



Early Retirement & Discretions Policy

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Early Retirement & Discretions Policy



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Appendix A: Discretions Policy for Employees Leaving the Authority Between 31/3/2008 – 31/3/2014 with a Deferred Pension

Hart District Council believes that interests of staff and the Council are best served by the formulation and implementation of clear and consistent employment policies and procedures. This policy statement details the Authority's policy on early retirement, and discretionary severance and pension arrangements. It takes into consideration all legal requirements and will be applied in accordance with the Authority's Equality and Diversity Commitment to treat all its employees with dignity and respect.

Policy Statement

This policy outlines the Council's procedure for considering early retirement for all employees. It also sets out the Council's use of the discretions available to it under the terms of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006; and specific to Local Government Pension Scheme (LGPS) members, the discretions that arise from the Local Government Pension Scheme Regulations 2007/2008 and 2013, and the LGPS (Transitional Provisions & Savings) Regulations 2014 (referred to hereafter as the Regulations).

The Council will approach the operation of any discretions in a fair and consistent manner, in line with equality legislation and the specific provisions and criteria of this policy.

Scope

This policy applies to all employees of the Council. Provisions relating to early retirement and pension arrangements relate specifically to employees who are members of the LGPS.

Members of the LGPS are entitled to receive a pension at their Normal Pension Age (which will be equal to an employee's State Pension Age – a minimum of age 65). Any retirement earlier than the Normal Pension Age (NPA) is an early retirement from the perspective of the pension scheme. Procedures relating to Ill Health Retirement and Flexible Retirement are set out in the Council's Attendance Management Policy and the Flexible Retirement Policy.

Responsibility and Accountability

The Council

In formulating and reviewing this policy on early retirement and discretionary payments, the Council is required by the Regulations to:

- Be satisfied that the policy is workable, affordable and reasonable, having regard to the foreseeable costs.
- Consider the potential for the application of its discretionary powers (unless properly limited) to lead to a loss of confidence in the public service.

The Chief Executive & Members

Will ensure that employees are considered for early retirement, in the instances set out below, where the appropriate criteria are met; and that decisions regarding discretionary payments made on behalf of the Council, meet the requirements of the statutory Regulations (as above).

Heads of Service

Will ensure that any early retirement request to be considered by the Chief Executive is supported by a clear business case and financial assessment.

Review of the Policy

The provisions within this policy will be reviewed on a regular basis to ensure their ongoing compliance with legislation and their continuing sustainability and affordability. Any future amendments to the policy will come into effect one month after the revised policy is published.

I. EARLY RETIREMENT CATEGORIES

I.1 Early Retirement – Compulsory/Voluntary Redundancy

In accordance with the Redundancy & Redeployment Policy, prior to any redundancy notice being issued (including those that will trigger early retirement), the Council must be satisfied that all alternative options including the consideration of natural wastage, voluntary solutions and redeployment, have been fully explored.

Scheme members who are made redundant and are 55 or over, with at least 2 years membership, are automatically entitled to early release of their pension, without reduction. The LGPS Regulations do not allow for the pension to be deferred in these circumstances.

The Council will be liable for scheme charges for early retirements arising from redundancy where the employee is under age 60, and also in cases where the employee is aged 60-NPA, (although the charges may be less where the 85 year rule applies - see guidance).

I.2 Early Retirement – Efficiency of the Service

The Council may grant early retirement to an employee aged 55-NPA on the grounds of efficiency of the service. In these circumstances, the employee is automatically entitled to receive their pension, without reduction. Early retirement on the grounds of efficiency of the service must be justified by at least one of the following factors:

- Effectiveness
- Economy
- Health
- Compassion

The Council will have to pay a scheme charge for all early retirements on the basis of efficiency of the service where the employee is under age 60, and also in cases where the employee is aged 60-NPA, (although the charges may be less where the 85 year rule applies - see guidance).

I.3 Early Retirement – Employee’s Choice

Pension scheme members aged 55 and over, with a minimum of 2 years pension scheme membership, are entitled to elect to retire and receive their pension. The Council’s consent is not required. The pension will be reduced to reflect the fact that it is being taken earlier than 65 (or NPA if this differs).

Employees aged 55 – 59

The employee will incur an early payment reduction on their pension (known as an actuarial reduction). The 85 year protection rules are not applicable where an employee voluntarily decides to draw benefits on or after age 55 and before age 60.

Employees aged 60+

The employee's pension will be actuarially reduced to reflect that it is being taken prior to Normal Pension Age. 85 year rule protections will automatically apply where the employee qualifies.

2. EARLY RETIREMENT APPROVAL PROCEDURES

2.1 Employee-Led Procedure

- Step 1: An employee may wish to make a request for early retirement arising from a personal decision about their employment. The employee should complete the "Voluntary Early Retirement (Efficiency) Request" ERI form and submit it to their Head of Service.
- Step 2: If the Head of Service agrees that early retirement is a potential option, they will request a pension benefits estimate via HartHR@capita.co.uk. The Head of Service must detail the reason for the employee request (Efficiency grounds), and the date on which the early retirement would take effect.
- Step 3: Upon receipt of the estimate, if the employee wishes to proceed and the Head of Service supports the request, the Head of Service will complete the relevant section of the "Voluntary Early Retirement (Efficiency) Request" ERI form, stating a business case in support of the requested early retirement, including details of any pension scheme charge and/or proposed discretionary compensation. They should request that HR prepare the financial assessment template and, once received, both should be submitted to the Chief Executive for a decision (see below).
- Step 4: If the Head of Service does not support the request, he/she will write to the employee, normally within 15 days of receiving the request/pension estimate, setting out the reasons why.

2.2 Manager-Led Procedure

- Step 1: Where a Head of Service is proposing changes to the Council's structure, he/she must follow the consultation and approval process set out in the Redundancy & Redeployment Policy.
- Step 2: The Head of Service must request pension benefits estimates from HartHR@capita.co.uk if potential redundancies (compulsory/voluntary) trigger the early retirement of employees. The Manager must detail the reason for the request (Compulsory Redundancy/Voluntary Redundancy), and the date on which the early retirement is proposed to take effect.
- Step 3: The Head of Service will complete a "Manager-Led Early Retirement Request" (ER2 form), stating a business case in support of the proposed early retirement and request that HR prepare the financial assessment template, including details of

any redundancy payment, pension scheme charges and/or proposed discretionary compensation. Both are submitted to the Chief Executive for a decision.

Step 4: If the Head of Service does not support the request, he/she will write to the employee, normally within 15 days of receiving the request/pension estimate, setting out the reasons why.

2.3 Decision

All early retirements and proposed discretionary payments/pension enhancements will be considered and decided upon by the Chief Executive, in consultation with the Leader and the Chair of the Staffing Committee.

The approval decision will be recorded on the request form and returned to the Head of Service within 28 working days of the request being submitted. The Head of Service will inform the employee of the Council's decision and confirm this in writing within 5 working days.

3. EMPLOYER DISCRETIONS – PENSION ARRANGEMENTS & SEVERANCE PAYMENTS

Under the Regulations, the Council must have a policy confirming how it will exercise the compulsory discretions permitted by the local government pension scheme and any of the optional discretions it decides to operate. It must also state if and how it will operate discretions relating to early termination of employment discretionary severance payments. The provisions listed below in 3.1 and 3.2 set out the Council's policy on discretions.

3.1 Local Government Pension Scheme - Discretions

3.1.1 Employer Only Additional Pension Contributions (APC) - *Whether to award additional annual pension of up to £6,500¹ per annum to an active member (or to individuals who have taken early retirement due to redundancy or efficiency - where granted within 6 months of the leaving date). This would be by way of a one-off payment, the cost determined by the age of the employee and the amount of pension purchased.*

The Council will not normally make such an award. It may be considered in exceptional circumstances and only where a sound business case for such an award can be demonstrated.

3.1.2 Shared Cost Additional Pension Contributions (SCAPC) - *Whether to agree to voluntary funding of additional pension for an active member, via a Shared Cost Additional Pension Contribution contract; where the costs of payments to increase pension (up to a maximum of £6,500 per annum) are shared between the employee and the Council. This can be either a regular ongoing contribution or one-off lump sum. Cost is determined by the age of the employee and the amount of pension purchased.*

¹ Less any amount of additional annual pension the Council is already contributing towards the purchase of, via discretion 3.1.2.

The Council will not normally make shared additional contributions. It may be considered in exceptional circumstances, and only where a sound business case for them can be demonstrated.

- 3.1.3 Switching on the 85 Year Rule - *Whether to agree to apply the 85 year rule to a scheme member (current or deferred beneficiary) wishing to voluntarily draw pension benefits on or after 55 and before age 60. (The protection would apply to pre 1 April 2014 accrued benefits, there is no 85 year protection on post April 2014 benefits).*

The Council will not normally apply the 85 year rule before age 60. It may be considered in exceptional cases, and only where a sound business case for it can be demonstrated

- 3.1.4 Waiving of Actuarial Reductions due to Early Payment of Pension (Employee Choice) - *Whether to waive all or some of the actuarial reduction applied to the pension (on any grounds), for members (current or deferred) voluntarily drawing benefits on or after 55 and before NPA, where the 85 year rule is not applied or does not prevent an element of actuarial reduction.*

The Council may consider waiving actuarial reductions for existing and deferred members on compassionate grounds where the member can provide medical evidence that they are providing continuous care for a sick partner or dependent, or where a sound business case for waiving can be demonstrated

- 3.1.5 Flexible Retirement – *Whether to allow a member aged 55 or more to draw all of the pension benefits they have already built up whilst still continuing in employment, with a reduction in hours or at a lower grade.*

Requests for flexible retirement will be considered where there will be a reduction in salary of 40%, either through reduced hours or level of responsibility (grade), and where the change can be accommodated without disruption to the running of the council's affairs. However a reduction of less than 40% may also be considered where there is a sound business case.

- 3.1.6 Flexible Retirement & Actuarial Reductions – *Whether to waive in whole or in part, actuarial reductions on pension benefits paid on flexible retirement.*

The Council will generally not meet the pension reduction costs of any employee who applies for flexible retirement. It may be considered in exceptional cases where a sound business case for doing so can be demonstrated.

3.2 Early Termination & Severance Payments - Discretions

- 3.2.1 Calculation of Redundancy Payments – *Whether to base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit.*

The Council will calculate redundancy payments on the basis of actual weeks pay (where this exceeds the weeks pay limit in the statutory calculation).

In addition, where it is in the Council's interest, it will opt to enhance the redundancy calculation for compulsory/voluntary redundancy, by making payments based on the statutory redundancy formula (published by the Department of Trade & Industry), multiplied by a factor of 1.6. Payments will be capped at the equivalent of 30 weeks pay. Enhancement will be considered on a case by case basis.

3.2.2 Use of Redundancy Payment to Purchase Additional Pension Membership – *Whether to allow employees to use any redundancy payment in excess of the statutory amount to be used to buy additional pension membership.*

The council will allow any redundancy payment in excess of the statutory amount to be used to buy additional pension membership (the employee must request to do this prior to leaving their employment). All of the non-statutory amount must be transferred to pension membership. It is not possible to relinquish only part of the payment.

3.2.3 Severance Payments - *Whether to award lump sum compensation of up to 104 weeks pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.*

Where it is in the Council's interest, it will consider awarding a lump sum compensation payment of up to 104 weeks pay where employment ends on redundancy or efficiency grounds. This would only be applicable where there has been no agreement by the Council to make Additional Pension Contributions on behalf of the employee. Any redundancy payment would be offset against the lump sum.

4. GUIDANCE

Except in certain defined cases, early retirement and discretionary payments/pension enhancements are not available as of right. Any application for voluntary early retirement, discretionary payment or pension enhancement, will be considered in the context of the stated parameters within which the Council will operate its discretions, whether it is in the interest of the Council, the financial consequences to the Council of granting any such request, and the employee's personal circumstances.

High performing employees need to be retained in the Council, although the specifics of their job will inevitably change with time. Employees who have previously performed but now feel they would like to participate/performance to a lesser extent, have options of resignation, a request for part-time work and/or lower graded work (without protection), or flexible retirement (see separate policy). Staff who are unable to perform at the level the Council expects and in line with the changing requirements of their job, will be supported to improve their performance. However, if performance does not improve, this will be dealt

with under the Council's Capability Policy. Early retirement will not generally be an option in cases of poor performance.

4.1 85 Year Rule

Where the age of the employee when employment ends, and their total years in the pension scheme add up to 85 or more (and the individual was a scheme member prior to 1 October 2006), any early payment of pension benefits will not be actuarially reduced. (This only applies to pre 1 April 2014 accrued benefits, there is no 85 year protection on post April 2014 benefits.) The 85 year rule is being phased out over a period of years, as follows:

- If you will be 60 or over by 31 March 2016: the rule is retained in respect of service to that date.
- If you will be under age 60 by 31 March 2016 and choose to draw your pension before your protected Normal Retirement Age, the benefits you've built up to 31 March 2008 will not be reduced, provided you satisfy the 85 year rule when you start to draw your pension.
- If you will be 60 between 1 April 2016 and 31 March 2020 and meet the 85 year rule by 31 March 2020: some or all of the benefits you build up between 1 April 2008 and 31 March 2020 will not have a full reduction

If age and total service are less than 85, pension benefits will be actuarially reduced unless the retirement is on redundancy, ill health or efficiency grounds, in which case unreduced pension benefits are paid.

85 year protection is a very complex area and individuals considering retirement before their Normal Retirement Age should contact HCC Pensions for clarification as to whether, and if so how, protections apply to their pension benefits.

4.2 Costs

The costs associated with early retirement can be significant both for the Council and the pension fund as a whole. Granting early retirement and/or awarding discretionary compensation or pension enhancement, represents a direct cost to the Council, whilst the early payment of the pension and the subsequent loss of investment income is borne by the pension fund.

In order to compensate the pension fund for the additional cost of early payment of pensions, the Council will have to meet a scheme charge (in the circumstances outlined within the policy) when it grants employees early retirement. Charges, which can be considerable, are levied in all early retirement cases except those relating to ill health. The charge is made at the time of retirement, but can be spread out over 3 years (this will incur interest payments).

An early retirement will only be approved if the business case and financial assessment demonstrate that the benefits to the Council outweigh the costs, and the costs are recoverable in a reasonable period, usually within a three year period from when the retirement took place.

4.3 Re-Employment Following Early Retirement

Any former employee of Hart District Council who is in receipt of an early retirement pension on the grounds of redundancy, efficiency or self-initiated early retirement, should not normally be re-employed by the Council, either on the basis of a contract of employment or a contract for service with the Council. If there is any doubt about the continuing need for an employee's service, then early retirement should not be agreed.

VERSION CONTROL

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Version	Author(s)	Summary of key changes	Effective Date
3.0	HR (Capita)	<ul style="list-style-type: none">• Review of content to ensure compliance with current LGPS and local government severance discretions regulations.• Clarification and streamlining of application and approvals procedure.	Jan 2013
4.0	HR (Capita)	<ul style="list-style-type: none">• Updates to pensions discretions (section 3) to incorporate changes to the LGPS effective from April 2014.	11 July 2014



DISCRETIONS POLICY FOR EMPLOYEES LEAVING THE AUTHORITY BETWEEN 31/3/2008 – 31/3/2014 WITH A DEFERRED PENSION

Employees who left the Council between 31 March 2008 and 31 March 2014 and opted to defer their LGPS pension, will continue to be governed by the pension regulations and employer discretions policy in force at the date they left service, irrespective of the date their pension comes into payment.

The applicable discretions are as follows:

- *Whether to grant consent to deferred pension scheme members aged 55-59, who request early retirement with release of pension benefits.*

The council will not normally consider this unless a strong case can be made on compassionate grounds, and the associated costs to the Council are reasonably affordable within the Council's budget at the time of the request.

- *Whether to allow early payment of pension to former employees, who were previously in receipt of a tier 3 ill health pension, which has subsequently been suspended.*

The council will not normally consider this unless a strong case can be made on compassionate grounds, and the associated costs to the Council are reasonably affordable within the Council's budget at the time of the request.

- *Whether to waive an actuarial reduction of the deferred beneficiary's pension benefits on compassionate grounds.*

The Council will consider waiving early retirement pension reductions on compassionate grounds, where a deferred beneficiary provides medical evidence that they have to provide continuous care for a sick partner or dependent.