

HUMAN RESOURCES & PERFORMANCE



POLICY ON RETIREMENT & DISCRETIONARY PENSION MATTERS & GUIDANCE NOTES

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POLICY ON RETIREMENT & DISCRETIONARY PENSIONS MATTERS

1. Policy

- 1.1 The Authority is committed to recruiting and retaining high caliber employees to deliver its services. Retention includes the ability to continue employment until they choose to retire in order to retain valuable skills and knowledge of experienced employees. There is therefore no contractual retirement age and no longer a state retirement age. On retirement the employee has a number of options dependent on the rules of the Local Government Pension Scheme (LGPS) and discretions of the Authority.
- 1.2 Derbyshire County Council is the administering authority for the (LGPS) in Derbyshire and administers the scheme for employees of the Peak District National Park Authority.
- 1.3 Nothing in this policy can override the provisions of the LGPS; but the Authority as employer is asked to determine discretionary rules under the LGPS provisions from time to time.

2. Scope

- 2.1 All staff with contract hours are eligible to join the Local Government Pension Scheme (LGPS)
- 2.2 Casual workers and volunteers are not eligible to join the LGPS
- 2.3 The LGPS (Administration) Regulations state that employees who had previously opted out no longer require the consent of the employing authority to apply to become an active member.

3. Documentation

- 3.1 Pension forms and the pension scheme handbook can be obtained from the Derbyshire County Council website.
- 3.2 All pension forms must be sent to Pensions Team at Derbyshire County Council direct (or countersigned as required on the appropriate form).
- 3.3 Documentation will be kept in accordance with the Data Protection Act. Notes will be copied and circulated to the relevant parties, who must also ensure confidentiality and secure retention.

4. Equality

- 4.1 All retirement and pensions matters will be managed fairly and be free from discrimination, direct or indirect. Decisions on discretionary matters will be determined on a business case to meet the needs of the organisation (including affordability) whilst considering the application from the employee.
- 4.2 Statutory provisions, e.g. equalities legislation, will always take precedence.

5. Resource Management Team (RMT) responsibilities

- 5.1 Where the LGPS requires discretionary decisions RMT will make decisions in line with their delegated authority.
- 5.2 RMT will take decisions with regard to flexible retirement, voluntary early retirement and early retirement (employer's release) for all posts below Director.

6. Manager responsibilities

- 6.1 Managers will take business cases, with costs, to RMT for decision.

7. Employee responsibilities

- 7.1 Employees will seek guidance on the LGPS regulations from the Derbyshire County Council website and the guidance notes of this policy.
- 7.2 Employees will promptly provide necessary documentation to the pensions department at Derbyshire County Council.

8. HR&P responsibilities

- 8.1 HR & P will answer employee questions where possible and guide employees to the Derbyshire County Council website for routine queries or from a pensions officer at Derbyshire County Council for complex queries.
- 8.1 HR & P will forward all relevant pensions forms (starters, opt outs, retirements, requests for pensions quotations) to Derbyshire County Council promptly and provide the leaver's options forms to members of the LGPS on leaving the Authority/ retiring.

Relevant legislation and key PDNPA policies

Regulation 66 of the LGPS (Administration) Regulations 2008
Regulation 7 of the Local Government (Early Termination of Employment)
(Discretionary Compensation) (England and Wales) Regulations 2006
Equality Act 2010
Pensions Act 2008
Employment Act 2002
Age Discrimination Act 2006
Work and Families Act 2006
Employment Rights Order 2006
Employment Relations Act 2004
Disability Discrimination Act 2005
Trade Union and Labour Relations (Consolidation) Act 1992
Fixed-Term Employees (Prevention of Less Favorable Treatment)
Regulations 2002
Data Protection Act 1998
PDNPA Equality Policy (particularly Equality in Employment)
PDNPA Joint Performance and Achievement Review process
PDNPA employment policies
PDNPA Values

Guidance notes

9. Guidance notes introduction

- 9.1 The purpose of these notes is to give practical guidance on the implementation of the policy. These notes do not form part of the Policy on Retirement and Discretionary Pensions Matters itself. Significant changes will be agreed at Resource Management Team in consultation with representatives of Unison and Staff committee. Minor updates will be made by Head of Human Resources and Performance as required.

10. Pension scheme membership & automatic enrolment into a workplace pension

- 10.1 All staff with contract hours are eligible to join the pension scheme (i.e. not casual workers or volunteers) up to their 75th birthday under the rules of the LGPS. Employees may continue working beyond the age of 75 but are required to draw their pension and are no longer eligible to make pension contributions.
- 10.2 Employees are automatically enrolled on joining the Authority unless they decline membership. Under the Pensions Act 2008 all employers must automatically enroll staff aged between 22 and state pension age, earning more than £8,105 per annum, on a contract of more than 3 months, into a pension scheme. Dependent on the size of the employer this comes into force from October 2012 to 2018 and for this Authority auto enrolment will commence in January 2014 (our 'staging date'). Employees will be automatically enrolled into the Pension Scheme and should they resign their membership they will be automatically reenrolled every 3 years and they may resign their membership each time. Casual workers will not be automatically enrolled but have the option to join from January 2014.

11. Pension scheme administration

- 11.1 Pension contributions are made by salary deduction at a percentage relevant to the salary range as notified by Derbyshire County Council and may be subject to change.
- 11.2 Employer's contribution rates are determined by periodic actuarial valuations of the Authority's fund within the LGPS.

12. Employment and retirement

- 12.1 The policy states that the Authority is committed to recruiting and retaining high caliber employees to deliver its services. Retention includes the ability to continue employment until they choose to retire in order to retain valuable skills and knowledge of experienced employees. There is therefore no contractual retirement age and no longer a state retirement age.
- 12.2 On retirement the employee has a number of options dependent on the rules of the Local Government Pension Scheme (LGPS) and discretions of the Authority.
- 12.3 It is important that every employee irrespective of age or length of service contributes to the standards of performance and attendance required. Underperformance of any employee will be managed through coaching, the Specific Improvement Plan and disciplinary procedure (including dismissal where appropriate) as required. All employees will be asked about their future plans in their appraisal (JPAR – Joint Performance & Achievement Review) to enable personal development and succession planning.
- 12.4 Poor attendance for all employees irrespective of age or length of service, including on grounds of ill health, will be managed by the Absence Management Policy. Fitness to work will be considered at recruitment for applicants under offer through normal occupational health processes so that Occupational Health can advise on any reasonable adjustments for an employee with a disability. Medical checks during employment will be made only if there is a genuine concern about ability to carry out the duties of the post or a genuine occupational requirement (i.e. no medical checks will be made at a given age).
- 12.5 Employees may choose to draw their state pension when they are eligible and continue working subject to tax and national insurance rules. The Direct Gov website will confirm when employees are eligible to draw state pension given the changes being implemented by government. By 2020 the age women can draw state pension will be brought in line with men at 65. Then from 2024 the state pension age will increase to 68.
- 12.6 In line with the Local Government Pension Scheme (LGPS) regulations, employees over 60 who are members of the LGPS can choose when to retire without the employers consent and draw their pension.

Employees must give written notice of their retirement date. Notice must be at least that required under the contract of employment. Greater notice is welcomed in order to plan succession arrangements and handover. Human Resources will provide a pensions leavers form for the employee to confirm their pension options. Employees should consider seeking independent financial advice (at their own cost) to help them to determine their pension options. Derbyshire County Council as LGPS Administrator will then liaise directly with the employee to implement their options in line with the rules of the LGPS.

The normal retirement age for taking unreduced benefits in the Local Government Pension Scheme is 65. If an employee chooses to retire before then, their pension benefits may be reduced. Any reductions depend on when they joined the scheme, their age and amount of membership (employees should refer to the pension handbook/ seek advice from the pensions administrator).

Present reduction factors where benefits are paid up to five years early.

Years paid early	Pension reduction percentage males	Percentage reduction percentage females	Lump sum reduction percentage all members
1	6	5	3
2	11	11	6
3	16	15	8
4	20	20	11
5	25	24	14

For employees joining the LGPS on or after 1 October 2006 their benefits will be reduced if they retire before age 65.

- 12.7 In line with the Local Government Pension Scheme (LGPS) regulations, employees aged 55- 60 may apply for Voluntary Early Retirement (employer's release) but require the employer's consent to do so (see scheme rules below).
- 12.8 In line with the Local Government Pension Scheme (LGPS) regulations and legislation employees may not access their Pension if they leave employment before 55 years of age. Their pension may be preserved with the LGPS and drawn at a later date or transferred into another pension scheme under that scheme's rules. Employees choosing to draw their pension early are subject to a significant discount given the pension is being drawn much earlier than normal and is to be paid out for longer. Employees should consider seeking independent financial advice (at their own cost) to help them to determine if it is right for them to draw their pension early.
- 12.9 Employees who were members of the LGPS before rules changed on 1 October 2006 and draw their pension before age 65 may be eligible to unreduced benefits if they meet the rule of 85 (i.e. age at retirement plus LGPS membership adds together to equal at least 85).
- 12.10 The LGPS enables the Authority to offer a discretionary flexible retirement scheme. Both the Voluntary Early Retirement Scheme and the Flexible Retirement Scheme are at the sole discretion of the Authority and are not a right or entitlement. Resource Management Team has delegation to determine applications on the basis of the business case (cost and service delivery) for either Flexible Retirement or Voluntary Early Retirement (employer's release).

- 12.11 In line with the Local Government Pension Scheme (LGPS) regulations, redundancy for an employee aged over 55 generates an automatic release of pension. Different rules apply to compulsory and voluntary redundancy.
- 12.12 Employees may seek voluntary reduction in working hours under the Flexible Working Policy. Employees approaching retirement should seek advice from pensions with regard to impact on their pension.
- 12.13 Ill health retirement is determined by Occupational Health and an Independent Medical Advisor for employees over age 55 and under the strict requirements of the scheme.
- 12.14 From 2007, the LGPS scheme no longer offers 'certificate of pension protection' where the pension scheme member has a permanent reduction in pay. There is protection to those employees who have had pensionable pay reduced because they have chosen to work at a lower grade. In these situations the employee may choose to have their pay calculated by dividing by 3 the annual pensionable pay for any 3 consecutive years ending 31 March within the period of 10 years ending with the last day they were an active member.

13. Flexible Retirement

- 13.1 In line with the Local Government Pension Scheme (LGPS) regulations the Authority has operated a discretionary Flexible Retirement Scheme since 2008. The scheme is not a right or entitlement. Employees over the age of 55 can apply in writing and their application will be determined by Resource Management Team on the business case (cost and service delivery).
- 13.2 Employees considering a Flexible Retirement application should seek pensions quotes and consider seeking independent financial advice (at their own cost) to decide when to request Flexible Retirement.
- 13.2 Subject to Resource Management Team approval, an employee aged 55 or over may manage their transition into retirement by reducing their hours and drawing their full pension benefits (i.e. pension and options for the lump sum) built up to the date of flexible retirement.
- 13.3 The reduction in hours has to be at least half reduction in contractual hours (e.g. a full time employee reducing to 18.5 hours per week) so that the hours given up are a viable amount to recruit. In exceptional circumstances and provided that this would bring an on ongoing financial benefit to the Authority or where service delivery requires more hours to be worked, Resource Management Team may consider a reduction of less than half contractual hours. In considering every application, the needs of service delivery are paramount.
- 13.4 There are 3 categories of Flexible Retirement
 - a) Category 1 - Employee is age 60 or over: there is no cost to the Authority as the employee is at or past their earliest retirement date. If

they do not meet the Rule of 85 their benefits will be reduced to reflect early payment

b) Category 2 - Employee is aged 55 or over but less than 60 and does not meet the Rule of 85 until on or after their 60th birthday. In these cases the LGPS Regulations allow for the cost of the early payment of pension benefits to be borne by the employee so as to avoid a Pension Fund Shortfall. The benefits are actuarially reduced to reflect the fact that they are paid early.

c) Category 3 - Employee is age 55 or over but less than 60 and does meet the Rule of 85 either at the date of Flexible Retirement or at a later date that is before their 60th birthday, In this case the Authority would have to agree to meet the Pension Fund Shortfall arising from the early payment of pension benefits from the date the Rule of 85 is met. Given the cost to the Authority can be significant the general rule is not to agree to the early release of pension benefits. However, where it is considered to be in our interests, taking into account all the relevant factors including the cost, Audit, Resources & Performance Committee will consider applications for flexible retirement.

- 13.5 In those cases where benefits are reduced the reduction in pension will remain at the reduced level for life (although rising in line with inflation each year). It will not increase to an unreduced level on final retirement.
- 13.6 Employees may continue to contribute to the Pension Scheme after taking Flexible Retirement and drawing their pension. They thereby accrue a new period of membership from the date of Flexible Retirement to the date of full retirement. This will result in additional/separate pension benefits becoming payable on retirement.
- 13.7 Earnings from continuing employment do not affect the benefits payable under the flexible retirement provisions.
- 13.8 Where an employee has been allowed to reduce their hours and take Flexible Retirement, the reduction will be permanent and no temporary increase in contractual hours will be permitted. Where approved by a Director the employee may work temporary additional hours to cover a specific need provided the extra hours are temporary (i.e. no longer than 6 months) and less than the reduction made under the Flexible Retirement.
- 13.9 Appeals to Flexible Retirement decisions by Resource Management Team may be made to the Appeals Panel of Members under the Appeals procedure.

14. Flexible Retirement (workforce reduction scheme)

- 14.1 An employee aged over 55 but not yet 60 who is a member of the LGPS and whose post has a reduction in hours under a workforce reduction/change management process such that it is no longer suitable alternative employment

- may apply to accept an offer of continued employment on fewer hours by taking Flexible Retirement under the Workforce Reduction scheme. The reduction in hours is usually to half the employee's contractual hours unless a smaller reduction would still bring significant financial benefits to the Authority or where service delivery requires more hours to be worked.
- 14.2 If approved they will receive their pension benefits built up to the date of Flexible Retirement but without a reduction in benefits. This applies only where there is a need to reduce the workforce.
- 14.3 The cost of making good the reduction is met by the Authority and given the cost can be considerable it is decided at the sole discretion of the Audit Resources & Performance Committee (i.e. not Resource Management Team) on a business case. In every case the needs of the service must be paramount and any application of the scheme must be affordable.

15. Early Retirement (employer's release)

- 15.1 The Early Retirement (Employer's Release) is a discretionary scheme applied only to those areas of employment where resources are being reduced/a problem needs to be resolved. Application of the Scheme shall be solely at the Authority's discretion and confers no rights or entitlements. Standing Orders delegate decision making to Resource Management Team.
- 15.2 All applications will be subject to the approval of Resource Management Team and there are no rights or entitlements to Early Retirement (Employer's Release).
- 15.3 Applicants will normally have at least two years' service for pension purposes and currently contribute to the Local Government Pension Scheme. Given pension scheme rules on discounting pensions paid early and for longer, the cost of early retirement may be substantial.
- 15.4 Resource Management Team will consider the business case for early retirement together with the source of funding, whether it is affordable and in the best interests of the Authority. Changes to the establishment and to staffing should normally be fully funded from the existing staff budget. Resource Management Team will consider if the cost is a 'good use of public money' and if there are any special circumstances in the case.
- 15.5 Resource Management Team may invite certain employees to volunteer for early retirement. Employees will be required to enter into a formal consensual agreement with the Authority, which will include mutual agreement as to the date on which the employee will retire.
- 15.6 Employees given Early Retirement (Employer's Release) will receive the immediate payment of pension and lump sum, calculated in accordance with the provisions of the pension scheme. Pensions Department can give employees advice on possible scheme payments. Generally this will be as follows:

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- a) For employees who joined the pension scheme after 1 April 2008: Pension based on years of pensionable service (adjusted for part time working if applicable) x $1/60^{\text{th}}$ of final salary and no automatic lump sum (although there is an option to exchange some of the pension for a tax free lump sum).
 - b) For employees who joined the pension scheme before 1 April 2008: For service to 31 March 2008: Pension based on years of pensionable service (adjusted for part time working if applicable) x $1/80^{\text{th}}$, of final pay plus an automatic tax free lump sum of 3 times your pension and For service from 1 April 2008: Pension based on $1/60^{\text{th}}$ of final pay (adjusted for part-time working if applicable) with an option to exchange some of the pension for an extra tax free lump sum.
- 15.7 Early Retirement (Employer's Release) is made on the basis that pension is paid on benefits accrued to the date of release but without a reduction. The cost of the early payment without reduction is met by the Authority.
- 15.8 Annual leave entitlement is that accrued to the date of retirement and must be taken before release date.
- 15.9 The Early Retirement Scheme (Employer's Release) may be withdrawn or amended at any time giving one month's notice.

16. Ill health retirement

- 16.1 Ill health retirement is subject to strict application of the scheme rules. Employees who are not members of the LGPS do not qualify.
- 16.2 In order to qualify the employee must be "permanently incapable of discharging efficiently the duties of their employment or any other comparable employment with the employing Authority because of ill health or infirmity of mind or body". The Authority has no discretion in applying the criteria. Permanently incapable means until the employee's 65th birthday.
- 16.3 The decision on whether or not the employee meets the criteria rests with an Independent Medical Practitioner, qualified in Occupational Health medicine, who is approved by the administering Authority (Derbyshire County Council), who has not previously been involved in the case and is not or never has been the representative of any party in the case.
- 16.4 The opinion of the independent medical practitioner's is sought when dismissal, as a consequence of either ill health retirement or ill health capability, is imminent. It needs to be established that there is no likelihood of a return to work in the foreseeable future, the possibility of redeployment has been fully explored and none found and occupational health reports considered through reviews under the Absence Management Policy.
- 16.5 There are 3 'tiers' in ill health retirement:
- Tier 1: Where an employee is incapable of any other gainful employment before

age 65, pension benefits are payable based on accrued rights plus 100% of their prospective membership to age 65.

Tier 2: Where a member is unlikely to be able to obtain gainful employment within 3 years but it likely to be able to do so before age 65, pension benefits are payable based on accrued rights plus 25% of their prospective membership to age 65

Tier 3: Where a member is likely to be capable of obtaining gainful employment within 3 years of leaving, pension benefits are paid without enhancement. The benefits are reviewed after 18 months, cease on a member obtaining gainful employment or after 3 years in any case.

- 16.6 If ill health retirement is refused an employee may appeal the decision after their employment has ended via the internal Disputes Resolution Procedure of the LGPS. The appeal considers if the appropriate LGPS provisions have been applied correctly and whether appropriate procedures have been followed to reach the decision.
- 16.7 In addition should the employee's medical condition deteriorate following the end of employment they may apply to the Occupational Health Physician for a reassessment of the permanence of the incapacity and dependent on that decision early release of pension benefits may be made.

17. Discretionary pension matters

- 17.1 From 2005 there is no augmentation and no added years of pensionable service are given under any of the Authority's schemes.
- 17.2 From May 2011 new PDNPA employees may transfer pension into the LGPS from another pension scheme within the first year of service only. This is made clear in offer letters and there are no exceptions to this rule. Given that administration takes time, employees must request a transfer in as soon as possible. DCC as our pension scheme administrator will seek a transfer in value from the employee's previous pension provider. The employee must confirm in writing if they accept the transfer value and instruct DCC to action the transfer before the anniversary of their first year of employment otherwise the ability to make the transfer will be lost.
- 17.3 From May 2011 transfer in of pension is only from those schemes with reciprocal arrangements i.e. 'transfer club schemes' including other Local Authorities, the NHS, civil service, teachers. Transfer in of pension is no longer allowed from 'non club' schemes e.g. private pension plans, non public sector employers e.g. retail, manufacturing etc.
- 17.4 If an employee or ex-employee (over 55 but under 60) leaves employment before they are entitled to the payment of pension, they may request payment subject to consent of the authority. The policy is not to agree to the early release of pension benefits under this regulation. If it can be demonstrated to be in the interests of

the Authority, or in the interests of the scheme member on compassionate grounds, taking into account all the relevant factors (particularly cost), applications will be considered at Audit, Resources & Performance Committee.

- 17.5 A pension is reduced if the pensioner is re-employed in a job covered by the Local Government Pension Scheme where the total pay and pension during a 12 month period exceeds the current value of their final pay on leaving their former job.