



Employers Pension Discretions Policy

Frampton Cotterell Parish Council, as an employing body, is required by law to formulate a Statement of Policy in respect of certain discretionary provisions within the Local Government Pensions Regulations (2013): These are as follows; -

Power of Employing Authority to Award Additional Pension.

The Council has discretion to award a member additional pension of not more than £7,316 a year as at 1/4/21 (Regulation 31). This limit is increased annually linked to inflation and will be referred to as the 'allowed maximum limit' through the remainder of this document and this limit will be determined annually by Local Government Pension Scheme Regulations.

- Council will not normally use this power with the possible exception of early retirements, redundancy, or retirement in the interests of efficiency which are also dealt with at a later stage in this document. The Staffing Committee will consider each case as and when they arise.

Members of the Avon Pension Fund may choose to enhance their pension benefits by purchasing additional pension up to the allowed maximum limit by paying Additional Pension Contributions (APCs) - (Regulation 16(2) (e)) or by paying lump sums (Regulation 16(2) (d)) and council has the discretion of contributing to these costs.

- As Council already makes a significant contribution to the Avon Pension Fund for its employees, it will not normally use this power but may in exceptional circumstances. The Staffing Committee will consider each case (where applicable) as and when they arise to determine an exceptional circumstance which will then be defined.

Early Retirement

Normal current retirement age under the LGPS is the same as the members state pension age (but will be subject to any future adjustments within the pension fund as advised by the Avon Pension Fund) and benefits may normally be paid from this age. Individuals who choose to retire at any time from age 55 (based upon current legislation although this may change in the future), may elect to receive their accrued pension benefits early, however, their pension benefits will be actuarially reduced unless an employer's discretion applies.

Under the new regulations, the rule of 85 will not apply (in cases where the rule would have been satisfied – see basic definition on page 2) for any employee aged 55 or over but not yet 60 who chooses to retire, unless an employer's discretion applies.

Employers Discretions

Employers have discretions to decide policy within the following areas:

- Early Retirement (currently age 55+).
- The Rule of 85 Protections (currently age 55 to 59) and (currently age 55 to 65).
- Flexible Retirement (currently age 55+).
- Redundancy (currently age 55 or over).
- Retirement in the interests of efficiency (currently age 55 or over).

The Staffing Committee will consider each case (where applicable) as and when they arise.

Early Retirement for Ages of 55+ (Regulation 30(8))

Under normal circumstances an employee aged 55 or over (based upon current legislation), who wishes to voluntarily retire, is entitled to the early payment of pension benefits with an actuarial reduction. Employers have discretion whether to waive all or part of the actuarial reductions applied to a members post 31/3/14 benefits. (In addition, the 85 Year Rule may also apply subject to the discretion of council, as detailed below).

If the Council agrees, the accrued pension entitlement will be paid either without an actuarial reduction or with a reduced actuarial reduction for early payment, but normally with no augmentation or enhancement.

Council will only consider such cases on compassionate grounds or if it is in the interests of the council.

- The Staffing Committee will have discretion to determine whether it is beneficial for the council in which case they will also have discretion whether or not to pay the accrued pension without an actuarial reduction or with a reduced actuarial reduction.
- The Staffing Committee will also have discretion in cases of early retirement on compassionate grounds which will be defined as cases where it can be demonstrated that the person is unable to continue working or resume employment due to circumstances outside of their control. Examples of compassionate grounds will include the need to look after and care for a dependent spouse. Financial reasons alone will not be considered sufficient grounds for compassionate approval. In such cases, The Staffing Committee will have discretion whether to pay the accrued pension without an actuarial reduction or with a reduced actuarial reduction.

85 Year Rule Protections for Ages 55+

This relates to the allowing of the '85 Year Rule' protections for a member voluntarily drawing pension benefits early after age 55.

In simplistic terms the '85 Year Rule' is achieved when an employee's length of pensioned service and age at retirement added together achieve 85+. An example would be a scheme member age 60 with 25 years pension membership. They will meet the required criteria and will be protected from an actuarial reduction if 85 Year Rule is applied. The level of actuarial reduction protection will vary from part to full depending on a number of factors at the time of retirement.

85 Year Rule Protections for benefits taken before the age of 60 (between the ages of 55 to 59) (TP Sch 2 Regs 1(1)c & 1(2))

Under the regulations, employers have discretion to allow the 85 Year Rule to apply in full for qualifying employees choosing to retire early between the ages of 55 and before the age of 60. This excludes flexible retirement.

Such applications will not be approved by council as from 1st April 2014 unless there are clear compassionate grounds to do so, or it is in the interests of council.

- In such cases, The Staffing Committee will have discretion to determine whether it is beneficial for council on a case-by-case basis and they will consider compassionate grounds to be defined as cases where it can be demonstrated that the person is unable to continue working or resume employment due to circumstances outside of their control, for example to look after and care for a dependent spouse. Financial reasons alone will not be considered sufficient grounds for approval.

85 Year Rule Protections for benefits taken between the ages of 55 to 65 (on compassionate grounds only) (TP3(1):TP Sch 2 Regs 2(1): B30A (5))

Under the new regulations, employers now also have discretion to waive the actuarial reduction to benefits payable under the '85 Year Rule' on compassionate grounds only for members retiring between the ages of 55 to 65.

Council will consider each application individually and if approved will waive the actuarial reduction to benefits payable under the '85 Year Rule.'

- In such cases, The Staffing Committee will consider each case individually and will consider compassionate grounds to be defined as cases where it can be demonstrated that the person is unable to continue working or resume employment due to circumstances outside of their control, for example to look after and care for a dependent spouse. Financial reasons alone will not be considered sufficient grounds for approval.

Flexible Retirement (Benefits Regulation 30(6) & TP11(2) and Regulation 30(8))

An employee who is aged 55 or over can request the council to allow him/her to access pension benefits whilst still remaining employed by the council. Flexible Retirement is aiming to assist a more gradual move into retirement over a period of years, by allowing an employee to work fewer hours and/or in a less demanding job, whilst at the same time drawing their pension. This may be of benefit to the employee, and also the Council in terms of retaining the services of the employee.

The key factors in this scheme are: -

- The acceptability to the employee of the level of pension he/she would receive.
- The acceptability to the employee of the reduced hours and or new reduced role offered.

The employer's discretions in such cases are:

- Whether to allow the flexible retirement including partial flexible retirement.
- The willingness of the council to agree to the specific flexible retirement requested.
- Whether to waive any actuarial reduction to benefits

The Council's policy on Flexible Retirement is that:

- The Staffing Committee, on behalf of council will consider requests for flexible retirement on a case-by-case basis, including partial flexible retirement.

A request for flexible retirement will be considered by The Staffing Committee and an application will only be approved where:

- The Flexible Retirement will provide benefits to the council, for example financial savings or the facilitation of organisational or staffing changes and will not result in any detriment to the level of service.
- If the request is to work reduced hours, the council's assessment must be that there would be no operational problems caused, or recruitment difficulty anticipated, in making up the reduced hours.
- If the request is for a move to a lower graded post, this would be subject to an appropriate vacancy arising and the operation of the council's normal recruitment procedures in filling the post.
- There are no pension costs to the council arising from the employee's flexible retirement. Council will not normally use the power to waive an actuarial reduction in whole or part on the benefits paid but council may, in exceptional circumstances. The Staffing Committee will consider each case (where applicable) as and when they arise to determine an exceptional circumstance which will then be defined.

Given the above policy, it is anticipated that in practice, Flexible Retirement is likely to be more applicable to those employees aged 60+ and where there is no "strain on the fund" - pension costs to the council.

Deferred Membership

Council can apply the following discretions in respect of scheme members who ceased active membership on or after 1st April 2008 and before 1st April 2014.

Early Retirement – B30(5) & B30(5A), TPsch 2 para 2(1)

Council can consider whether to waive the actuarial reduction applied to deferred benefits paid early on compassionate grounds.

- Council will not waive the actuarial reduction applied to benefits paid early under B30 and B30A for deferred members on compassionate grounds

Rule of 85 Protections TPSh 2 para 1(2) & 1(1)C

Council can consider whether to switch on the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before 60

- Council will not apply the 85 year rule for deferred members.

Redundancy

If council terminates an employee by reason of redundancy, the employee, if aged 55 or over, becomes automatically entitled to the immediate payment of accrued pension benefits without any actuarial reduction for early payment.

The Power of an Employing Authority to Award Additional Pension (Regulation 31), as detailed earlier within this policy, may also apply subject to council's discretion.

Retirement in the Interests of Efficient Exercise of Local Authority Function (RIEELAF)

If council terminates an employee by reason of RIEELAF, the employee, if aged 55 or over, becomes automatically entitled to the immediate payment of accrued pension benefits without any actuarial reduction for early payment.

The Power of an Employing Authority to Award Additional Pension (Regulation 31), as detailed earlier within this policy, may also apply subject to council's discretion.

Forfeiture of Pension Rights after Conviction of Employment-Related Offences - Regulation 91

There are provisions whereby If a scheme member is convicted of, and ceases employment as a result of, an offence in connection with his/her employment which was gravely injurious to the State or liable to lead to a serious loss of confidence in the public service, the employer can apply to the Secretary of State for the issue of a forfeiture certificate. If a certificate is issued the employer may direct that any of the person's rights be forfeited. The council reserves the right to exercise this discretion in wholly exceptional circumstances.