

Public Document Pack

Officer Decisions

Friday, 1st March, 2019

AGENDA

- 1. Flexible Retirement Policy Delegated Powers**
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Flexible Retirement Policy - January 2019
EIA Checklist - Flexible Retirement Policy

Date Published: 1st March 2019
Harry Catherall, Chief Executive

RECORD OF DECISION TAKEN UNDER DELEGATED POWERS OUTLINED IN THE CONSTITUTION – Part 3 Section 16



**DELEGATED
OFFICER DECISION
TAKEN BY:
PORTFOLIO
AREA:**

David Fairclough - Director of HR, Legal
and Governance

ALL

SUBJECT: Flexible Retirement Policy

1. DECISION

The Director of HR, Legal and Governance is asked to approve the revised Flexible Working Policy.

2. REASON FOR DECISION

The Flexible Retirement Policy has been updated to ensure that it is fit for purpose and up to date in line with employment legislation and best practice.

3. BACKGROUND

The Flexible Retirement Policy has been updated to reflect Local Government Pension Scheme changes regarding the phasing out of the 85 year rule.

Key Issues

The 85 year rule was removed with effect from October 2006. Active members on 30th September 2006 retained some protections against the removal of the 85 year rule.

- Benefits in respect of membership before April 2008 will be calculated in accordance with the 85 year rule.
- For members aged 60 before 1st April 2020 benefits in respect of membership between April 2008 and March 2020 will be tapered, with greater protection given to those who would achieve the 85 year rule earlier.

The policy has also been updated to reflect changes to the State Pension Age from 65 to 66 by 2020.

The policy has been approved at LJNCC on Friday 25th January 2019.

4. OPTIONS CONSIDERED AND REJECTED

N/A

5. DECLARATION OF INTEREST

All Declarations of Interest of the officer with delegation and the any Member who has been

consulted, and note of any dispensation granted should be recorded below:

None

VERSION: 4.0

CONTACT OFFICER: Sally-Ann Wolstenholme

DATE: 22nd February 2019

BACKGROUND DOCUMENTS: Flexible Retirement Policy

Signed:



Director of HR, Legal & Governance

Date: 25/02/2019



Flexible Retirement Policy

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1. Introduction

This procedure outlines the process for employees wishing to undertake flexible retirement (i.e. draw some or all of their pension benefits) before age 65/66 whilst continuing to work for the Council.

2. Scope

This procedure applies to all Council employees who are members of the Local Government Pension Scheme (LGPS).

3. Definitions

Flexible Retirement: The right of any member of the LGPS to undertake flexible retirement is contained within LGPS regulations. The earliest date that this can be applied for is age 55. However costs to the Employer and/or reductions to the

employee's pension benefits may apply in certain circumstances – these are described in more detail later in this document.

Normal Pension Age: In the LGPS is linked to State Pension Age (but with a minimum of age 65/66). You can choose to retire and draw your pension from the LGPS at any time from age 55 to 75, provided you have met the 2 years vesting period in the scheme. If you choose to take your pension before your Normal Pension Age it will normally be reduced, as it's being paid earlier. If you take it later than your Normal Pension Age it's increased because it's being paid later. You must draw your benefits in the LGPS before your 75th birthday.

State Pension Age: This is the earliest age you can receive the state basic pension. From December 2018 to October 2020 this



increases from 65 to age 66 for both men and women.

Date of Birth	New State Pension Age
6 December 1953 – 5 October 1954	In the range 65-66
After 5 October 1954	66

85-year rule: The ‘rule of 85’ was introduced in 1998, If an employee’s age and length of membership in the scheme totaled 85 there would be no reduction in benefits.

Where an employee age 60 or more could retire early at no cost to the employer and without reductions to their benefits (Some employees may have ‘Rule of 85’ protections which may offset some of the reductions). Employees aged 50+ but less than 60 still need employers consent to draw their pension benefits even if they meet the 85-year rule. The 85-year rule is being phased out between 2016 and 2020.

The ‘rule of 85’ was removed from the regulations on 1 October 2006. However there are transitional provisions.

A number of protected categories for employees now exist and the rule of 85 is still applied to some or all of your service, depending on your age and membership. The protections cover many but not all scheme members.

You can check with Your Pension Service if you qualify for the ‘rule of 85’

Active members on 30th September 2006 retained some protections against the removal of the 85 year rule. In their case;

- Benefits in respect of membership before April 2008 will be calculated in accordance with the 85 year rule.

- For members aged 60 before 1st April 2020 benefits in respect of membership between April 2008 and March 2020 will be tapered, with greater protection given to those who would achieve the 85 year rule earlier.

4. Roles and Responsibilities

Employees:

- 1) Check with either HR or LGPS as to their own circumstances and State Pension/Normal Pension Age dates.
- 2) Contact HR and complete paperwork at least one month prior to flexible retirement date.

HR:

- 1) Will provide confirmation of State Pension/Normal Pension Age where requested.
- 2) Will complete paperwork associated with retirement upon completion of termination form from Department.

Departmental Directors: Must complete termination and new starter details showing revised terms by the agreed deadline dates for that particular payroll.

5. Rules regarding Flexible Retirement:

The flexible retirement provisions do not specify by how much an employee must reduce their hours and there is also nothing in the regulations which state whether the reduction needs be a permanent reduction in hours, therefore as little as a 1 hour reduction will qualify.

Employees may request to take all or only part of their pension benefits.

An employee can also take flexible retirement more than once.



Once an employee starts their flexible retirement you will be automatically enrolled back in to the LGPS unless you choose to opt out.

6. Application for Flexible Retirement

Applications for Flexible Retirement will follow three processes dependant upon age/service and State Pension/Normal Pension Age dates.

1) Applicants aged 55 – 59 will definitely incur a cost for the Council and as such all applications should follow the Councils' published ER process. Employees should seek the support of their Senior Manager/Budget holder before making a formal application. The application should include a note upon the qualifying criteria the employee intends to use i.e. actual reduction in number of hours or new lower grade as these savings maybe taken into account by the panel making the decision.

2) Applicants aged 60 – 64 who do not meet the 85-year rule but who would like the Council to meet the cost of their potential pension reduction should follow the ER process at 1) above. Failure to do so may result in the Flexible Retirement being agreed but the employee may be faced with substantial reductions to their pension benefits (lifetime reductions apply) in line with the shortfall to their ERD date. e.g reductions of between 23-24% apply where an employee "retires" 5 years early.

N.B. It must be recognised that many of the applications made under 1) and 2) above will fail as little or no savings for the Council accrue particularly as many employees only seek to reduce their hours marginally and the costs associated with early release can be substantial.

3) Applicants aged 60 – 64 who either meet the 85-year rule and/or are prepared to suffer the reductions may apply directly to their Manager as no costs will apply to the Council.

N.B. Employees who are 60+ and who do not meet the 85-year rule and would suffer reductions to their pension benefits should discuss this option carefully before going ahead. The reductions that will apply to the pension benefits are lifetime reductions and yet by continuing to work the employee is actually completing the service that would otherwise have stopped or reduced the amount lost. Also if the employee fails to re-join the LGPS scheme they will lose the life cover but if they do re-join they will have to work to age 65/66 or suffer a 2nd reduced pension upon retirement.

N.B. The 85 year rule was removed with effect from October 2006 and is being phased out between 2016 and 2020. Active members on 30th September 2006 retained some protections against the removal of the 85 year rule. In their case;

- Benefits in respect of membership before April 2008 will be calculated in accordance with the 85 year rule.
- For members aged 60 before 1st April 2020 benefits in respect of membership between April 2008 and March 2020 will be tapered, with greater protection given to those who would achieve the 85 year rule earlier.

7. Appeals against the decision to refuse a request for flexible retirement

Appeals made against a decision taken by the ER panel should follow the normal appeal process that exists within the ER policy.



An employee may appeal the decision of his Manager/budget holder to refuse a flexible retirement request by appealing in writing to their Department Director.

The needs of the service will always be the prime consideration in any decision and there is no further right of appeal following this decision.

8. Other information

Pension retirement figures are only produced following a formal retirement and receipt of a termination form and hence flexible retirements are achieved by termination of the original post and a new contract/starter to set up the post on the revised terms.

Employees can calculate their own pension benefits due at retirement by logging in or registering for My Pension Online via the Your Pension Service website.

9. Further Guidance

If you require further advice regarding the application of this policy and guidance please contact the HR Advice Line on 01254 585905 or email hradvice@blackburn.gov.uk

You can find further information by visiting the Your Pension Service Website and referring to the Retirement guide, www.yourpensionservice.org.uk/local-government-scheme/members-active-deferred-pensioner/guides-leaflets-and-forms/

10. Document Control

Approving Body	LJNCC (Council)
Date Agreed	25/01/2019
Date of Next Review	January 2021
Review Period	Every 3 years (unless there is a change to the organisation or statutory legislation, whichever is sooner)

EQUALITY IMPACT ASSESSMENT CHECKLIST

This checklist is to be used when you are uncertain if your activity requires an EIA or not.

An Equality Impact Assessment (EIA) is a tool for identifying the potential impact of the organisation's policies, services and functions on its residents and staff. EIAs should be actively looking for negative or adverse impacts of policies, services and functions on any of the nine protected characteristics.

The checklist below contains a number of questions/prompts to assist officers and service managers to assess whether or not the activity proposed requires an EIA. Supporting literature and useful questions are supplied within the [EIA Guidance](#) to assist managers and team leaders to complete all EIAs.

Service area & dept.	All	Date the activity will be implemented	01/02/2019
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Brief description of activity	Flexible Retirement Policy
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Answers favouring doing an EIA	Checklist question	Answers favouring not doing an EIA
<input checked="" type="checkbox"/> Yes	Does this activity involve any of the following: - Commissioning / decommissioning a service - Change to existing Council policy/strategy - Budget changes	<input type="checkbox"/> No
<input type="checkbox"/> Yes	Does the activity impact negatively on any of the protected characteristics as stated within the Equality Act (2010)?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> No <input type="checkbox"/> Not sure	Is there a sufficient information / intelligence with regards to service uptake and customer profiles to understand the activity's implications?	<input checked="" type="checkbox"/> Yes
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Does this activity: Contribute towards unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act <i>(i.e. the activity creates or increases disadvantages suffered by people due to their protected characteristic)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Reduce equality of opportunity between those who share a protected characteristic and those who do not <i>(i.e. the activity fail to meet the needs of people from protected groups where these are different from the needs of other people)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Foster poor relations between people who share a protected characteristic and those who do not <i>(i.e. the function prevents people from protected groups to participate in public life or in other activities where their participation is disproportionately low)</i>	<input checked="" type="checkbox"/> No
FOR =	TOTAL	AGAINST =

Will you now be completing an EIA?

Yes

No

The EIA toolkit can be found [here](#)

Assessment Lead Signature	Sally-Ann Wolstenholme
Checked by departmental E&D Lead	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Date	22/02/2019