

Flexible Retirement Policy

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1. Information

- 1.1 The Government encourages and supports employers in offering opportunities for flexible working. In addition, the Government has recognised that it is in the interests of both employers and pension schemes if employees can have early access to their retirement benefits but still be available to work.
- 1.2 This approach has a twofold benefit, the first is to the employer in that they no longer pay pension contributions but retain the skills and experience of an employee. The second is to the employee who can have access to their retirement benefits but also continue in employment.
- 1.3 This policy applies to all staff in the Local Government Pension Scheme (LGPS), the Firefighters Pension Scheme (FPS) and the New Firefighters Pension Scheme (NFPS). Due to pension scheme rules the policy for Local Government Pension Scheme and the policy for both Firefighters Pension Schemes are dealt with separately within the policy.

2. Local Government Pension Scheme Policy

2.1 Background

- 2.1.1 Regulations, introduced in late 2005, require each Authority to publish and keep up to date a policy statement on Flexible Retirement. (This Authority's Statement is published on the Human Resources Department's SharePoint site). The regulations allow an employee who is a member of the Local Government Pension Scheme aged 55 or over, to reduce their hours of work or grade to elect to take their retirement benefits early whilst still continuing in employment and continuing their Fund membership, provided the employer agrees.
- 2.1.2 Hereford & Worcester Fire and Rescue Service recognises that there are advantages of flexible retirement to both the employee and the Authority. The Authority can benefit from retaining the skills of experienced employees allowing better succession planning, whilst the employee can move into retirement more gradually.

2.2 LGPS - Policy Statement

- 2.2.1 The Authority will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. **It should be understood that the Authority will not grant flexible retirement other than in cases where the financial implications can be justified or in other exceptional circumstances.** Decisions will be made on the individual merits of each case taking into consideration: -

- The operating requirements of the department employing them and the impact on service delivery
- The Authority's ability to meet the cost of granting such a request (the nearer to 55 an employee the higher the costs will be for the Authority)
- Whether any demonstrable cost savings can be made in excess of potential savings available under any severance arrangements in place
- The member's personal circumstances

2.2.2 Applications for the payment of unreduced benefits in these circumstances will only be granted if: -

- In the Authority's sole opinion, there are special compassionate and extenuating circumstances surrounding the application and that these, along with the supporting evidence provided, justify approval and
- The Authority can meet the cost of granting such a request.

2.3 2.3 LGPS - Application Procedure

2.3.1 If an employee, who is a member of the Local Government Pension Scheme, wishes to apply for flexible retirement they must put their request in writing to their line manager with a copy to the Head of Human Resources at least 3 months before the date they wish to take flexible retirement stating:

- a. The date of flexible retirement
- b. That they wish to reduce either their hours of work or their grade and the details of the request e.g. number of hours to be reduced to and pattern of work. If the employee wishes to reduce their grade they must understand that this would only be accepted should it meet the business needs of the Service and there would be a change and evaluation of the job description to reflect any reduced responsibilities

2.3.2 The Head of Human Resources will discuss the implications of the request with the line manager and the respective Head of Department and if it is a viable and cost effective option, will obtain a financial quotation of the cost implications. If there is a cost to the Authority in granting the request then the respective Head of Department will have to demonstrate to the Director of Finance and Assets and the Head of Human Resources how this cost will be met before the request is signed off.

- 2.3.3 Normally within 4 weeks of submitting the request, the employee along with a Trade Union representative or work colleague will be invited to a meeting with the line manager to discuss the request further. Should there be problems in accommodating the initial request the meeting will provide an opportunity to consider alternative solutions.
- 2.3.4 After further discussion with the respective Head of Department and the Head of Human Resources, the line manager will confirm in writing to the employee, normally within 2 weeks of the meeting, whether or not their application for flexible retirement has been successful.
- 2.3.5 In the case of requests for flexible retirement from members of the Senior Management Board the decision to grant the request will be taken by the Chief Fire Officer.
- 2.3.6 If the application is not approved the employee will have the right of appeal. The grounds for the appeal must be put in writing to the Head of Human Resources Manager within 7 days of receiving the decision, who will arrange for the appeal will be heard by a manager with no previous involvement in the decision. The outcome of the appeal is the final level of appeal.

2.4 LGPS - Pension Implications

- 2.4.1 Employees are strongly advised to seek independent financial advice on how flexible retirement will affect their pension entitlement. The Authority will not provide any such advice to employees. Employees may request an estimate of pension benefits before requesting flexible retirement by contacting the Pensions Manager at Worcestershire County Council directly on 01905 766511.
- 2.4.2 Employees who take flexible retirement will get immediate access to the pension they have accrued up to the date of commencing flexible retirement, which will be on a reduced basis below the age of 65. The employee's pension may be abated or suspended if the combined pay and pension exceeds the employee's full time salary on taking flexible retirement.
- 2.4.3 Employees will continue to pay into the Local Government Pension Scheme once they take flexible retirement unless they choose to opt out. Provided they do not opt out employees will build up another period of membership within the Scheme, albeit on a reduced basis.

3. Firefighters Pension Scheme and New Firefighters Pensions Scheme Policy

3.1 Background

- 3.1.1 Section 3 applies to members of the Firefighters Pension Scheme and the New Firefighters Pension Scheme. The term 'firefighter' is used for all operational roles throughout section 3.
- 3.1.2 The aim of this policy is to provide information to employees contemplating retirement so they may consider whether they wish to continue working, withdraw their lump sum and have their pension abated.

Note: Opportunities to be re-employed will be limited to posts where the Service has a defined need.

- 3.1.3 On 6 April 2006, the Government relaxed the rules on pension commutation whilst continuing in employment. As a result Hereford & Worcester Fire and Rescue Authority has elected to exercise the discretion allowed within these provisions and will enable employees in the Firefighters Pension Scheme/New Firefighters Pensions Scheme ((N)FPS) to retire from the scheme, commute their lump sum pension and be re-employed.
- 3.1.4 It is important to note that the rules of both the FPS and NFPS have not been amended and it is still the case that employees must retire in order to commute their pension benefits. The pension scheme rules do not prevent immediate re-employment following the retirement, however, to meet with the taxation issues surrounding the 'Protected Pension Age', see appendix A, which affects members of the Firefighters Pensions Scheme only, the Authority requires employees to have a minimum break in service of 1 month. It should be noted that the Authority does not and will not provide advice on taxation issues to employees.
- 3.1.5 Subject to any future changes to the (N)FPS or to the Government's tax provisions firefighters are allowed to retire from their current job, receive a commuted lump sum pension benefit (if they wish) and be re-employed, providing the (N)FPS criteria for retirement is met.
- 3.1.6 Firefighters who are re-employed following retirement are subject to the Abatement Rule (K4) as set out in the FPS, Consolidated Order 1992 (Revised December 2006), Page 47. This states:
- 'The fire and rescue authority by whom a pension is payable may, in their discretion, withdraw the whole or any part of the pension, except a pension under part C (awards on death - spouses and civil partners), for any period during which the person is entitled to it is employed as a regular firefighter by any fire and rescue authority.'*
- 3.1.7 Under this rule, firefighters who are re-employed following retirement cannot receive annual remuneration plus annual pension in excess of the remuneration received immediately prior to retirement. Therefore, pension will not be payable in addition to salary. If the firefighter elects to apply for a post with reduced salary a proportion of the pension may be paid subject to the maximum level of previous salary.
- 3.1.8 The annual pension will be payable when employment in the Fire Service ends.
- 3.1.9 It is crucial that firefighters familiarise themselves with the potential implications of abating their pension, including the impact upon any future application for ill health retirement and the effect upon death in service entitlement. The Pensions Manager at Worcestershire County Council will be able to provide information on these matters.

3.2 Firefighters Pension Scheme - Pensionable Age

- 3.2.1 Firefighters **should** request advice from the Pensions Manager at Worcestershire County Council who is able to provide accurate information on retirement dates and pension figures. In the FPS the normal pension age is 55 and the minimum 50, provided that the individual is able to reckon at least 25 years' pensionable service.
- 3.2.2 Firefighters may retire from the age of 50, having completed at least 30 years pensionable service, with the option to commute up to 25% of their annual pension in favour of a one-off lump sum.
- 3.2.3 Firefighters aged over 50 but under 55, with at least 25 years but less than 30 years pensionable service, may retire with the option to commute up to 2.25 x their annual pension into a lump sum.

3.3 New Firefighters Pension Scheme - Pensionable Age

- 3.3.1 Firefighters **should** request advice from the Pensions Manager at Worcestershire County Council who is able to provide accurate advice on retirement dates and pension figures. In the NFPS the minimum pension age is 55 with a normal pension age of 60.
- 3.3.2 Firefighters may retire from the age of 60, with the option to take a 'commuted portion' which is limited to one quarter of the pension entitlement. You would receive £12 as a lump sum for each £1 of pension that you commute.
- 3.3.3 Firefighters aged over 55 may retire with the appropriate actuarial reduction; the reduction is currently 5% for each year up to 65 of the deferred pension age.

3.4 Firefighters (and New Firefighters) Pension Scheme - Applying for Flexible Retirement and Re-employment

- 3.4.1 It is important to stress that it would be advantageous to discuss any request as early as possible before the proposed retirement date, however, a decision with regard to the request will normally be given within 8 weeks of the request being made. The following policy sets out the criteria for reengagement. **It should, however, be clearly understood that the granting of requests for reengagement will be the exception rather than the rule.**
- 3.4.2 There are two options:-
- Fire Authority offer re-engagement as an option to fill specific post(s) where there is a shortage of skills/experience within the remaining workforce.
 - Firefighters make a generic application when approaching retirement.

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- 3.4.3 Where the Authority has defined a specific need a business case must be produced by the relevant Head of Department (Chief Fire Officer in case of Principal Officer) showing that there are clear benefits for the Authority to offer a re-employment opportunity. Part of this business case will include whether to offer the post out to open competition.
- 3.4.4 Applicants are required to make a written application to retire and be re-engaged to Head of Human Resources. Where there is more than one applicant a short list and selection process, relevant to the specific requirements post, will take place.
- 3.4.5 In the case of a generic application, the firefighter must submit a written application to retire and be re-engaged' to Head of Human Resources, at least 3 months before his/her retirement date. The relevant Head of Department will consider the application and submit it to the relevant Principal Officer for consideration (the Chief Fire Officer for Principal Officers). The decision, whether to re-engage or not on generic applications, is at the complete discretion of the Principal Officer/Chief Fire Officer, there is no right of appeal.
- 3.4.6 The Head of Department concerned will consider these requests for retirement and re-engagement producing a business case for consideration by either their Principal Officer, up to and including Group Commander, or the Chief Fire Officer for Area Commander and Principal Officers. The following will be taken into account: -
- Clear financial benefit to the Authority
 - Staffing requirements of the Authority, in particular any shortage of specialisms
 - Transitional requirements of organisational restructuring
 - The fitness and health of the Firefighter
 - The absence record of the Firefighter
 - The disciplinary record of the Firefighter
 - The skills of the Firefighter
 - Need and suitability for filling the post part-time or flexible working, including ability to maintain competency
 - Resilience of staffing options
 - Whether having due regard to the above, the Head of Department would wish to meet any staffing need through an open recruitment process (for which the Firefighter wishing to be retired and re-engaged could also apply)
 - Length of fixed term contract to be offered
- 3.4.7 Where Firefighters are re-engaged following retirement, then the following will apply:-
- All re-engagements will be on a fixed term basis.
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- Firefighters will be re-engaged at the same rates of pay as other firefighters of the Authority employed at the role re-engaged.
- The Fire and Rescue Authority, in considering its discretion as to abatement of on-going pension payments, treat each case on its merit and having regard to CLG's guidance. That the firefighter's on-going pension payments will be abated where they are re-engaged in the role of a regular Firefighter on the principle that the annual rate of pay on re-engagement, plus the annual rate of pension payable under the FPS should not exceed the annual rate of pay they received in the firefighting role immediately prior to retirement.

3.4.8 Firefighters who are employed at a higher role than Firefighter may apply for re-engagement at that role or any lower graded role. The same criteria will be applied to these applications as detailed above.

3.4.9 Firefighters may also apply for re-engagement at the same or lower graded role on reduced hours or flexible hours or for a fixed term when the criteria above will apply to such applications. In addition the Director may decide that an offer of re-engagement is only made on the basis of reduced or flexible hours.

3.4.10 If the request is approved the individual will first have to resign/retire from their current position before being re-engaged and will be required to have a break in service of 1 month and rejoin on conditions applicable to new recruits.

Firefighters Pension Scheme Guidance Note 1/20

Protected Pension Age – Implications for Re-employment of FPS Pensioners from 6th April 2010.

Under the Finance Act 2004, the Minimum Pension Age (MPA) rises to age 55 from 6th April 2010. Members of the Firefighter's Pension Scheme 1992 have a right to retire from age 50 (provided they have 25 or more years of pensionable service). This right to retire at an age below 55 is protected¹ and on retirement members will receive a Protected Pension Age (PPA).

HM Revenue and Customs have taken the view that protection does not extend to Chief Fire Officers appointed on or before 5th April 2006.

The purpose of this guidance note is to bring to the attention of Fire and Rescue Authorities the tax rules that will apply from 6th April 2010 where an individual who has taken pension benefits from the FPS takes up employment again. We are aware that some FRAs re-employ firefighters after retirement and this guidance note will therefore be of particular interest to those considering the employment of firefighters who retired with a PPA on, or after, 6th April 2010.

From 6th April 2010, an individual who retires with a PPA and who subsequently takes up employment will lose that protection if they are employed by one of the following employers and one of the four employment conditions listed below is not met.

- An employer who employed the individual in the six months before benefit entitlement arose, and who was also a **sponsoring employer** in the scheme under which benefit entitlement arose in that six month period.
- Any person connected with the employer described in the previous bullet point. Note that under this condition the person employing the individual does not need to be a sponsoring employer.
- Any sponsoring employer in the pension scheme under which benefit entitlement arose that is connected with the individual.

Our interpretation of a “sponsoring employer” in connection with the FPS is the relevant employing authority, whether a fire and rescue authority or county council.

¹ Under the Registered Pension Schemes (Prescribed Schemes and Occupations) Regulations 2005 (SI 2005 No. 3451).

Therefore, from 6th April 2010 an individual who has retired with a PPA and is subsequently re-employed by a FRA before they have reached age 55 will incur additional tax charges on all pension benefits, including any commuted lump sum, paid to them before reaching age 55 unless one of the following four re-employment conditions is met:

1. recall by the Armed Forces
2. a break in employment of at least six months
3. a break in employment of at least one month and benefits may be abated
4. a break in employment of at least one month and the re-employment is materially different

With regard to re-employment condition 3, we are advised by HMRC that the abatement condition is satisfied provided that the employer has the discretion to abate. Whether abatement is actually applied is not material. Under Rule K4 of the FPS, a FRA has the discretion to abate where a person entitled to a pension is employed as a regular firefighter.

With regard to re-employment condition 4, the legislation is silent on the definition of “materially different” and HMRC advise that the normal meaning should be applied.

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Firefighters Pension Scheme Examples

Example 1

A Firefighter in the FPS aged 53 with 30 years' experience wishes to receive their pension but carry on in work. They have a good attendance and discipline record and they have a skill (eg USAR or ERDT) which is in short supply so the Authority would continue to benefit from their services. The Service agrees to allow them to retire and be re-engaged as a Firefighter. They receive their lump sum pension payment, and salary only as a Firefighter following re-engagement. The figures would be: -

	<i>On retirement and re-employment</i>	<i>When finally leaving employment</i>
<i>Previous Salary</i>	£28,199	£0
<i>Salary</i>	£28,199	£0
<i>Lump Sum</i>	£96,675	£0 (already taken)
<i>Pension</i>	£0 (abated)	£14,100

Their ongoing pension payments are abated whilst they continue in employment as a Firefighter but, on retirement from their re-engaged post, revert to full entitlement. They also choose to opt in to the New Firefighters' Pension Scheme in respect of their re-engaged position.

Example 2

A Crew Commander in the FPS aged 55 wishes to carry on working after 55, but with less responsibility and reduced working hours. The Authority has a vacancy for 50% of a Firefighter position at a station that cannot be immediately filled. The Crew Commander has a good attendance and discipline record, and a good level of skill and experience. The Authority agrees for the Crew Commander to retire from their current role, and re-engages him/her as a Firefighter on based on 50% of a full time firefighter. The Crew Commander receives his/her pension lump sum, the salary payable for a Firefighter and their on-going pension payments.

	<i>On retirement and re-employment</i>	<i>When finally leaving employment</i>
<i>Previous Salary</i>	<i>£31,263</i>	<i>£0</i>
<i>Salary</i>	<i>£18,188</i>	<i>£0</i>
<i>Lump Sum</i>	<i>£110,463</i>	<i>£0 (already taken)</i>
<i>Pension</i>	<i>£13,075 (abated by £2,556)</i>	<i>£15,631</i>

As the total of pension payments and Firefighter salary exceed their previous pay as a Crew Commander, so the abatement of pension is limited to that above their previous gross pay, in this case £2,556.