



Flexible Retirement Policy

Date:

Document summary

This policy sets out how managers and employees can work together to achieve flexibility for employees approaching retirement, by reducing the employee's working hours or grade while drawing their pension benefits. The policy applies to local government employees who are active members of the Local Government Pension Scheme.

Enquiries

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Flexible Retirement Policy

1. What is flexible retirement?

- 1.1. Flexible retirement is a planned approach to retirement that enables employees to phase down and draw from their pension early to offset the reduction in salary. Phasing down could include:
 - Reducing working hours and/or
 - Moving to a job on a lower salary
- 1.2. Employees who are current active members of the Local Government Pension Scheme may seek their employer's agreement to draw their pension benefits from the age of 55 and continue working on reduced hours or move to a job on a lower salary.
- 1.3. There must be at least a 20% reduction in pay or hours for an employee to access the flexible retirement scheme. Managers should consider whether the new working arrangements meet the business needs of the service, including retention of skills, experience, and succession planning.

2. The benefits of flexible retirement

- 2.1. Flexible retirement enables employees to plan their retirement, financially and socially to make a gradual adjustment towards the end of their working life.
- 2.2. Services also benefit by retaining experienced staff with valuable skills. This can better enable effective succession planning.

3. Eligibility for flexible retirement

- 3.1. To be eligible for flexible retirement, employees must meet the following eligibility criteria:
 - Be employed by the County Council with a permanent contract of employment.
 - Be an active member of the Local Government Pension Scheme.
 - Have reached the Normal Minimum Pension Age, currently age 55.
 - Working to a reduction in hours or pay of at least 20%

The scheme is not available to employees on Teachers' terms and conditions.

- 3.2. Managers must support an employee's application with a business case approved by their Assistant Director/Headteacher, **the Chief Finance Officer and Assistant Director, HR&OD**, in consultation with the HR Advisory Team. The business case should include details of the impact on service delivery, the benefit to the employee and school or department **and consideration of any costs arising as a result of the retirement, including pension strain costs.**
- 3.3. The Chief Executive's approval is required for applications for posts at Assistant Director level and above.
- 3.4. In the event a manager does not approve an employee's application, the employee may request that the decision is reviewed in accordance with the [Flexible Working Requests Guidance's](#) review process. There is no further right of appeal and no other procedure, such as the [Grievance Procedure](#), may be used.

3.5. There is no trial period for flexible retirement and, once it has been agreed, the decision cannot be reversed, because of the direct impact upon the pension benefits.

4. Conditions of service

4.1. In the event of an employee reducing hours in the same job, all the conditions of their contract of employment will be retained, including recognition of continuous service for purposes of annual leave and sick pay and for employment rights, such as redundancy payments and unfair dismissal.

4.2. If the employee starts a new job, they will receive a new contract of employment. Local government continuous service will be recognised for purposes of annual leave and sick pay and for employment rights, such as redundancy payments and unfair dismissal.

5. Financial implications

5.1. Flexible retirement enables employees to draw their pension benefits and to continue working, either in the same job on reduced hours or in a new job at a lower grade. There are, therefore, two sources of income; pension benefits and income from employment.

5.2. The annual pension and lump sum retirement grant are paid with effect from the date of flexible retirement and Additional Voluntary Contributions (AVC's) may be drawn if the employee so chooses. Pensions benefits **may** will be reduced if accessing them prior to normal pension age, see Part 6.

5.3. Employees taking flexible retirement may contribute to the Local Government Pension Scheme in the new or continuing part time job and accrue further pension benefits within the LGPS that may be drawn when they finally retire. It is important to note that the new local government pension is 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. (See paragraph on "Rule of 85" below).

5.4. Employees are responsible for obtaining their own financial advice as the County Council is not able to provide this to staff, but the following information might be helpful:

- 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 County Council, might be less than that received by continuing to work in the original contract until the LGPS standard retirement 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.

6. Pension Reduction and the Protection of 85-year rule

- 6.1. In most circumstances, employees will experience a pension reduction in accessing their pension as a result of taking flexible retirement prior to normal pension age. Some employees' pension may be protected in part, by the 'Rule of 85'.
- 6.2. The 'Rule of 85' was removed from the pension scheme from 1 October 2006, with some protection for those who had an expectation of meeting it. This rule is satisfied when your age in whole years, added to the length of your LGPS membership totals 85 or more at the time of retirement.
- 6.3. No reduction will apply to those members who retire at or after their normal pension age. Some pension scheme members will qualify for some of their pension to be paid unreduced when retiring before the normal pension, where they meet the transitional protection arrangements.
- 6.4. All pension scheme members who joined before 1 October 2006 and could have satisfied the '85 year Rule' prior to the age of 65 have some level of protection. Those who wish to retire when they have satisfied the Rule of 85 and are beyond the age of 55 60 will have the relevant protections applied when accessing their benefits **under this Policy**. ~~However, those who satisfy the 85 year rule prior to the age 60 and also retire prior to age 60 may have a reduction applied to their otherwise protected benefits on account of them being accessed prior to age 60 (the minimum retirement age at the time the 85 year rule was in operation).~~
- 6.5. ~~East Sussex County Council will not waive any pension reduction under the flexible retirement scheme.~~
- 6.6. The abatement rules do not apply when employees draw their pensions under the Flexible Retirement policy.

7. Applying for flexible retirement

- 7.1. As part of regular supervision meetings, such as 1:1s and performance appraisals, employees and managers/headteachers should maintain an open dialogue about future aspirations, which may include the option to take flexible retirement. The prospect of a contractual change to access retirement benefits can then be discussed and explored as part of a collaborative process.

Get estimates of pension benefits

- 7.2. Employees will need to contact the East Sussex Pension Team who will obtain an estimate of pension benefits. This will include any reduction to these benefits if drawn before 65 years of age. Please note that only one request per annum for an estimate of pension benefits will be made free of charge.

Apply in writing

- 7.3. Employees should make a request for flexible retirement in writing to their manager/headteacher using the [Flexible Retirement Application Form](#). This should include an indication of a possible start date.
- 7.4. Whilst there needs to be at least a 20% reduction in hours or pay, managers will need to consider the overall reduction and whether this is enough particularly in the context of succession planning. The appropriate amount of reduction will need to be mutually agreed.
- 7.5. In cases where an employee intends to move to a lower grade/salary, their line manager will need to be aware of whether an alternative position has already been secured or whether the employee needs to be supported in the change to a different post.
- 7.6. Managers must meet the employee within 28 days of the request and notify the employee of the decision to support the application or agree an extension within 14 days of this meeting. An extension may be necessary, for example, after a manager agrees to support the request in principle but needs more time to look into the proposed new working pattern.

Managers supporting the request

7.7. Managers must:

- confirm their support of the request or any agreed adjustment to the original request in writing to the employee, please see para 7.5.
- complete the business case section of the [Flexible Retirement Application Form](#). Please see below for more information on supporting the application with a business case. The HR Advisory Team can be contacted for advice and guidance.
- send the [Flexible Retirement Application](#) onto their Assistant Director/Headteacher for approval.

Preparing a business case

- 7.8. Each flexible working case should be treated on a case-by-case basis and supported by a business case that considers:
 - The impact on service delivery
 - Succession planning arrangements, to transfer knowledge and skills to others
 - How the employee will phase down to full retirement eg. 3 day working for 2 years, then 2 day working for 2 years, then retire completely.
 - any other costs or savings arising from the flexible retirement, for example, **pension strain costs**, saving on the employee's salary, recruitment of a new employee, additional duties payments made to other members of staff, avoidance of redundancy payment.

Managers decline a request

- 7.9. Where a manager decides that, due to the needs of the service **and/or costs arising**, they are unable to accept an employee's flexible working request, they should promptly meet with the employee to discuss the reasons and then confirm these in writing.
- 7.10. Managers will need to refer to the declining the request section in the [Flexible Working Requests Guidance](#) stating the business ground(s) as to why the request cannot be accepted and provide an explanation of why the business reasons apply in the circumstances.

7.11. If the employee is dissatisfied with this decision, they may follow the review process outlined in the [Flexible Working Requests Guidance](#). No other procedure of the County Council, such as the Grievance Policy can be used once this review procedure has been exhausted.

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