



CORPORATE FLEXIBLE RETIREMENT POLICY

This applies to: All DCC Staff who are current members of the Local Government Pension Scheme, including school support staff

Policy Date: April 2007
Version Date: November 2014

Human Resources

If you require further help in the interpretation of this policy you can contact the HR Direct hrdirect@devon.gov.uk.

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POLICY

1.0 Introduction

- 1.1 Changes to the Local Government Pension Scheme (Amendment) Regulations 2006, enabled Devon County Council (The Council) to introduce a Flexible Retirement Policy. The Local Government Pension Scheme Regulations 2013 cover the Council's Flexible Retirement scheme from 1 April 2014.
- 1.2 This policy applies to all employees of the Council who are current members of the Local Government Pension Scheme aged 55 and over.
- 1.3 If the employer gives consent, the employee will be able to reduce working hours and/or grade, and release pension benefits if the policy criteria are met, without leaving employment.
- 1.4 The pension benefits that are released by flexible retirement are as follows:
 - a) all of the benefits from the 1998 Scheme;
 - b) all, part or none of the benefits from the 2008 Scheme; and
 - c) all, part or none of the benefits from the 2014 Scheme.
- 1.5 Where the pension benefits are released before the employee's normal retirement age, there may be costs due to the Pension Fund. It is expected that these costs will be borne by the employee, where permitted by pension regulations, as an [actuarial reduction](#) to their benefits.
- 1.6 In some cases not all of the costs can be passed to the employee as an actuarial reduction. Where the pension fund does not cover this cost, it would be passed to the employer as a "[strain](#)" cost. Flexible retirements incurring such a cost will only be permitted in exceptional circumstances. There may also be exceptional circumstances where the Council waives some or all of the employee's actuarial reduction, and bears the cost.
- 1.7 The Council may consider bearing the costs described in 1.6 for economic and/or business reasons. For example where the flexible retirement reduces the number of redundancies required and the overall cost is reduced. Agreeing to the request in these circumstances would therefore enable the employee to continue in employment and their skills be retained, the number of redundancies to decrease, and an overall reduction in cost.
- 1.8 Flexible retirement applications will be considered on an individual application basis.

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- 1.9 Making choices about pensions are complex and therefore employees are advised to seek independent financial advice regarding their personal financial situation.
- 1.10 This policy is intended to meet the requirements of the Equality Act 2010. The Council is committed to the principle of equal opportunities in employment regardless of a person's age, disability, gender re-assignment, marital or civil partnership status, pregnancy, maternity status, race (including colour, nationality and ethnic or national origins), religion or belief, sex and sexual orientation.

2.0 Purpose

- 2.1 This policy may provide an opportunity for employees aged 55 and over to make changes to their working lives by releasing their pension, whilst enabling the Authority to retain valuable skills and experience.
- 2.2 It should only be used where the employee is requesting release of their pension benefits. A Flexible Working Request should be used where the request does not include the release of pension benefits.

3.0 Principles

- 3.1 It is the employee's responsibility to apply for flexible retirement, should they so wish. It is recognised that making choices about pensions is a complicated and difficult decision for employees to make.
- 3.2 Requests for flexible retirement will be considered on:
- A reduction of hours and/or grade, in the current post.
 - An appointment to another post with new continuing employment with Devon County Council on reduced hours and/or grade. This would be subject to an appropriate vacancy arising and the operation of the Council's normal recruitment and selection procedures.
- 3.3 Flexible Retirement will be subject to:
- A reduction in contractual pay of at least 20% (i.e equivalent to 1 day per week for a full time employee).
 - Pensionable pay in the 12 months after the flexible retirement being less than pensionable pay in the 12 months before the flexible retirement. (Pensionable pay includes, for example, additional hours and non-contractual overtime.)
 - An expectation of at least 12 months in the reduced grade and/or hours following flexible retirement (unless as part of a planned/managed transition within a team, leading to full retirement).

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- No return to higher hours and/or grade within 12 months.
 - No other application being made within the previous 12 calendar months (an amendment to a current application, or application on hold pending service changes, will be permitted).
- 3.4 All other conditions of service, for example annual leave, will be recalculated on a pro rata basis.
- 3.5 Flexible Retirement may not necessarily be available to all and individual negotiation may be required. Whilst the Council is committed to providing a balance between employees' professional and personal lives, the desire to provide Flexible Retirement must be balanced with the Council's duty to maintain service delivery and therefore the Council has the final decision on the request.
- 3.6 The process will be undertaken in a fair, open and transparent manner. The consideration of the request should be reasonable, fair and objective, taking into account the employee's wishes, but having due regard to confidentiality.
- 3.7 Flexible Retirement proposals will need to be discussed and approved by the appropriate Senior Managers for the Service. The proposal will be considered by Human Resources for assessment against the policy criteria. If the criteria are met the proposal will be forwarded to the Human Resources Management Team for 'in principle' approval.
- 3.8 Employees have the right to be accompanied by a trade union representative or a workplace colleague (not acting in a legal capacity) at any stage in the procedure. The companion can address the meeting or confer with the employee during it.
- 3.9 An employee continuing in employment beyond their LGPS pension age can only release pension benefits by the approval of a flexible retirement request, or where the Service agree to terminate employment (which releases pension benefits), and then re-employ.
- 3.10 An employee wishing to release pension benefits will need to have been a Local Government Pension scheme member for at least 2 years or to have transferred from another pension scheme to be able to release their benefits.
- 3.11 An employee will be contractually enrolled back into the LGPS after Flexible Retirement, continuing to pay pension contributions so that further pension benefits will be accrued, unless they opt out by completing an ["opt out" form from Peninsula Pensions](#) immediately **after** the date of the flexible retirement.

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PROCEDURE

4.0 Flexible Retirement Enquiry/Estimate Request

- 4.1 The first stage is a request form that does not commit the employee to a flexible retirement. Its purpose is to enquire into the possibility of a Flexible Retirement, determine if there would be any costs to the Council, and request an estimate of the pension benefits that could be paid to the employee. The employee completes the [Flexible Retirement Employee Request Form](#) (available on the Source) and returns it to their line manager.
- 4.2 The line manager should acknowledge receipt of the request by returning, to the employee, the Confirmation of Receipt page of the form.
- 4.3 If the employee has more than one employment, requests should be considered separately for each employment.
- 4.4 If the Flexible Retirement criteria (refer to 3.2 and 3.3) would not be met the application must be refused - but the manager should give the employee the opportunity to amend the request to bring it within the criteria if possible (see also 4.11).
- 4.5 If after consideration, the Service decides it cannot support the Flexible Retirement for operational reasons, the application can be refused at this stage (see below) and the estimate request form should not be forwarded to Human Resources.
- 4.6 Where there are no operational reasons to refuse the Flexible Retirement (other than any potential costs which are unknown at this stage), the estimate request form should be forwarded to Human Resources, who will liaise with Peninsula Pensions to provide the estimate of pensions benefits and costs.
- 4.7 Where there are no costs to the Council, the estimate of pension benefits will be forwarded to the employee by Human Resources, and the Manager informed. The employee may wish to speak to an independent financial adviser at this stage. If they have any questions regarding the estimate/pension they should contact Peninsula Pensions.
- 4.8 Where there are costs to the Council this will be communicated to the Manager by Human Resources, and the estimate of pension benefits will not be forwarded to the employee unless their Manager requests it.
- 4.9 The Manager should arrange a meeting with the employee to discuss whether the flexible retirement can proceed. (Where the manager knows that there will be no costs, for example if the employee is over

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60, and the employee does not want to wait for an estimate of their pension benefits, this meeting can be arranged before the estimates are provided.)

- 4.10 Any meetings should be arranged by the line manager at a mutually convenient time and place.
- 4.11 If the circumstances do not meet the criteria for a Flexible Retirement it may be possible for the employee to release their benefits by a mutually agreed termination of their contract, and re-employment. However employees must be aware of the LGPS rules and [implications for future earnings](#) before agreeing to the termination of their contract. They should contact Peninsula Pensions to discuss their situation.
- 4.12 Where a Flexible Retirement is to proceed, the manager should complete a Flexible Retirement Proposal Form or School Request Form - available in the [Manager's Toolkit](#) (unless there are employer costs, in which case Human Resources will provide a 'with costs' proposal form).

5.0 Considering the proposal

- 5.1 Individual Flexible Retirement requests must be considered by the appropriate Senior Manager, who if in agreement, should sign the Proposal Form/School Request Form. It should then be sent to Human Resources, where it will be checked against the required criteria.
- 5.2 If the criteria are met, the proposal will be passed to the Human Resources Management Team (HRMT) for 'in principle' corporate approval.
- 5.3 If the proposal is approved 'in principle' the estimate of pension benefits will be passed to the employee if it has not already been provided. The employee may wish to speak to an independent financial adviser at this stage. If they have any questions regarding the estimate/pension they should contact Peninsula Pensions.

6.0 Confirmation

- 6.1 Where the proposal has been approved 'in principle' by HRMT, and the Service and employee are ready to proceed, the confirmation letter from the [Manager's Toolkit](#) should be used to confirm:
 - a) the start date of the new Flexible Retirement employment contract;
 - b) the revised working hours and/or grade, plus working pattern;
 - c) any changes to other terms and conditions of employment - for example, any condition which should be pro rata for reduced hours working.

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- 6.2 The employee is asked to counter-sign the letter to confirm acceptance of the new terms and conditions. A copy of the signed and counter-signed letter should then be sent to Human Resources, where the Pension Release Authorisation will be prepared, signed and sent to Peninsula Pensions.
- 6.3 A Prism 3X should be completed by the appropriate HR/School Admin.
- 6.4 When the Prism 3X has been supplied to Devon Payroll Services, and the pay run which includes the last day before the flexible retirement contract starts has been completed, Devon Payroll will provide pensionable pay information to Peninsula Pensions. Only then will Peninsula Pensions be able to finalise the pension benefits and contact the employee. The employee will then be able to confirm their options, including converting annual pension into lump sum.

7.0 Refusal of a request

- 7.1 If a request is refused the line manager should advise the employee in writing as soon as possible.
- 7.2 Where this is a result of business needs, an example letter can be found in the [Manager's Toolkit](#).
- 7.3 Although the Council is able, in exceptional circumstances, to consider requests where there is a cost to the Authority, this will not be possible in most cases. An example letter for refusal on cost grounds can be found in the [Manager's Toolkit](#).

8.0 Appeal process

- 8.1 Employees have the right to appeal against a decision not to approve a Flexible Retirement.
- 8.2 An appeal can only be based on the grounds that the decision was unfair or unreasonable.
- 8.3 The employee should register an appeal using the [Appeal Form](#) (on the Source) within 14 calendar days of receiving the written refusal for Flexible Retirement. This should be sent to the appropriate Head of Service.
- 8.4 The Head of Service must contact the HR Helpdesk to inform them of the appeal and seek advice regarding the employee's request and the grounds for refusal.
- 8.5 The Head of Service must hold the appeal meeting within a maximum period of 14 days of the receipt of the appeal.

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- 8.6 The Head of Service must notify the employee of the decision using the Flexible Retirement Appeal Reply Form within a maximum of 14 working days after the date of the meeting.
- 8.7 If the request is accepted the Head of Service will write to the employee informing them of the detail of the agreement and the date on which the Flexible Retirement is due to take effect.
- 8.8 If the request is refused the Head of Service will write to the employee setting out the grounds for the refusal and explaining why they apply.
- 8.9 Once the appeal process is complete, the Head of Service should send copies of the Flexible Retirement Appeal Form and the reply to the appropriate HR Admin team.
- 8.10 This is the end of the Flexible Retirement appeal procedure. However you have the right to use the [Internal Dispute Resolution Procedure](#).

MANAGEMENT GUIDANCE

9.0 Introduction

- 9.1 Local authorities are required to make a policy statement and, by giving consent to Flexible Retirement requests, show a full understanding of any cost implications of these decisions.
- 9.2 This guidance is to assist line managers in progressing requests.
- 9.3 In the current climate it is timely to consider different mechanisms to reduce costs and the potential number of redundancies, whilst retaining skills with reduced resources.
- 9.4 Care needs to be taken to ensure that the process used to consider flexible retirement requests have been applied equitably.

10.0 Financial implications

- 10.1 The Authority has the discretion to bear the cost of an employee taking flexible retirement.
- 10.2 These costs could come from the employer waiving an actuarial reduction and/or from the employer "strain" cost.
- 10.3 The decision has been taken to consider Flexible Retirements where there is a cost in exceptional circumstances. For example, where the approval of a request would diminish the possibility of a redundancy.
- 10.4 Each application will be considered on its merits and will only be approved if it is in the Council's economic and/or operational interests to do so.
- 10.5 Where there are costs to the Council, the business case will need to show that it would be appropriate to meet these costs, and from where.
- 10.6 Where the employee's vacated hours or previous post are not being replaced, savings from the approved flexible retirement will be made from the on-going revenue costs of the employee's salary.
- 10.7 If approved, any cost associated with recruiting for the remaining hours left vacant by the approval of a request will need to be contained within existing budgets. Conversely, where the remaining hours are not replaced, this could be offered up as an efficiency saving. For further information please view the [Redundancy and Turnover Management guidance](#).
- 10.8 It has been clarified that an employee is not able to pay the cost of the employer strain cost.

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11.0 Factors to consider

- 11.1 The Manager/Senior Manager will need to consider several factors when considering an employee's request and the percentage of salary to be dropped. These include:
- the effect on the workload and how this would be managed;
 - whether service delivery could be affected by the proposed change;
 - whether there may be a requirement to ask the employee to increase hours in the foreseeable future, as the employee will not be able to increase their hours during the 12 months following flexible retirement approval;
 - whether recruitment will be needed to cover the remaining hours (in line with turnover management).
- 11.2 It is important to stress that employees should contact Peninsula Pensions for clarification of the estimate or an independent financial adviser where necessary.
- 11.3 Managers should not advise employees on financial matters or express an opinion on the advantages or disadvantages of the estimate.
- 11.4 Employees should be advised that all Flexible Retirement requests will be given thorough consideration but that it may not be possible to give approval in all cases. It will be the Council as the employer who has the final decision on the request.
- 11.5 Where the Senior Manager decision is to refuse a request due to business needs or costs this refusal must be communicated to the employee as per the flexible retirement procedure and example letters can be found in the [Manager's Toolkit](#).

EMPLOYEE GUIDANCE

12.0 Introduction

- 12.1 It is important to read the Flexible Retirement Policy carefully to ensure that you are eligible to apply.
- 12.2 You should ensure that your [Flexible Retirement Employee Request Form](#) is valid by checking that the eligibility criteria are met to the best of your knowledge, and that you have provided all the necessary information.
- 12.3 The level of detail required on the application will depend on the desired changes, but in all cases it is in your interest to be as clear and explicit as possible.
- 12.4 This form does not commit you to the Flexible Retirement.

13.0 The impact of your request

- 13.1 You must provide an explanation of what effect you think the proposed change would have on the Council and your team, and how you think this may be dealt with.
- 13.2 This does not mean that you are expected to know every factor that might influence the decision, simply that you should show you have considered the factors that might influence the decision.

14.0 Time constraints

- 14.1 Where possible you should ensure that your application is made well in advance of when you wish the Flexible Retirement to take effect.

15.0 Terms and conditions of employment

- 15.1 You should be aware that if you request to reduce your hours and/or reduce your grade, your pay and other terms and conditions will be reduced as well.

TERMS / ABBREVIATIONS

Actuarial Reduction	The reduction applied to a member's accrued pension benefits, in order to offset any additional cost arising from their payment in advance of their Local Government Pension Scheme retirement age.
Employer Strain Cost	Any cost to the Pension Fund passed on to the employer when the benefits are released before the employee's Local Government Pension Scheme retirement age.
Prism 3X	Form used by HR Admin and Schools to advise Payroll of an employee's transfer to a different position, job or grade – including flexible retirement.

POLICY HISTORY

Policy Date	Summary of change	Contact	Implementation Date	Review Date
20 March 2007	In line with the Local Government Pension Scheme (Amendment) (No.2) Regulations 2006, this policy became effective from 20 April 2007, one month after the publication date.		April 2007	
	Changes to the Local Government Pension Scheme (Amendment) Regulations 2006 enabled the introduction of a Flexible Retirement Policy Approval of the DCC Flexible Retirement Policy CMB 17/07/06 and 11/09/06, Approved by Executive 20 March 2007 and effective one month after publication		April 2007	Subject to monitoring and review after 6 months
	Rewording to clarify current procedures. Removing letters and forms (now available on the Source).	P&S	6 May 2010	
	Revision to change policy criterion to a minimum 20% reduction in pensionable pay; and to recognise the discretionary options to pay costs due to the Pension Fund from waving an actuarial reduction and strain costs. Agreed by Employment Strategy Working Group 21 February 2011	P&S	29 April 2011	
	Update to bring into line with current LGPS regulations and amended procedures.	HR One	13 Nov 2014	

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