Flexible Retirement Policy

Contents

1. Introduction ................................................. 2
2. The benefits of flexible retirement .................. 3
3. The application ............................................. 3
4. Determination of cost to Council and pension payable ...... 4
5. Considering the application – the process ............. 5
6. An Appeal .................................................. 6
7. The election to the pension fund administering authority 7
1. **Introduction**

1.1 An employee may seek flexible retirement after he or she has reached the age of 55. An employee can continue in his or her job and reduce the hours worked or the grade at which he or she is employed and draw pension benefits whilst continuing in employment. Flexible retirement can only occur with the Council’s consent as the employer.

1.2 The request for flexible retirement may be made by any member of the Local Government Pension Scheme who has attained the age of 55. If the Council consents to the request for a reduction in the hours worked or the grade at which he or she is employed the employee concerned may elect in writing to the pension administering authority, Cumbria County Council, for pension benefits to be paid to him or her even though he or she has not retired from employment.

1.3 If the payment of pension benefits under the flexible retirement provisions takes effect before the employee has reached his or her 65th birthday the pension benefits which are paid may be reduced in accordance with guidance issued by the Government actuary. Under the regulations it is possible for the Council as the employer to waive, in whole or in part, any reduction in benefits which may arise. A decision to waive in whole or in part any reduction in pension benefits is solely at the discretion of the Council. If a waiver is made the Council must pay to the pension fund the cost which arises as a result of this election. The cost will be calculated by the actuary for the pension administering authority. (It is unlikely that the Council would agree to such a waiver).

1.4 The application of the flexible retirement policy must take account of the Local Government Pension Scheme

1.5 **The 85 Year Rules**

The 85 year rule has only been retained for some employees who benefit from the transitional arrangements in the Local Government Pension Scheme (Transitional Arrangement) Regulations 2008. If an employee wishes to part retire after the age of 60 and meets the criteria for the 85 year rule there will be no cost to the Council. If an employee wishes to part retire between the age of 55 and 60 and can meet the criteria for the 85 year rule, there will be a cost to the Pension Fund which the Council will have to meet if the retirement is agreed. However, if the employee takes part retirement, cannot meet the criteria for the 85 year rule and therefore takes actuarially reduced pension there will be no cost to the Council unless the Council wishes to waive the reduction. Information on any reduction in pension benefit and any costs to the Council should be obtained from the pension administering authority to ensure there is clarity on the effect and implications of a flexible retirement.

1.6 Any pension benefits which are paid following a person’s election for flexible retirement will not be reduced if that person takes upon any subsequent employment with the Council.
1.7 The pension benefits which a person may receive will be dependent on his/her personal circumstances.

2. **The Benefits of Flexible Retirement**

2.1 The Council recognises that there may be significant benefits in enabling employees to take advantage of the flexible retirement provisions. Flexible retirement is recognised as having the following benefits:

- enabling a person to ease his or her way into retirement
- enabling the Council to retain the skills and expertise of an individual which may otherwise be lost
- providing greater flexibility and choice for employees
- taking account of demographic changes in the population as a whole and in the working population in particular
- providing equality of opportunity and fairness for employees
- enabling employees to strike an effective work/life balance
- providing benefits to the provision of the Council services through the retention of skilled and experienced members of staff
- complementing the Council’s existing employment policies and its role as a good employer.

2.2 The Council will consider thoroughly and properly any request which is made by any employee for flexible retirement. The Council will apply this policy in considering any request which is received. The Council recognises that it has to consider the wishes of an individual employee in the context of the needs and requirements of the effective and proper provision of its services. If a request for flexible retirement is agreed it will constitute a variation to the contract of employment when implemented and an employee will not be able to revert to the former hours or grade of work.

2.3 The Council will consider any requests for waivers from employees. However, the Council will take account of the financial effects and costs of agreeing to any waiver. It is unlikely that such requests will be approved. An applicant would have to substantiate the grounds of and justification for any request.

3. **The Application**

3.1 **To Whom Does it Apply**

Any employee who meets the following criteria may request flexible retirement.

- He or she is aged 55 or over; and
- He or she is a member of the Local Government Pension Scheme.
3.2 What can be Requested?

An employee can request a change in the hours which he or she works or to be employed at a lower grade.

3.3 Making the Application

A request to take flexible retirement is a step which requires thorough and proper consideration. Any employee who is considering a request for flexible retirement should raise the matter initially informally with his or her Chief Officer and Line Manager. An informal discussion will enable matters which are considered to be relevant to the request to be considered and addressed at an early stage. It would also enable a request for an estimate of the pension benefits which would be paid to the employee if the request were to be approved to be obtained from Cumbria County Council as the pension fund administering authority. It is essential, in the interests of both an employee and the Council, that there is an indication at an early stage of the pension which an employee may receive, any costs to the Council any actuarial reduction which may arise and any discretions which there may be.

3.4 The Formal Request

A formal request in writing will require to be made if an employee wishes a request to take flexible retirement to be determined. The application should:

- State that it is a request for flexible retirement;
- State whether a previous application has been made and if so when;
- Set out the change applied for, the hours wished to be worked or the lower grade which is sought and the date it is wished to become effective;
- Explain the effect that is envisaged the change may have on the Council including how it might be accommodated;
- Identify that the employee satisfies the requirements relating to age and pension;
- Identify any benefits which may arise from the implementation of the request; and
- Be signed and dated.

4. Determination of Cost to Council and Pension Payable

4.1 If the retiring employee is between the ages of 55 and 60 and meets the criteria for the 85 year rule, there will be a cost to the Pension Fund. This would have to be met by a one-off payment from the Council to the Pension Fund. The determination of any cost payable and the pension payable, whether actuarially reduced or not, will need to be made by the Pension Fund administering authority. A request for a determination should be made by the Human Resources section as soon as it is clear that an employee is actively
considering part retirement. This is particularly important with the growing complexity of the scheme and in particular the withdrawal of the 85 year rule and the accompanying transitional arrangements.

5. **Considering the Application – the process**

5.1 The formal written application must be submitted to the employee’s Chief Officer. The Chief Officer will discuss any issues which arise from the application with the individual employee concerned. The Chief Officer will invite the individual employee to a meeting to discuss the request and determine his/her response to the application within 25 working days of receiving the request.

5.2 Whilst each case must be treated on its merits, the Chief Officer will consider the request for flexible retirement with regard to the following matters:

a) the effect of the request upon the provision of the Council’s services.

b) the benefits which may arise from the implementation of the request.

c) any changes which may occur or are expected to occur in the delivery of the Council’s services which are relevant to the request.

d) the cost, if any, to the Council of implementing the request.

e) any additional costs which may arise to the Council if the request were to be approved.

f) the need and ability to recruit any other person to enable the Council’s services to be maintained.

g) the need and ability to obtain any other person to cover the duties and functions carried out by the employee concerned.

h) any impact which the request may have upon service delivery or the Council’s performance.

i) the effect of any reduction in a person’s grade upon the duties which are required to be carried out and how they would otherwise be undertaken.

j) the ability to reorganise or undertake the work which is required to be carried out by other staff or through other means.

k) the need, if appropriate, to have a person of a particular grade to carry out the duties undertaken by the employee concerned.

l) if appropriate, the existence of any vacancy upon the Council’s establishment.

m) any need or desire to reorganise the way in which the Council’s services are carried out.

n) any other material factor.
5.3 The Chief Officer may determine any request for flexible retirement unless the request has any cost to the Council or requires the approval of the HR & Appeals Committee to any variation or change which may arise from the implementation of the request. If the request gives rise to any cost to the Council it must be considered and determined by the Council’s HR & Appeals Committee.

5.4 The Chief Officer will inform the employee of his or her response to the request for flexible retirement in writing within 25 days of the request having been received. The decision will set out the reasons for any refusal of the application and what action must be taken by the employee to pursue his request.

5.5 The Council through the HR & Appeals Committee may choose to waive, in whole or in part, any reduction in the payment of benefits which may arise from the application of the flexible retirement.

5.6 Any Committee report must clearly set out the discretions available to the Council and their cost. It should be noted that if the employee is willing to take an actuarially reduced pension this may mitigate any cost to the Council. In such a case the decision could be made by the Chief Officer as there is no cost. If the Committee exercises its discretion and a cost is incurred there should be clear evidence that at least offsetting benefits will arise to the Council.

6. An Appeal

6.1 An employee who is dissatisfied with the decision of his or her Chief Officer may appeal to a panel drawn from the HR & Appeals Committee. An employee who wishes to appeal must set out the grounds of his or her appeal in writing and send this to the Human Resources Section within 10 working days of receiving the Chief Officer’s decision.

6.2 The Appeal Panel will meet as soon as reasonably practicable and ordinarily within 25 working days of the appeal having been lodged. The decision of the appeal panel upon the request will be final.

6.3 The employee will be given notice in writing at least five working days in advance of the time and place of the hearing. The Appeals Panel will consist of a sub-committee of the HR & Appeals Committee. A sub-committee is made up of 3 Members. A Member of the HR & Appeals Committee would not normally be selected if they have any prior involvement in the case.

6.3 Right to be Accompanied

An employee has a right to be accompanied by a person of his or her choice at any meeting or hearing to discuss or consider his request for flexible retirement.
7. **The Election to the Pension Fund Administering Authority**

7.1 If a request for flexible retirement is approved the employee must elect in writing to Cumbria County Council to obtain the payment of pension benefits under the flexible retirement scheme. The employee must send a copy of the Council’s consent to the pension administering authority to the request for flexible retirement. A copy of the written election to the pension administering authority must be forwarded to the Human Resources Section. The employee concerned will notify the Human Resources Section of the outcome of his or her election to the pension administering authority. The date upon which the election for flexible retirement will be implemented will be agreed in writing between the Chief Officer and the employee concerned, in consultation with the Human Resources Section and the pension administering authority. Once implemented the changes which arise from the application of the flexible retirement will constitute a permanent change to the contract of employment.