_\_\_  
Line Manager

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Please pass one copy to staff member and one copy to HR