

## **Purpose**

Fife Council recognises that in some circumstances it is in the interests of the Council for employees to be allowed to retire earlier than the normal retirement age. The early retirement policy assists the Council in meeting the objectives of providing services which are responsive, efficient, reliable and effective.

In addition to early retirement, this policy covers discretionary compensation arrangements for employees volunteering for redundancy who are not eligible for pension benefits and compensation for compulsory redundancy.

## **Types of Early Retirement**

### Section 1- Employer Initiated

- Redundancy, where the number of people required is reduced because of changes to workload, organisation, service provision, new technology or other reasons
- In the interests of business efficiency, where retirement results in savings and, or, improved service

This section of the policy must be reviewed regularly.

### Section 2 - Employee Initiated

- Normal requests from employees to retire early
- Requests on compassionate grounds to retire early where, in exceptional circumstances, an employee has caring or has other significant responsibilities

### Section 3 - Flexible Retirement

Flexible retirement means choosing to reduce hours in a current post or choosing to apply for a lower graded post while at the same time accessing pension early.

## Section One – Employer Initiated

### Redundancy

#### Guiding Principles

- Approval for early retirement is at the discretion of the Service concerned, with the agreement of the Executive Director Finance and Corporate Services<sup>1</sup>, and will be determined by the needs of the employing Service
- Employees, full-time or part-time, with a minimum of two years service may be considered for early retirement • Scheme members may be granted discretionary additional membership by compensatory added years (CAY)
- As an alternative to CAY, or for members not eligible for CAY, or for nonscheme members, a discretionary compensatory payment (DCP) may be made
- Redundancy payments will be based on actual salary
- Employees made compulsorily redundant will be granted the same range of compensation as volunteers
- The costs of early retirement will be paid for by the employing Service
- The early retirement must result in a saving to the Council once all costs have been considered within three years of the retirement occurring, on an individual basis or across a group of employees as appropriate.
- The policy will operate subject to the pension scheme and other regulations in force at the time retirement occurs

#### Scale for Compensatory Added Years - Redundancy

<b>Length of Service</b>	<b>Added Years</b>
5 years – less than 10 years	One
10 years – less than 15 years	Two
15 years – less than 20 years	Three
20 years – less than 25 years	Four
25 years – less than 30 years	Five
30 years or longer	Six and two thirds

Eligibility will be based on all previous service with Fife Council or an “associated employer” considered under the redundancy modification order in force at the time of employment. Award of added years is subject to scheme rules. These take account of Local Government Pension Scheme (LGPS) membership.

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<sup>1</sup> Throughout this document where agreement of the Executive Director Finance & Corporate Services is required this authority may be exercised as delegated in the guidelines.

Employees who have flexibly retired will have eligibility for added years based on service and membership after flexible retirement only.

Award of additional membership will be limited to that allowed by scheme rules on award of added years. These are:

- Award of additional membership requires a minimum of 5 years LGPS membership
- Additional membership greater than current membership may not be offered
- Additional membership must not result in total membership exceeding 40 years
- Additional membership must not result in total membership exceeding what it would be at age 65

In recognition of these limits all employees considering voluntary retirement will be offered the option of discretionary compensation payment.

#### Scale for Discretionary Compensation Payments - Redundancy

Discretionary compensation payments will be calculated using the formula for statutory redundancy payments multiplied by 2.5.<sup>2</sup> The DCP resulting from this formula includes the statutory redundancy payment.

#### Additional Information - Redundancy

Employees volunteering for early retirement under these arrangements will be treated as being dismissed on the grounds of redundancy. The appropriate period of notice will be worked.

Compulsory redundancies must be managed using the Managing Workforce Change policy and procedure.

#### Managing Voluntary Redundancy Exercises

Voluntary retirement exercises will be actively managed. Volunteers may be invited from identified areas of work. Exercises may be time limited.

### **Early Retirement on Grounds of Interests of Business Efficiency**

#### Additional Guiding Principles

- Additional membership (CAY) or compensation (DCP) may exceptionally be awarded in cases of retirement in the interests of business efficiency
- The Head of Service must be satisfied that this would result in improved business efficiency
- There is no eligibility for statutory redundancy payment

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<sup>2</sup> The version of this policy at committee stated here: "The definition of service considered for CAY will be used in this formula. (Subject to any legal restrictions identified.)" Legal advice is that eligibility must be based on continuous service as assessed for statutory purposes and therefore this sentence has been suppressed.

Employees granted voluntary early retirement on the grounds of business efficiency will normally be treated as terminating by mutual agreement rather than by service of notice by the Council.

Scale for Compensatory Added Years – Interests of Business Efficiency

Length of Continuous Service	Added Years
5 years or longer	Up to Six and two thirds added years

- Any award of added years will be subject to the retirement resulting in a saving to the Council within three years once all costs have been considered
- Added years will not normally be granted in excess of the scale used under redundancy and considering continuous service
- Added years will be granted subject to scheme rules

Scale for Discretionary Compensation Payments - Interests of Business Efficiency

- Award of DCP will be at the discretion of the Council up to a maximum of 66 weeks pay
- Any award of DCP will be subject to the retirement resulting in a saving to the Council within three years once all costs have been considered
- Discretionary compensation payments will not be awarded in excess of week’s pay calculated using the formula for statutory redundancy payments multiplied by 2.2.

**Actuarial Reduction**

In addition to the compensation in this policy, employees who meet eligibility requirements, made redundant or retiring early in the interests of business efficiency will not have an actuarial reduction under LGPS rules. The cost of this will be reimbursed to the pension fund by a payment made by the Service and must be considered in the redundancy or retirement decision.

**Exceptional Discretion to Award Additional Membership**

Additional membership may be provided by “added years” or by “augmentation”. The current regulations allow for up to ten years additional membership by either method.

Approval is required from the Chief Executive and the Executive Director Finance and Corporate Services following consultation with the Leader of the Administration and the Leader of the Opposition to consider awarding additional membership in excess of scale limits in cases of redundancy or interests of business efficiency. Additional membership in excess of the statutory limits in effect on the date of retirement cannot be awarded.

\_\_\_\_\_ End of Section One \_\_\_\_\_

## Section Two – Employee Initiated

### **Early Retirement with the Employers Consent<sup>3</sup>**

#### Guiding Principles

- Early retirement is subject to LGPS rules
- Where no consent is required an employee may retire by giving appropriate notice
- Where consent is required approval is at the discretion of the Service, in agreement with the Executive Director Finance and Corporate Services
- In deciding whether consent should be given, the needs of the Service and all costs will be considered

#### Additional Information

Employees granted early retirement will normally be treated as terminating by mutual agreement.

Additional membership cannot be awarded.

### **Early Retirement on Compassionate Grounds<sup>4</sup>**

#### Guiding Principles

- The Head of Service must seek agreement with the Executive Director Finance and Corporate Services before permitting retirement on compassionate grounds
- Former employees, with deferred membership of the LGPS may also be considered for early retirement on compassionate grounds
- Consent will consider the personal circumstances of the individual
- Actuarial reduction may be waived where justified on exceptional compassionate grounds.

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<sup>3</sup> The Local Government Pension Scheme (Scotland) Regulations 2018 came into force on 1st June 2018. The regulations allow active members aged 55 and over to retire and take immediate payment of benefits without needing employer permission (further information is available by clicking [here](#)).

<sup>4</sup> Within the 2015 and 2018 Regulations there is no grounds for ‘compassionate retirement’, however the Council can decide to apply the rule of 85 for members aged 55 to 59 who meet the rule. (It is applied automatically for members who meet the rule and who retire from age 60). The Council can also decide to waive in full or part actuarial reductions when a member retires early and who does not have full rule of 85 protection. Such circumstances are extremely rare and would be considered on a case by case basis by the Head of HR and Head of Revenue and Commercial Services.

### Additional Information

An employee may be permitted to retire on compassionate grounds where the normal criteria of benefit to the Council do not apply. Costs should not be considered. The Service will meet the costs.

\_\_\_\_\_ End of Section Two \_\_\_\_\_

## Section Three – Flexible Retirement

### **Flexible Retirement**

#### Guiding Principles

- Flexible retirement must result in a reduction by least 20% of original salary
- Flexible retirement is at the discretion of the Service concerned
- Flexible retirement decisions should be justifiable as beneficial to service delivery considering costs
- Each application will be decided on its merits
- Actuarial reduction may be waived in whole or in part where it is in the interests of the Council to do so
- The Head of Service must obtain agreement of the Executive Director Finance and Corporate Services before waiving actuarial reduction

#### Additional Information

Services should seek advice from Human Resources and Financial Services when agreeing flexible retirement.

Flexible retirement means that the employee is requesting immediate payment of pension and lump sum while continuing in employment with salary reduced by at least 20%. This may be achieved by reduced hours or grade or a combination of both.

Having been granted flexible retirement the employee may not subsequently apply for promotion or other change in role that would result in a salary of more than 80% of original salary (taking account of cost of living increases).

The employee may rejoin the Local Government Pension Scheme.

Employees aged 65 will also be able to apply for flexible retirement. If the person chooses to access pension and continue to work then he or she must reduce salary by at least 20% in the ways noted above. If the person chooses to delay accessing pension he or she will have no restriction placed on salary until pension is accessed.

\_\_\_\_\_ End of Section Three \_\_\_\_\_

### **Debts**

If an employee who is allowed to retire early has an outstanding debt to the Council, for example, an overpayment of salary, that employee will be expected to repay the outstanding amount in full.

## **Annual Leave**

Normally any balance of annual leave should be used before leaving.

## **Re-employment**

There is no absolute restriction on re-employment by Fife Council. The restrictions on re-employment should be strictly adhered unless there are compelling and substantial business reasons for a different approach. Any variation must be agreed with the Executive Director Finance and Corporate Services.

- There is no restriction on re-employment following compulsory redundancy however offers of employment should be avoided where this would result in an individual being in a better position, including financially, than if he or she had not been made redundant
- The normal restriction on re-employment following voluntary redundancy without access to pension is three years
- Former employees who have volunteered for redundancy with pension should not normally be re-employed
- Former employees who have retired on compassionate or ill-health grounds may be re-employed if their circumstances change and they are able to seek work
- These restrictions should, where possible, be applied to consultancy work
- These restrictions should, where possible, be applied to casual work, although it is recognised that this may be unenforceable for practical reasons

Any CAY pension will be subject to an earnings test and may be reduced, as set by regulation. The CAY award may also be clawed back depending on the length of time the person is in re-employment, as set by regulation.

## **Costs**

The employing Service will meet all costs to the Council of each early retirement. There are, potentially, two costs to be considered:

1. Costs to reimburse the strain on the fund. Payment may be made as a single instalment or in equal annual instalments over a period not exceeding 5 years between the actual date of retirement and the employee's normal retirement date. The Service will be charged interest for payments made over more than one year.
2. Cost of added years, augmentation, or discretionary compensation payment. The cost of added years' pension will be met over the lifetime of the employee and any pension of a dependant. If augmentation is used full payment of costs to the pension fund must be made within one month of retirement. The discretionary compensation payment and added years' lump sum will be paid immediately on retirement.

## **Appeal**

Employees refused permission to retire early have the right to appeal. Employees may appeal on the following grounds:

- That a decision to refuse an early retirement request is not in the interests business efficiency
- That retirement on compassionate grounds should be allowed or against a decision not to waive actuarial reduction in cases of retirement on compassionate grounds
- About the award of additional membership

### **Reporting and Policy Review**

A summary shall be submitted quarterly to the Superannuation Fund and Pensions Sub Committee by the Payroll/Pensions Team indicating the number of employees within each category permitted to retire, the total cost within each category to the Council and the number of cases treated as exceptional in regard to the award of additional membership or the waiving of the actuarial reduction for early payment of benefits.

As required by section 51a of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 [as amended] the Council, as an employing authority must formulate and keep under review the policy to be applied in the exercise of these discretionary powers. This policy shall be reviewed when affected by new or amended regulations, or if requested by the Superannuation Fund and Pensions Sub Committee, and by no later than 31<sup>st</sup> March 2016.

### **Cross References**

Managing Change policy and guidelines.

### **Scope**

The policy applies to employees who are members of the LGPS i.e. Chief Officials, Single Status, and Craft employees. Teachers are covered by separate pension arrangements.

### **Status**

Agreed at JNCF 28<sup>th</sup> April 2015.

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