

**SUBJECT: LOCAL GOVERNMENT PENSION SCHEME - FLEXIBLE
RETIREMENT**

**JOINT REPORT OF THE CHIEF FIRE OFFICER, CLERK TO THE AUTHORITY,
THE FINANCE OFFICER AND PERSONNEL ADVISOR**

1 INTRODUCTION

- 1.1 The purpose of this report is for Members to consider and approve an Authority policy in respect of flexible retirement for those staff conditioned to the Local Government Pension Scheme.

2 BACKGROUND

- 2.1 Members will be aware that it is a requirement of the Local Government Pension Scheme (LGPS) (Administration) Regulations 2008 that "Each employing authority must prepare a written statement of its policy in relation to the exercise of its functions". Thus employers must make, and keep under review, employer discretions which govern how the pension scheme rules will be applied by the employer.
- 2.2 A new provision of flexible retirement was introduced under Regulation 18 of the LGPS (Benefits, Membership and Contributions) Regulations 2007. Under Regulation 18, from age 50 (or age 55 for new employees and age 55 for all employees from April 2010) an employee who reduces their hours or moves to a less senior position i.e. they reduce their grade, can, provided the employer agrees, draw some or all of their pension benefits that they have built up, allowing for a situation where an individual can draw down their pension benefits but remain an employee.
- 2.3 The Authority is required to formulate, publish and keep under review its policy on flexible retirement.
- 2.4 Flexible retirement was introduced into the LGPS as part of a wider government policy to ease the transition from full time working to full time retirement and at the same time increase the number of workers over the age of 55 who are economically active. Essentially it is meant to be a win/win situation for the employer and employee. This provision will allow employees to ease themselves into retirement and may support the Authority in areas such as succession planning, the retention of key skills and business efficiency. In addition it may facilitate redeployment for individuals who may be at risk of redundancy, as some individuals may prefer to continue to work in a lower graded post, whilst receiving the pension benefits that they have already accrued as an alternative to redundancy.
- 2.5 If Flexible Retirement is agreed prior to age 65, the individual's pension benefits will be reduced to take account of their early payment, unless the employer

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agrees to waive this reduction in whole or in part or the individual is a protected member under the pension scheme rules i.e. they meet the 85 year rule whereby their age and length of service equal 85 or more. An employee can also continue paying into the LGPS on their reduced hours or in their new role, thereby building up further pension benefits in the scheme.

- 2.6 It was the original intention that Flexible Retirement should be cost neutral for the employer however the cost calculations underpinning the Regulations do not as yet reflect this and there may be some residual Strain on Fund cost to account for the fact that pension benefits are being drawn earlier than would normally have been anticipated by the Government Actuary Department and as the cost of the Strain on Fund must be met by the employer, consideration of this issue will be given when considering all applications.

3 FLEXIBLE RETIREMENT SCHEME - OPTION

- 3.1 There are a number of considerations in the development of the Authority's policy on flexible retirement:
- 3.2 **Business Case** - The decision to agree to a flexible retirement request and any subsequent waiving of pension reduction is at the discretion of the employer and the Authority must set out its policy and Employer's Discretion on this. In order to be able to approve applications it is recommended that the Authority should be satisfied that a business case has been established.
- 3.2.1 **Changes to the Individual's Contract of Employment** - There are two aspects to the business case. The first being that a change to the individual's contract of employment needs to be agreed in respect of the individual's grade or hours of work to satisfy the requirements of the LGPS. The organisation needs to be satisfied that this can be accommodated and consideration will need to be given to the potential impact of this. Where hours of work are to be reduced, which would appear the more likely request that will be received, consideration to this will need to be given in line with the Authority's guidance on flexible working. If an individual is seeking to reduce their grade then consideration will need to be given to redeployment opportunities in line with the Authority's redeployment policy. Alternatively organisational changes could be considered through the formal approval processes for staffing proposals.
- 3.2.2 The Regulations make provision for drawing all or part of the accrued pension benefits but it is the opinion of the Local Government Employers Organisation that applications for Flexible Retirement only be considered where all of the pension benefits are being drawn.
- 3.2.3 In addition to ensure that the business case is realised it is recommended that the reduction in hours or salary is a permanent change to the individual's contract of employment.
- 3.3 **Flexible Retirement – Financial Implications** - The second aspect to establishing a business case is about the cost of flexible retirement.
- 3.3.1 The employee may draw down all or part of their pension benefits accrued up to the date of flexible retirement, and then restart a second period of pensionable service, to earn a second pension.

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- 3.3.2 As the employee can take all of their pension benefits, the cost can, in some circumstances, be of the same level as an early retirement application, and in common with applications for early retirement, there may be a Strain on the Fund cost for the early release of pension if the employee is under age 65 a cost which must be paid by the employer.
- 3.3.3 Where the reduction is waived by the employer, the employer will meet the full cost of the Strain on the Fund. If the employer does not waive the reduction, the reduction in pension may not meet all of the Strain on the Fund cost, depending upon the age and length of service of the employee and the employer may have to pay some or all of the Strain on Fund costs.
- 3.3.4 If the employee meets the 85 Year Rule, there is no reduction to the pension, but there may still be a residual Strain on the Fund cost to be paid by the employer, particularly for employees who meet the 85 Year Rule before the age of 60. The Strain on Fund and Actuarial Reduction costs associated with Flexible Retirement are likely to be high for individuals who are under the age of 60 and who do not meet the 85 rule.
- 3.4 **Actuarial reduction** - Consideration must be given as to whether the Authority adopts a policy that in all cases of flexible retirement, where an individual would receive an actuarial reduction in benefits as a result of the pension benefits being paid early, then this reduction would not be waived, or alternatively considered on a case by case basis. On balance, it is recommended that each case is considered on an individual basis and only approved where it was in the Authority's interest to do so, this would include consideration of waiving, or not, the actuarial reduction in pension benefits, but would again consider this in light of it being in the employer's interest to do so.
- 3.5 It is recommended that in considering all applications the business case must include a cost benefit analysis using the process that is applied currently for applications for early retirement.
- 3.6 **Permanency and Level of Reduction in Hours or Salary** - The LGPS regulations do not specify the level of reduction in either hours of work or grade required to be able to request flexible retirement. A number of organisations have stipulated this in their individual policies and the Department for the Communities and Local Government (CLG) in their guidance, comment that where any reduction is minimal (e.g. less than 10-20%) flexible retirement may be difficult to objectively justify through the establishment of a business case. Looking at 5 examples from other local authorities their policies range from requiring a reduction in salary or hours worked of between 20% and 50% before applications could be considered. It is suggested that a reduction in salary or hours of work of at least 25% should be required of individuals wishing to pursue flexible retirement.
- 3.7 **Service Requirement**
Other considerations are that the Authority may wish to require individuals to have a requisite amount of service with Tyne and Wear Fire and Rescue Authority in order to be able to apply for flexible retirement. To mirror the service requirements for requesting flexible working individuals need to have 26 weeks continuous service.

4 Proposal

- 4.1 It is proposed that the Authority implement a flexible retirement policy as outlined in this report with the operation of the policy being delegated to the Chief Fire Officer in consultation with the Personnel Advisor to the Authority and the Finance Officer. The Chief Fire Officer will establish whether there is a business case, based on the above principles, and where a business case can be established then cases will only be approved where it can be demonstrated to be in the Authority's interests to do so, and consideration be given to the waiving of any actuarial reduction, again only where it is in the employer's interest to do so.
- 4.2 Where an employee believes that not all material facts have been considered or where there is additional evidence that may affect the result of the application. An employee may appeal against the decision of the Chief Fire Officer and the appeal would be heard by the Human Resources Committee.

5 Consultation

- 5.1 This report has been submitted to the relevant representative bodies for formal consultation.

6 RISK MANAGEMENT

- 6.1 A risk assessment has been undertaken to ensure that the risk to the Authority has been minimised as far as practicable. The assessment has considered an appropriate balance between risk and control; the realisation of efficiencies; the most appropriate use of limited resources; and a comprehensive evaluation of the benefits. The risk to the authority has been assessed as low utilising the standard risk matrix based on control measures being in place. The complete risk assessment is available on request from the Chief Fire Officer.

7 FINANCIAL IMPLICATIONS

- 7.1 Financial implications are included in the body of this report.

8 EQUALITY AND FAIRNESS IMPLICATIONS

- 8.1 There are no equality and fairness implications in respect of this report.

9 HEALTH AND SAFETY IMPLICATIONS

- 9.1 There are no health and safety implications in respect of this report.

10 RECOMMENDATIONS

- 10.1 Members are recommended to:
- a) Endorse that a flexible retirement policy be established on the following principles:
 - Establishment of a Business Case;

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- A minimum reduction in salary or hours of the individual employee of 25% is required and changes to contract terms will be a permanent change;
 - Employees must have 26 weeks continuous service with the Authority;
 - Applications will only be considered where the full release of pension benefits is being requested;
 - Any actuarial reductions in pension benefits will be considered on an individual basis, and only approved where it is in the Authority's interest to do so;
 - Applications will only be approved where it is in the Authority's interests to do so;
 - Any appeal will be to the Human Resources Committee.
- b) Receive further reports as appropriate.

BACKGROUND PAPERS

The undermentioned Background Papers refer to the subject matter of the above report:

- Local Government Pension Scheme (Administration) Regulations 2008

