



# **FLEXIBLE RETIREMENT POLICY AND PROCEDURAL FRAMEWORK**

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# **FLEXIBLE RETIREMENT POLICY AND PROCEDURAL FRAMEWORK**

## **1.0 Policy Details**

### **Policy Aim**

Newark Town Council (NTC) supports flexible retirement as a means of retaining the valuable expertise, knowledge and contacts of our older employees. Flexible Retirement enables employees to balance work with other responsibilities or leisure time whilst assisting them to make the transition into retirement. The aim of this policy and procedural framework is to establish fair and consistent criteria for the application of terms for flexible retirement for all employees at NTC.

### **Policy Objectives:**

- To determine an agreed procedure for the management of Flexible Retirement at NTC that is workable, affordable and reasonable, having regard to the foreseeable costs.
- Protect the ongoing viability of the pension fund by monitoring pension enhancements and early release of pension benefits.

### **Policy Outcome**

All requests for Flexible Retirement will be dealt with in a fair and consistent manner in accordance with the arrangements set out within this policy and procedural framework.

If a request is received from an employee, the Town Clerk will consider it in the first instance. Any subsequent appeal will be referred to the Personnel Sub-Committee. In the event that a request is received from the Town Clerk, this would be referred to the Personnel Sub-Committee in the first instance and will be subject to final approval by the Finance & General Purposes Committee.

### **Policy Statement**

The Local Government Pension Scheme Regulations (LGPS) were amended so that from 1 April 2006, scheme members could, with their employer's consent, take a reduction in grade or hours and opt to receive the immediate payment of their pension benefits. Following changes to the scheme in 2014, scheme members who meet the qualifying criteria (2 years membership of the scheme) and have reached age 55 can draw all or part of their retirement benefits (both pension and lump sum), provided that:

- the employer consents,
- there has been a reduction in hours,
- a reduction in grade.

For the purpose of this policy, requests for Flexible Retirement will normally only be considered if an employee is reducing the hours of their current job by at least 40 per cent or is transferring to another job at a lower grade. Refer to the paragraph below regarding the cap on earnings.

Employees who have retired flexibly will not normally be allowed to earn more than their previous substantive salary (adjusted in accordance with pay awards) when taking into consideration their new annual salary for Council based employment (to include Council based service transferred under the Transfer of Undertaking Protection of Employment Regulations (TUPE)) combined with the annual pension they are receiving through the LGPS as a consequence of accessing their benefits early through Flexible Retirement (often referred to as abatement). The Discretionary Payments Panel may, in exceptional circumstances, exercise discretion to step outside of this arrangement for business reasons.

Employees who have flexibly retired may not subsequently apply for positions that would result in either an increase in hours or being paid at a higher grade.

A person retiring flexibly does not have to draw on all of the benefits they have built up at the point they apply for Flexible Retirement. Where appropriate, they are required to draw:

- all of their pre-1st April 2008 benefits, plus.
- all, some or none of their 1<sup>st</sup> April 2008 to 31<sup>st</sup> March 2014 benefits, plus.
- all, some or none of their post 31<sup>st</sup> March 2014 benefits, plus
- any “additional benefits” in accordance with actuarial guidance issued by the Secretary of State

*Note: additional benefits include added years being purchased by the member, Additional Voluntary Contributions (AVCs) (if the member chooses to draw them), additional pension bought by Additional Pension Contributions (APCs), Shared Cost Additional Pension Contributions (SPAPCs), additional pension bought by Additional Regular Contributions (ARCs) and additional pension awarded by the employer.*

The early release of benefits on the grounds of Flexible Retirement can create a strain on the pension fund (pension strain). Early release can also lead to an actuarial reduction in pension benefits that the member will receive.

Where Flexible Retirement is agreed, the benefits payable will be subject to any actuarial reduction applicable under the LGPS Regulations 2013 and the LGPS (Transitional Provisions, Savings and Amendment regulations 2014). NTC will only waive any such reduction in <sup>1</sup>whole or in <sup>2</sup>part, in exceptional circumstances where there is a strong business case which also demonstrates that any associated costs can normally be recouped over a one-year period. In circumstances where an employee has applied for Flexible Retirement and wishes the Council to consider waiving actuarial reduction on the pension benefit payable, the case will be referred to the Finance & General Purposes Committee for their consideration. Further details setting out how the actuarial reduction will be calculated and the Council's policy regarding the exercise of discretion are set out at Appendix 1.

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<sup>1</sup> Whole relates to the full funding of the total actuarial costs for release of all benefits applied for by the member.

<sup>2</sup> Part relates to the part funding of the actuarial costs arising from the release of all benefits applied for by the member.

Where an employee makes a request to retire flexibly, they are required to obtain the support for the reduction in working hours/job duties (and grade) from their respective Manager.

Where the early release of pension would result in a cost to the Council (e.g. pension strain), approval will be subject to permission from the Council's Finance & General Purposes Committee. Permission will only be granted where a business case is presented showing that there will be no negative impact on service delivery, that the proposal meets the Town Council's corporate aims and objectives, and, where appropriate, the pension strain cost of the flexible retirement can normally be recouped over a one-year period.

Where there are no pension strain implications to the Town Council and the employee does not wish the Town Council to consider waiving actuarial reduction, the Town Clerk may grant permission without submitting a business case to the Finance & General Purposes Committee in advance for approval. In these circumstances, a business case will need to be completed by the Manager and forwarded to the Town Clerk, demonstrating that there will be no negative impact on service delivery and that the proposal meets the Town Council's corporate aims and objectives. Details will, however, be forwarded on to the Personnel Sub-Committee for information.

This policy and procedural framework have been developed with due regard and consideration for other policies and procedures currently in operation at NTC. The latest version of this policy will apply to any applications received following the date of implementation. This document should be read in conjunction with the Redundancy Policy and Discretionary Compensation Regulations Policy

This policy and procedural framework will be reviewed by the Town Clerk in response to changes in relevant legislation and/or other statutory changes or changes to NTC procedures, structures or priorities. Any changes to statutory provisions that affect this policy and procedural framework will automatically be incorporated.

## **2.0 FLEXIBLE RETIREMENT PROCEDURAL FRAMEWORK**

### **The Scheme**

The LGPS Regulations introduced the option of Flexible Retirement from 6<sup>th</sup> April 2006 as a way of gradually easing into retirement whilst carrying on working at a reduced level.

The change in regulations made it possible for employees aged 55 or over with at least two years total membership (or equivalent transfer value into the LGPS) to draw all or part of their retirement benefits (both pension and lump sum) with their employer's consent whilst continuing in employment on reduced hours or in a lower graded post – a form of 'Flexible Retirement'. Employees who take up this option may continue to pay into the LGPS to build up further benefits in the Scheme up to the age of 75.

There is likely to be a pension strain (the cost to the Council as a result of the pension being drawn early) if the employee is aged under 60 (and for those who have protected membership would have met the 85 Year Rule before the age of 60) or aged under 65 and/or their Normal Pensionable Age (NPA). In such cases, permission to take Flexible Retirement will depend on whether there is a business case to support the application, which includes showing how the costs of the pension strain can normally be recouped over a maximum period of one year.

Discretionary decisions will be taken by the Finance & General Purposes Committee in all cases where there is a pension strain to the Council or where the employee wishes the Council to consider waiving actuarial reduction.

In circumstances where there is likely to be a pension strain (refer to paragraph 2.1.2), the Council may choose to waive, in whole or in part, any actuarial reduction to benefits as a result of them being drawn early. Reductions will usually only be waived in exceptional circumstances where there is a strong business case which also demonstrates that any associated costs can normally be recouped over a one-year period. Refer to Appendix 1 for further information.

Where a request to voluntarily reduce hours with pension is made, the respective Manager will review the application to assess whether the request can be accommodated from a service area business perspective.

- If, following review, the Manager is able to support the application in principle, a request will be made for the necessary information from the County Council Pensions Team to enable the Manager to construct a business case.
- If, following the review, the Manager is unable to support the application, a meeting will be convened with the employee to explain why it has not been possible to approve the application. The employee has the right to be accompanied by a workplace colleague or Trade Union representative at the meeting if they so wish. The reasons for refusal will be confirmed in writing to the employee after the meeting has taken place.

Where an employee voluntarily reduces their hours with pension through a Flexible Retirement application, a trial period is not possible, and therefore the change will form a permanent variation to their contract of employment.

An alternative option to a reduction in hours with pension is a transfer to a lower-graded post with pension. Any employee wishing to be considered for this will be subject to the above procedure; a business case for the early release of pension must be submitted for consideration.

There is no automatic right to be transferred into a lower-graded post, or for the duties within an existing post to be reduced or diminished. An employee wishing to reduce their grade will normally be expected to apply for a post in accordance with the Town Council's Recruitment Procedures. Successfully securing a lower-graded post or a post with fewer

hours through open competition does not necessarily mean that the Council will automatically agree to a pension release; a sound business case will need to be made by the employee through their respective Manager prior to the employee taking up the alternative duties.

In certain circumstances, the Council may agree to transfer an employee into a lower-graded or part-time post by mutual agreement, and as part of that agreement, to the early release of pension under the Flexible Retirement provisions. In these circumstances, a business case would need to be submitted through the relevant Manager. Examples of where this may occur include instances where reduced working would facilitate the transfer of skills/knowledge within the team as a means of succession planning.

When an employee chooses to exercise their right to reduce either their hours or grade with pension (following approval) and in doing so transfers from a permanent position into a temporary or fixed term post, then they will retire at the end of the temporary/fixed term contract if there is no opportunity for redeployment.

### **Appeal**

In the event that a manager is unable to support a request to retire flexibly, they will arrange to meet with the employee to explain the reasons for rejecting the application and to discuss (where appropriate) alternative options that might be available to them. If the employee remains dissatisfied with the decision taken by the Manager, they have the right to have their application considered by the Town Clerk. If, after reviewing, the Town Clerk is unable to support the request, they will meet with the employee to explain why. No further avenue of appeal is available at this stage. The employee has the right to be accompanied by a workplace colleague or Trade Union representative to either of the meetings.

## **3.0 EMPLOYEE GUIDANCE**

### **What is Flexible Retirement?**

Flexible Retirement is an arrangement where some or all of your pension may be released whilst you continue to work for the Council on either reduced hours or in a lower graded post. If you are not in the LGPS, you may still be able to reduce your hours and/or grade, but this will need to be agreed outside of this policy with your respective Manager.

### **Do I Qualify for Flexible Retirement?**

If you are a member of the LGPS, you may, subject to meeting certain conditions, apply for Flexible Retirement. The rules of the Scheme are that you must be over the age of fifty-five with at least 2 years total membership (or equivalent transfer value into the LGPS) or and you must reduce your hours by 40% or transfer to a lower graded post. There is no automatic right to Flexible Retirement. The Council also needs to agree to your pension benefits (or part thereof) being released. For further advice on pension entitlements, please contact the Nottinghamshire LG Pension Fund Helpline on 0115 9772727 or email [lgpensions@nottsc.gov.uk](mailto:lgpensions@nottsc.gov.uk)

**Do I have to access all of my pension benefits if I apply to retire flexibly?**

No. Under the new regulations, a person retiring flexibly does not have to draw on all the benefits they have built up at the point of flexible retirement, although they are required to draw all their pre-1 April 2008 benefits. The decision as to whether to draw post 2008 pension benefits rests with the member (refer to paragraph 1.4.5 of the policy), but would have to be approved by the Council if you are requesting the Council to waive any actuarial reduction to your benefits, given the potential costs associated with early release. If you are applying to access your post-2008 benefits, you should indicate this on your application form (refer to Appendix 1.1) so that costs associated with releasing the numerous benefits can be obtained from the Pensions team and passed on to Managers to inform their decision.

**Retiring Before the Age of 60/65/Normal Pensionable Age**

If you choose to retire before you reach the age of 60 (for those who have protected membership and satisfy the 85-year rule before they meet the age of 60), there may be a cost implication for the Council. Costs will also be incurred for those with less service depending on their age and pensionable service (refer to Appendix 1). Where there is no reduction to your pension benefits, there will be a cost to the Council. But where your pension benefits are reduced, this reduction in benefits will mean that there is no cost to the Council. It is unlikely that the Council will fund any reduction to your pension and indeed would only consider doing so in exceptional circumstances and where there were justifiable reasons for doing so from an organisational perspective.

**How Do I Apply for Flexible Retirement?**

The following procedure sets out how you should make a request for Flexible Retirement and also how your request will be dealt with by Newark Town Council.

You must initially discuss your request for Flexible Retirement with your Manager or equivalent. You may wish to reduce your hours of work, your grade or both. You may wish to propose a reduced range of duties or responsibilities in line with this. In all cases, your manager will need to consider the effect on service delivery, along with any associated costs to release your pension (pension strain) if you were to reduce your hours or grade. You should also be aware that even if your respective Manager is in agreement at this stage, it does not necessarily mean that your request will be granted, as any application that will result in a cost to the pension will need to be referred to the Finance & General Purposes Committee for consideration. Any application submitted will be reviewed based on the content of the business case to ensure that it satisfies all the criteria.

In the event that your application for Flexible Retirement is declined by your manager, an agreement may be reached for you to reduce your hours or grade without access to your pension.

If your proposal might affect other employees, the Manager must consult them to ensure that the impact on service delivery is considered as part of business consideration.

You must complete the form 'Request for Flexible Retirement,' attached to Appendix 1.1. Your manager must also complete part of the form to confirm they have discussed the proposals with you and have agreed to your application in principle, to explore your request for a reduction in hours and/or grade. This is in order to find out what the financial implications of your request are. For you, this will mean what pension you can expect, and for the Town Council, this will mean what costs they will incur if they were to approve your request. Your request for Flexible Retirement cannot be processed without the full completion of the 'Request for Flexible Retirement' form. When completing the form, you should also indicate whether you wish to access post-2008 benefits and, if so, which ones, so that individual costs can be assessed in relation to the actuarial costs associated with releasing each benefit. You should send your completed form to the Town Clerk, who will obtain a pensionable pay figure and then request pension details from the Pensions Section at Nottinghamshire County Council.

Following receipt of the request, the Pensions Section will then send the following information back:

- (a) Notification of the costs associated with releasing your pre-1st April 2008 pension benefits early, plus any additional costs associated with releasing additional pension benefits requested as part of your application.
- (b) Notification of the pension benefits payable to you.

Where a role changes as a result of an agreement to reduce hours or grades, a revised Job Description and Person Specification must be agreed upon between you and your line manager. This will then be submitted to the Town Clerk so that the new role can be assessed for grading purposes.

Your manager will submit a business case to the Town Clerk, who will submit a report to the Finance & General Purposes Committee for the authorisation of any changes and/or release of pension funds.

If your Flexible Retirement request is approved, a Flexible Retirement Preliminary Agreement Form (attached at Appendix 1.3) will be sent to the Pensions Department at Nottinghamshire County Council agreeing to the request and, where appropriate, confirming that the Council will fund any associated costs and the arrangements for doing so.

When you start your new contract, you can choose to continue paying into the pension scheme to build up further pension benefits. As the benefits for previous service have already been paid, this will be like starting a new pension contract. This will happen automatically unless you opt out of the scheme.

**Please remember - the decision of whether to allow you to undertake Flexible Retirement and what benefits will be released as part of your request is entirely at the discretion of the Town Council.** If the Manager refuses your application, you have the right to appeal to the Town Clerk. There is no further avenue of internal appeal. Further advice on the appeals procedure can be found in Paragraph 2.2.

## 4.0 MANAGER GUIDANCE

### What are the Benefits of Allowing Employees to Take Voluntary/Flexible Early Retirement?

Benefits of allowing employees to voluntarily reduce their hours/grade include:

- Retention of expertise, knowledge and contacts.
- Increased motivation by enabling employees to balance work with other responsibilities or leisure time.
- Improved employee morale.
- Assisting employees to make the transition into retirement. Employees will benefit from using the scheme as a means of phasing themselves out of work whilst still fit and healthy and contributing to Council services.
- Enable the transfer of skills/knowledge.
- The facilitation of better succession management, workforce planning and mentoring.
- An effective means of reducing capacity in redundancy situations.
- Enabling the Town Council to retain or attain a balanced age profile within the workforce.

### What Options Are Available to Employees?

Voluntary reduction can be achieved in a number of ways:

#### Hours

- Reducing the hours on a number of working days.
- Reducing the number of days worked in the week.
- Taking time off in a block of days/weeks/months.
- The reduction should be equivalent to at least one day a week.

**Note: for an application to be considered, it should include a reduction of at least 40% in hours.**

#### Grade

- Reducing by at least one grade or equivalent.

### An Employee has applied to Take Flexible Retirement – What Do I Do Now?

On receipt of the application, you should discuss this with the Town Clerk in advance of convening an initial meeting with the employee to discuss the request/explore the implications of the proposal in further detail. The initial meeting with the employee should take place within 28 days of receipt of the request. If, following the initial meeting, you are able to support the request in principle, having considered the implications for your service area, the Town Clerk will obtain a pension estimate for the employee for you to construct your business case.

If, following the initial meeting and further consideration, you are unable to support the request in principle, you should convene a meeting with the employee to explain why you are unable to support their application. This should be confirmed in writing to the employee after the meeting has taken place, as they may wish to refer to this when submitting an appeal to the Town Clerk. The employee has the right to be accompanied by a workplace colleague or Trade Union representative to either meeting.

### **What Do I Need to Consider?**

The decision to allow an employee to undertake Flexible Retirement is entirely at the discretion of the Council. There are a number of things you need to consider:

- Will the proposed arrangement have a negative impact on delivery service?
- Will our service users suffer as a consequence of the proposed arrangement?
- Will the proposed new arrangement place an added burden or extra responsibilities on other team members?
- Will the section still be able to meet its targets and the organisation's aims and objectives?
- What are the advantages/disadvantages?
- Does the proposal have any HR or financial implications?

### **I Have Considered, and I Am Willing to support the request.**

If there are no pension strain implications to the Council and you support the request, the Town Clerk has delegated authority to agree the arrangement, subject to receipt of a business case demonstrating that there will be no negative impact on service delivery. If, however, there is a pension strain to the Council or the employee is requesting the Council to waive any actuarial reduction on benefits, the application will need to be submitted to the Finance & General Purposes Committee for their consideration.

### **Will the Change Affect the Employee's Terms and Conditions of Service?**

- If an employee opts to work part-time, their terms and conditions of service will remain unchanged, but on a pro-rata basis. If an employee moves into a lower-graded post, their terms and conditions of service may change. In both circumstances, the Town Clerk will issue a new contract.
- Employees working part-time will receive a pro rata entitlement to public holidays. Employees in the LGPS will continue to contribute to the scheme unless they "opt out".

### **I Have Considered the request, but cannot support it**

If, after consideration, the request is refused, the reasons should be clearly communicated to the employee both verbally and in writing.

If the employee is dissatisfied with the outcome, they have the option to appeal in accordance with the details set out at paragraph 2.2 of the procedure.

### **Can the Agreement be ended?**

The arrangement will, in most instances, be permanent and normal contractual notice will be required. If the employee wishes to change the arrangements, they must go through the above process.

