



# Retirement Policy



### Links to Other Policies:

Redundancy Policy and Procedure [\[insert hyperlink to policy\]](#)

### Effective date:

1<sup>st</sup> December 2018

### Review Date:

Autumn 2021

### Status:

This policy and procedure does not form part of any employee's contract of employment and the Council may amend it at any time.

## HR and Workforce Development Policy and Guidance in Gateshead Council

Gateshead Council's HR and Workforce Development policies take into account current legislation, rules, regulations and best practice guidance from a range of professional and public bodies, including the following:



UK Legislation



EU Legislation



ACAS



CIPD Best Practice

Content

1.0	Aim .....	1
2.0	Definition of Retirement .....	1
3.0	Application of the Policy .....	1
4.0	Commitments .....	1
5.0	Voluntary Retirement.....	2
6.0	Early Retirement on Redundancy Grounds (Compensation Payments) .....	3
7.0	Early Retirement on Grounds of Efficiency .....	3
8.0	Flexible Retirement .....	4
9.0	Ill Health Retirement .....	5
10.0	Retirement Age.....	8
11.0	Awarding of Additional Pension .....	8
12.0	Repayment of Public Sector Exit Payments.....	9
13.0	Exit Payment Cap.....	9
14.0	Former Employees Requesting Release of Pension Benefits .....	9
15.0	Employer Discretions .....	11
	Appendix 1 - Procedure for Voluntary Retirement Applications.....	12
	Appendix 2 - Procedure for Flexible Retirement Applications.....	15
	Appendix 3 – LGPS Employer’s Discretions Policy .....	18
	Appendix 4 - Further Employer Discretions - Policy Statement .....	24

## 1.0 Aim

The Council regards its employees as essential to the successful delivery of excellent services to the public. The aim of this policy is to provide the Council with a framework which allows the consideration of early retirement applications as part of its workforce planning process in an effective, fair, and consistent manner.

## 2.0 Definition of Retirement

Within the context of this policy 'retirement' is defined as all circumstances where an employee with accrued benefits under the Local Government Pension Scheme (LGPS) wishes to retire (either fully or flexibly). It should be noted that this policy cannot override any statutory provisions which may be applicable in any individual circumstance.

## 3.0 Application of the Policy

The early retirement provisions within this policy apply to all employees who are aged 55 or over who are members of the LGPS and have the relevant qualifying service. Other provisions potentially apply to all employees including non-teaching employees in schools and some former employees.

Application of any option within this policy shall not be used as a substitute for early retirement on the grounds of permanent ill health.

## 4.0 Commitments

In situations where an employee meets the criteria for any of the options outlined within this policy

### **The Council will ensure that:**

- Employees are treated in a fair and consistent manner.
- Communication between employees and their managers and trade unions is maintained throughout the procedure.
- Regulations and LGPS rules are adhered to.
- In cases of redundancy the Council's redundancy policy is adhered to.

### **Employees must ensure that they:**

- Adhere to the procedures laid down within this policy.
- Provide accurate and timely information as required.

- Continue to perform their role in an effective manner, with satisfactory levels of conduct and performance.

## 5.0 Voluntary Retirement

- 5.1 Under LGPS Regulations 2013, it is possible for a member of the LGPS to retire at any age on or after their 55<sup>th</sup> birthday and draw their pension immediately. There is no requirement for the Council to give consent, but the pension paid will be reduced on an actuarial basis depending on the individual circumstances of the person retiring.
- 5.2 Provisions for the '85 year rule' are made in The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014. Where these regulations apply, the member satisfies the 85 year rule if the sum of the following is 85 years or more:
- their age in whole years on the date of requesting payment of benefits; plus,
  - total scheme membership in whole years; and
  - in the case where the request for payment is made after local government employment ends, the period beginning with the end of that employment and ending with the date the request is made
- 5.3 The 85 year rule provides protection against actuarial reductions either in whole or part depending on the individual's personal circumstances.
- 5.4 The 85 year rule protection will not automatically apply where a member chooses to voluntarily retire between the age 55 and under the age of 60. However, the regulations provide discretion for the Council to 'switch the rule back on' and in doing so meet the strain on the fund cost.
- 5.5 Irrespective of the 85 year rule, there is further provision whereby the Council may agree to waive in whole or part the actuarial reduction that would otherwise apply as a result of early retirement.
- 5.6 In relation to paragraphs 5.4 and 5.5 above, any application for a reduction to be waived, or the 85 year rule to be switched on, will only be approved in exceptional circumstances or where there is little strain on the fund. Applications will be considered having regard to personal, financial and service delivery implications.
- 5.7 Applications to receive a pension as a result of voluntary retirement must be made to the Tyne and Wear Pension Fund 3 months prior to the proposed date of leaving by completing a CARE 65 form available from the Tyne & Wear

Pension Fund. The procedure for making an application for voluntary retirement where the employee is requesting that the 85 year rule be switched on, or requesting that a reduction is waived, is detailed in [Appendix 1](#).

## 6.0 Early Retirement on Redundancy Grounds (Compensation Payments)

- 6.1 Proposals involving early retirement on the grounds of redundancy will be considered where attempts to find alternative employment of a similar and appropriate type have been exhausted. The same benefits and entitlements will be paid regardless of whether the early retirement on the grounds of redundancy is 'voluntary' or 'compulsory'. For any proposals based on redundancy the Strategic Director, Corporate Services & Governance must confirm that a post is redundant and the post must be deleted from the establishment of the service.
- 6.2 Where it is confirmed that these circumstances are met, accrued pension benefits under the LGPS are payable immediately on an unreduced basis if the employee is aged 55 or over. If the employee has any Additional Pension Contributions (APCs) or Additional Regular Contributions (ARCs) relating to the job they are being made redundant from, the APCs/ARCs would also be released but on an actuarially reduced basis.
- 6.3 Further information about redundancy is provided in the Council's Redundancy Policy.

## 7.0 Early Retirement on Grounds of Efficiency

- 7.1 An active member of the LGPS who has attained age 55 and whose employment is terminated by mutual consent on grounds of business efficiency will be entitled to immediate payment of their retirement pension.
- 7.2 Regulations require that their 'main' scheme pension benefits will be paid in full and the Council will meet the strain on fund costs.
- 7.3 Any pension purchased by way of APCs/ARCs will be actuarially reduced. However, any additional pension awarded by the Council will not be actuarially reduced.
- 7.4 Where an employee's employment is terminated by mutual consent on grounds of business efficiency, the Council reserves the right to award additional pension within the scope of the LGPS Regulations 2013. Each case will be

considered on its own facts and when considering each case, the personal, financial and service delivery implications will be assessed.

- 7.5 In circumstances where any additional pension may be awarded, it is important to check the impact on the 'Annual Allowance' and 'Lifetime Allowance'. Employees are advised to seek their own financial advice on any implications before any decisions are made.

## 8.0 Flexible Retirement

- 8.1 Flexible retirement is seen as a pathway to full retirement for employees, while allowing for effective succession planning for the Council. As such, flexible retirement applications will be considered in that context. A scheme member who has attained age 55 can apply to draw their retirement pension whilst remaining in employment and building up further benefits. In accordance with the regulations, employees who are granted flexible retirement are required to draw all of their pre 2008 pension benefits; and can choose, with the Council's approval, whether to draw all, part, or none of their post 2008 pension benefits.

Applications for flexible retirement are subject to the following:

- there is a reduction in hours or grade which results in the sum of the revised salary and pension benefits arising from flexible retirement not exceeding current salary. Reductions in hours can only apply to the employee's substantive post and not to an acting up or secondment.
- reduced working arrangements are permanent - there will be no right to revert back to the original working hours.
- if an application is withdrawn, or it is turned down, a further application cannot be made for 12 months.
- employees who have flexibly retired may not subsequently apply for positions that would result in either an increase in hours or being paid at a higher grade.
- there is not an automatic entitlement to flexible retirement. An employee's application will be considered in relation to the human resource management, personal, financial and service delivery implications for the Council and it will only be granted in very exceptional circumstances or where there is little cost to the Council in the form of a strain on the fund.

The procedure for Flexible Retirement applications is at [Appendix 2](#)

- 8.2 Pension Benefits and Pay

From the start of the revised working arrangement an employee will be paid for their new contracted hours of work and receive their pension benefits. These benefits may be reduced because they are being taken early, unless the Council exercises its discretion to waive all or some of that reduction. In reaching a decision (on whether to waive all or some of the reduction) each case will be viewed on its individual merits, having regard to the financial, personal, human resource management and service delivery implications.

Employees will automatically become new members of the LGPS based on their reduced hours or reduced grade. Any employee may opt out of the LGPS in accordance with the rules of the Scheme.

### 8.3 Cost (strain on the fund)

The cost associated with flexible retirement is related to an employee's age and length of service. In certain cases there will be no cost because they may be taking reduced benefits. However, in other cases there will be a strain on the fund cost even when reduced benefits are being taken.

Only in very exceptional circumstances will an employee be awarded flexible retirement where there is a cost to the Council which cannot be met by applying an actuarial reduction.

## 9.0 Ill Health Retirement

9.1 If an employee is a member of the LGPS and has 2 years or more qualifying service, and their employment is terminated on the grounds of ill-health, a pension may be payable where the employee has been certified by Council's Physician (Independent Registered Medical Practitioner) as meeting one of the 3 tiers of Ill Health Retirement. Note that a tier 3 award is subject to regular review – see below. Each case will be considered by the Service Director Human Resources and Workforce Development with legal advice as necessary. The Service Director, Human Resources and Workforce Development will decide (on behalf of the Council as employer) whether to retire the employee on the grounds of ill health. In order to reach a fully informed decision, the employee's consent to disclosure of relevant medical evidence including GP or consultant reports may be required.

### 9.2 Ill health retirement criteria / tiers

The Council will make the decision whether to award ill health retirement benefits and if so, which tier should be awarded. The Council will need to take

account of evidence and the opinion of an IRMP. The criteria in the LGPS regulations that the employer must consider are whether:

- The employee's illness or infirmity of mind or body mean that they are **permanently incapable** of discharging efficiently the duties of their current employment, and;
- As a result of the ill health or infirmity of mind or body, the employee is not immediately capable of undertaking any gainful employment.

The LGPS Regulations explain the meaning of these terms.

**'Permanently incapable'** means that the person will, more likely than not, be incapable of discharging efficiently the duties of their employment because of ill health or infirmity of mind or body until, at the earliest, their 'normal pension age'.

**'Gainful employment'** means paid employment for not less than 30 hours in each week for a period of not less than 12 months. This means any job, not just one that has similar pay and conditions to the employee's current employment. Working fewer than 30 hours per week will not prevent anyone from being considered for ill health retirement criteria. Also, there is not a lower age limit to ill health retirement.

In accordance with the process set out at 9.1, once the Council decides whether the employee meets the criteria for ill health retirement, they consider the level of the benefit to award. The descriptions of 'Benefits Payable' set out below are only a guide, as the level of benefits payable will depend on the employee's individual circumstances. There are three tiers providing different benefits:

Qualifying criteria	Benefits payable
<p><b>Tier 1</b> Where the employee is unlikely to be capable of undertaking any gainful employment before their Normal Pension Age.</p> <p><b>Tier 2</b> Where the employee cannot do their job and although they are unlikely to be capable of undertaking gainful employment within three years of leaving their employment, it is likely that they will be capable of undertaking gainful employment before their Normal Pension Age.</p> <p><b>Tier 3</b> If the employee cannot do their current job, but evidence suggests it is likely that they will be capable of undertaking gainful employment within three years of leaving their employment, or before their Normal Pension Age if earlier.</p>	<p><b>Tier 1</b> All health benefits are based on the pension already built up in the employee's pension account at the date of leaving the scheme plus an amount equivalent to the amount of earned pension the employee would have accrued to normal pension age based on assumed pensionable pay as defined in LGPS regulations.</p> <p><b>Tier 2</b> All health benefits are based on the pension already built up in the employee's pension account at the date of leaving the scheme plus an amount equivalent to 25% of the amount of earned pension the employee would have accrued to normal pension age based on assumed pensionable pay as defined in LGPS regulations.</p> <p><b>Tier 3</b> All health benefits are based on the pension the employee has already built up in their pension account at the point of leaving. Payment of these benefits will be stopped after 3 years, or earlier if the employee is in gainful employment or becomes capable of such employment, provided they have not reached their Normal Pension Age by then. If the payment is stopped it will normally become payable again from their Normal Pension Age but there are provisions to allow it to be paid earlier. Details would be provided at the time.</p> <p>A tier 3 pension will be reviewed after 18 months, the result of which will mean the pension will either:</p> <ul style="list-style-type: none"> <li>• Continue to be paid</li> <li>• Stop or</li> <li>• Increase as if the employee was awarded a tier 2 pension.</li> </ul>

- 9.3 Former employees may apply for release of deferred benefits on the grounds of ill health and each case will be considered with regard to the pension regulations that apply in accordance with the date of leaving the scheme. Applications will be considered in accordance with the procedure set out at paragraph 9.1.
- 9.4 If an employee is refused ill-health retirement, is dissatisfied with the tier of benefits awarded, or a former employee is refused release of deferred benefits on medical grounds, they may appeal in accordance with the LGPS Appeals Procedure. Please contact HR Advice for further information.

### 10.0 Retirement Age

- 10.1 The Council does not have a default retirement age (DRA) and employees can remain in their post indefinitely provided they remain capable of carrying out their role to the standard expected by the Council.
- 10.2 An employee's normal retirement age for pension purposes is determined by their individual circumstances. For state pension purposes this is governed by their date of birth. For LGPS purposes this is similarly determined by their date of birth with the employee's normal retirement age being their state retirement age with a minimum age of 65.

### 11.0 Awarding of Additional Pension

- 11.1 Regulation 31 of the Local Government Pension Scheme Regulations 2013 includes provision for the Council to grant additional pension of up to £6,822 (current value at the date of this policy). The award of additional pension can be made:
- In respect of an active member; or
  - Within six months of an active member leaving employment by reason of redundancy or business efficiency.
- 11.2 In relation to active members, this provision may, in exceptional circumstances, be used as an aid to recruitment and/or retention of key members of staff, or for other reasons of business efficiency.
- 11.3 A lump sum compensation payment cannot be made under The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 if, in respect of the termination, the employee has been awarded additional pension under Regulation 31 of the LGPS Regulations 2013. As this policy makes provision

for compensation payments on redundancy, the Council will not award additional pension to employees leaving on redundancy grounds.

## 12.0 Repayment of Public Sector Exit Payments

The Government intends to introduce legislation (The Repayment of Public Sector Exit Payments Regulations 2016), whereby any former employee who earned at least £80,000 per annum and who returns to work anywhere in the public sector within a year of leaving, including under a contract for services, is required to repay a proportion of their exit payment. The repayment liability reduces proportionately over the subsequent 365 days.

## 13.0 Exit Payment Cap

The Government intends to introduce legislation capping exit payments, including redundancy payments and the cost to the employer of any strain on the pension fund. The proposed limit is £95,000. Further detail is awaited and this policy will be updated in accordance with the legislation when enacted. Please contact HR Advice for further information.

## 14.0 Former Employees Requesting Release of Pension Benefits

There are a number of circumstances where the Council may apply discretions to the early release of pension. Any discretion which is a cost to the Council will **not** normally be applied. Discretions which incur a cost will be applied only in exceptional circumstances.

### 14.1 Early Release of Deferred Benefits for employees who left on or after 1 April 2014

A former employee (who left on or after 1 April 2014) can choose to draw their pension at any time on reaching age 55. The pension will be actuarially reduced and the 85 year rule will not automatically apply if the employee is aged between 55 and 60.

14.2 However, the Council has the right to 'switch the 85 year rule back on' and / or waive the reduction in whole or part depending on the individual circumstances.

14.3 In these circumstances the former employee must notify the Council that they wish for either of the above discretions to be applied. On receipt of an application a report will be presented to Pensions & Pay Discretions Sub-

Committee. When considering applications, each case will be considered on its own merits, taking the financial implications for the Council and personal circumstances of the employee and any dependants into account.

**14.4 Early Release of Deferred Benefits for Leavers and suspended Tier 3 benefits between 1<sup>st</sup> April 2008 and 31<sup>st</sup> March 2014**

At or after age 55 a former employee can choose to draw their deferred benefits. Their pension may be actuarially reduced and if taken between age 50 and 60, the 85 year rule will not automatically apply.

However, the Council has a right to 'switch the 85 year rule back on' and/or waive, on compassionate grounds, an actuarial reduction that may apply to any deferred benefits that are paid before age 65. In these circumstances, an actuarial reduction may only be waived in full.

- 14.5 In these cases the former employee must notify the Council that they wish for either of the above discretions to be applied. On receipt of an application, a report will be prepared and presented to Pensions & Pay Discretions Sub-Committee and each case will be considered on its own merits, taking into account the personal circumstances of the employee and any dependants, and the financial implications for the Council.

**14.6 Early Release of Deferred Benefits for Leavers between 1<sup>st</sup> April 1998 and 31<sup>st</sup> March 2008**

At or after age 50 and before age 55 a former employee can request early release of their deferred benefits with the Council's consent.

At or after age 55 a former employee can choose to draw their pension without the Council's consent. The pension may be actuarially reduced, and if the benefits are drawn between age 55 and 60, the 85 year rule will not automatically apply.

However, the Council has a right to 'switch the 85 rule back on' and/or waive, on compassionate grounds, an actuarial reduction that may apply to any deferred benefits which are paid before age 65. In these circumstances, an actuarial reduction may only be waived in full.

- 14.7 In these cases the former employee must notify the Council that they wish for any of the above discretions to be applied. On receipt of an application, a report will be prepared and presented to Pensions & Pay Discretions Sub-Committee and each case will be considered on its own merits, taking into account the personal circumstances of the employee and any dependants,

and the financial implications for the Council. Where an applicant is aged between 50 and 55, consideration will be given for consent to the release of the deferred benefit and to the waiving of any reduction. Where an applicant is 55 or over consideration will be given to switching on the 85 year rule and/or waiving the actuarial of any reduction.

14.8 There are potentially significant tax implications (for both the applicant and the Council) in releasing deferred benefits before age 55. Any such cases will be discussed with the Tyne and Wear Pension Fund before a final decision is taken.

#### 14.9 **Early Release of Deferred Benefits for Leavers before 1<sup>st</sup> April 1998**

At any time from age 50 to 65 a former employee can request early release of their deferred benefits and the Council can grant this but only on compassionate grounds. If the application is granted benefits will be released without actuarial reduction.

14.10 A report will be prepared for each application and be presented to Pensions & Pay Discretions Sub-Committee and each case will be considered on its own merits, taking into account the personal circumstances of the employee and any dependants, and the financial implications for the Council.

14.11 There are potentially significant tax implications (for both the applicant and the Council) in releasing deferred benefits before age 55. Any such cases will be discussed with the Tyne and Wear Pension Fund before a final decision is taken.

## 15.0 Employer Discretions

Other discretions available to the Council are detailed at [Appendix 4](#). Decisions in respect of discretions (i) to (v) of Appendix 4 are delegated to the Strategic Director, Corporate Services & Governance.

Cases requiring a determination under the remaining delegations will be considered by Pensions & Pay Discretions Sub-Committee as and when a case arises.

## Appendix 1 - Procedure for Voluntary Retirement Applications

Under LGPS Regulations 2013, it is possible for a LGPS member to take voluntary retirement at any age on or after their 55<sup>th</sup> birthday and draw their pension immediately. There is no requirement for the Council to give consent but the pension paid will be reduced on an actuarial basis depending on the circumstances of the person retiring.

Employees aged 55 or over but who have not yet reached their state pension age should complete CARE form 65, available from the Tyne and Wear Pension Fund website, in these circumstances.

Employees over their state pension age should contact the Tyne and Wear Pension Fund directly who will advise on the procedure to be followed.

Redundancy/efficiency, ill health and flexible retirement applications are dealt with separately under the relevant Council policies.

Therefore, the following procedure is **only** to be used in respect of voluntary early retirement applications where there are financial implications for the Council, in the form of a 'strain on the fund'.

Such applications will involve the employee:

- Applying to have an 'actuarial reduction' waived; and /or,
- Applying to have the 85 year rule switched on.

### Procedure

1. An eligible employee expresses an interest in early retirement to their Service Director. They do this by completing form ER1– part 1 only. An eligible employee is one who is (a) aged 55 or over, and (b) is currently paying pension contributions to the LGPS and has a minimum of two years' pensionable service or relevant qualifying service.
2. Applications will only be approved in exceptional circumstances, therefore the applicant must set out any relevant information which should be taken into account in support of their application.

3. The Service Director must complete part 2 of form ER1 and forward it to HR Advice.
4. HR Advice will send a copy of the ER1 to Corporate Resources who will obtain pension estimate figures from the Tyne and Wear Pension Fund. Corporate Resources will also complete the front page of Form ER2 and return it to HR Advice.
5. HR Advice will complete form ER3 which details estimated benefits and forward it to the employee via their Service Director. HR Advice will also complete section 5 of the ER2 form, which shows the costs and savings of that early retirement application and forward that to the relevant Service Director.
6. After considering their pension benefits, the employee should decide whether or not they wish to continue with their application. If they wish to proceed, the employee must notify their Service Director of this decision in writing.
7. A Service Director cannot approve an application where there is a strain on the fund. If the employee wishes to pursue their application, it will be referred to the Officer Panel which comprises officers from HR Advice and Corporate Resources. Factors to be considered will include: personal circumstances; service requirements; organisational context and financial implications.
8. The Officer Panel will examine each voluntary retirement case, consider the financial and other information including the exceptional circumstances provided by the employee, and make a recommendation to the Strategic Director, Corporate Services and Governance. This information will also be entered onto the Form ER2. The Panel will only recommend approval in very exceptional circumstances.
9. Applications, together with the recommendation from the Officer Panel, will be submitted to the Strategic Director, Corporate Services & Governance for decision.
10. In considering the recommendation, the Strategic Director, Corporate Services & Governance will, if necessary, consult with the Strategic Director Corporate Resources and the employee's Service Director and/or Strategic Director.
11. The Strategic Director, Corporate Services and Governance will inform the employee in writing of the outcome of their application, and their right of appeal.
12. Where an application is rejected, the employee has a right of appeal to the Pensions and Pay Discretions Sub Committee. Where an employee wishes to appeal against the decision to reject their application, they must, within 10

working days of receipt of the letter confirming the decision, submit their appeal, and any additional information to the Strategic Director, Corporate Services and Governance. The Pensions and Pay Sub-Committee will consider the employee's written submission.

13. Where applications for voluntary early retirement are approved, a formal offer will be made (ER4).
14. If the employee accepts the offer of voluntary retirement they must confirm the original date of retirement, or agree an alternative mutually acceptable retirement date with their Service Director.

## Appendix 2 - Procedure for Flexible Retirement Applications

Applications for flexible retirement where there is no cost to the Council (strain on the fund) may be approved by Service Directors. In reaching a decision on whether or not to approve an application, Service Directors must take into account the implications for service delivery, the organisational context, the personal circumstances of the employee and any savings which could be achieved by reducing the hours of the post. Service Directors should be aware that there will be a strain on the fund if an employee flexibly retires between the age of 55 and 60 and meets the 85 year rule.

The following procedure must be followed where the employee is applying for flexible retirement on an unreduced basis (i.e. applying to have an actuarial reduction waived which results in strain on the fund costs).

1. An eligible employee expresses an interest in flexible retirement to the Service Director. They do this by completing form FR1 – part 1 only. An eligible employee is one who is (a) aged 55 or over, and (b) currently an active member of the LGPS
2. When considering applications for flexible retirement, the Council will take into account the personal circumstances of the applicant, service-delivery requirements and the financial implications in order to determine whether, or not, the application should be supported. If it is rejected, the employee has the right of appeal to the Pensions and Pay Discretions Sub-Committee of the Council. Applications will only be approved in exceptional circumstances or where there is little cost to the Council in the form of a strain on the fund, therefore the employee must set out any relevant information which should be taken into account in support of their application.
3. Where a Service Director decides an application cannot be supported for operational reasons they must inform the employee and give the reason(s) in writing. The employee may appeal in writing to the Strategic Director, Corporate Services & Governance if they are not satisfied with the decision.
4. The Service Director must complete part 2 of form FR1 and forward it to HR Advice.
5. HR Advice will send a copy of the FR1 to Corporate Resources who will obtain pension estimate figures from the Tyne and Wear Pension Fund. Corporate Resources will also complete the front page of Form FR2 and

return it to HR Advice.

6. HR Advice will complete form FR3 which details estimated benefits and forward it to the employee via their Service Director. HR Advice will also complete section 5 of the FR 2 form which shows the costs and savings of that early retirement application and forward that to the relevant Service Director.
7. After considering their pension benefits, the employee should decide whether or not they wish to continue with their application. If they wish to proceed, the employee must notify their Service Director of this decision in writing.
8. A Service Director cannot approve an application where there is a strain on the fund. If the employee wishes to pursue their application, it will be referred to the Officer Panel which comprises officers from HR Advice and Corporate Resources.
9. Officers from Human Resources and Finance and ICT will examine each flexible retirement case taking into account the personal circumstances; service requirements; organisational context and financial implications and make a recommendation to the Strategic Director, Corporate Services and Governance. This information will also be entered onto the Form FR2.
10. Applications, together with the recommendation from the Officer Panel, will be submitted to the Strategic Director, Corporate Services & Governance for decision.
11. The Strategic Director, Corporate Services & Governance will, if necessary, consult with the Strategic Director Corporate Resources and the employee's Service Director and/or Strategic Director.
12. The Strategic Director, Corporate Services and Governance will inform the employee in writing of the outcome of their application, and of their right of appeal.
13. Where an application is rejected, the employee has a right of appeal to the Pensions and Pay Discretions Sub Committee. Where an employee wishes to appeal against the decision to reject their application, they must, within 10 working days of receipt of the letter confirming the decision, submit a written request to the Strategic Director, Corporate Services and Governance. The Pensions and Pay Discretions Sub-Committee will consider the employee's written submission.

14. Where an application for flexible retirement is approved, a formal offer will be made (FR4).
15. If the employee accepts the offer of flexible retirement they must agree a mutually acceptable effective date with their Service Director.

## Appendix 3 – LGPS Employer’s Discretions Policy

### LGPS 2014 Scheme – reviewed September 2018

Discretion	Regulation	Policy
Determine rate of employees’ contributions	R9(1) & R9(3)	<p>The Council will set contribution rates based on a member’s contractual pay in each employment as at 1st April each year. However, if the member’s contractual pay changes during the year such that it falls into a different contribution band, the rate will be reassessed in the pay period when the change takes effect. Where the change has taken effect mid-month, the rate will be calculated based on a proportion of the old and new salaries. The rate will then be re-calculated in the following month based solely on the new salary. If changes to contractual pay are applied retrospectively, contributions will be collected or refunded as appropriate.</p> <p>If a member changes job during a pay period, each job will be assessed separately.</p> <p>If the member is a casual/zero hours employee they will automatically be placed on the lowest contribution band.</p>
Whether, how much, and in what circumstances to contribute to a shared cost APC scheme	R16(2)(e)* & R16(4)(d)*	The Council will not share the cost of APCs.
Whether to extend 30 day deadline for member to elect for a shared cost APC upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or	R16(16)	<p>If notification of the right to elect for a SCAPC is given after the return to work, the Council will give employees 30 days from the date of notification to make such an election. Notification will be deemed to have been provided from the date of any letter or e-mail sent to the employee.</p> <p>Any applications received after this deadline will be considered</p>

reserve forces service leave)		taking into account the facts of each case.
Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with a new employment	R22(8)(b)	Requests will be automatically accepted where it can be proven that the employee did not receive relevant notice informing them of their right to retain separate benefits and of the relevant deadline. Other applications will be considered on the facts of the case.
Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with an ongoing concurrent employment	R22(7)(b)	Requests will be automatically accepted where it can be proven that the employee did not receive relevant notice informing them of their right to retain separate benefits and of the relevant deadline. Other applications will be considered on the facts of the case.
Whether to extend the 12 month option period for a member (who did not become a member of the 2014 Scheme by virtue of TP5(1)) to elect that pre 1 April 2014 deferred benefits should be aggregated with a new employment.	TP10(6)	Requests will be automatically accepted where it can be proven that the employee did not receive relevant notice informing them of their right to aggregate pre 1 April 2014 deferred benefits and of the relevant deadline. Other applications will be considered on the facts of the case.
Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	R30(6)* & TP11(2)	<p>An employee's application will be considered in relation to the human resource management, financial and service delivery implications for the Council. In considering an application:</p> <ul style="list-style-type: none"> <li>• There must be a reduction in hours or grade in order that the revised salary and pension benefits arising from the flexible retirement do not exceed the current salary. Reductions in hours can only apply to the substantive post and not to a seconded post or other temporary post.</li> <li>• Reduced working arrangements are permanent so there is no right to revert back to the original working hours.</li> <li>• In accordance with the flexible working policy, if an application is withdrawn or it is turned down, another application cannot be made for 12 months, other than in exceptional circumstances.</li> <li>• Employees who have flexibly retired may not</li> </ul>

		subsequently apply for positions that would result in either an increase in hours or being paid at a higher grade, unless exceptional circumstances apply.
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	R30(8)*	Only in very exceptional circumstances will an employee be awarded flexible retirement where there is a cost to the Council which cannot be met by applying an actuarial reduction.
Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31/3/14 membership)	R30(8)*	Each case will be considered on its own facts having regard to personal, financial and service delivery implications. Only in exceptional circumstances will an employee have their application approved.
Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement).	TPSch 2, para 1(2) & 1(1)(c)	Each case will be considered on its own facts having regard to personal, financial and service delivery implications. Only in exceptional circumstances will an employee have their application approved.
Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/14 and post 31/3/14 membership) a) on compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was not in the Scheme before 1/10/06, b) on compassionate grounds (pre	TPSch 2, para 2(3)	Each case will be considered on its own facts having regard to personal, financial and service delivery implications. Only in exceptional circumstances will an employee have their application approved.

<p>1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will not attain 60 between 1/4/16 and 31/3/20</p> <p>c) on compassionate grounds (pre 1/4/16 membership) and in whole or in part on any grounds (post 31/3/16 membership) if the member was in the Scheme before 1/10/06 and will be 60 by 31/3/16</p> <p>d) on compassionate grounds (pre 1/4/20 membership) and in whole or in part on any grounds (post 31/3/20 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will attain 60 between 1/4/16 and 31/3/20</p>		
<p>Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,675 p.a.)</p>	<p>R31*</p>	<p>In relation to active members, this provision may, in exceptional circumstances, be used as an aid to recruitment and/or retention of key members of staff, or for other reasons of business efficiency.</p> <p>There will be no award of additional pension to employees leaving on redundancy grounds.</p> <p>In respect of retirement on efficiency grounds, each case will be considered on its own facts considering the personal, financial and service delivery implications.</p>
<p>Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS</p>	<p>R100(6)</p>	<p>Requests will be automatically accepted by the Council where it can be proven that the employee did not receive relevant notice informing them of their right to inward transfer and of the relevant deadlines. Other cases will be considered on their merits.</p>

		The TWPF must also agree to the transfer.
<b>Discretions in relation to scheme members who ceased active membership on or after 01/04/08 and before 01/04/14</b>		
Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	TPSch2, para(1)(2) & 1(1)(c)	Each case will be considered on its own facts having regard to personal, financial and service delivery implications. Only in exceptional circumstances will an employee have their application approved.
Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member)	B30(5) TPSch 2, para 2(1)	Each case will be considered on its own merits, taking the financial implications for the Council and personal circumstances of the employee into account.
Whether to “switch on” the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, para 1(2) & 1(1)(c)	Each case will be considered on its own facts having regard to personal, financial and service delivery implications. Only in exceptional circumstances will an employee have their application approved.
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A	B30A(5)*	Each case will be considered on its own merits, taking the financial implications for the Council and personal circumstances of the employee into account.
<b>Discretions in relation to scheme members who ceased active membership on or after 01/04/98 and before 01/04/08</b>		
Grant application from a leaver for early payment of benefits on or after age 50 and before age 55	31(2)	Each case will be considered on its own merits, taking the financial implications for the Council and personal circumstances of the employee into account.
Whether to “switch on” the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, para 1(2) & 1(1)(f) and R60	Each case will be considered on its own facts having regard to personal, financial and service delivery implications. Only in exceptional circumstances will an employee have their application approved
Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early.	31(5)	Each case will be considered on its own merits, taking the financial implications for the Council and personal circumstances of the employee into account
<b>Discretions in relation to scheme members who ceased active membership before 01/04/98</b>		
Grant application for early payment of	TL4 & L106(1) &	Each case will be considered on its own merits, taking the

deferred benefits on or after age 50 on compassionate grounds	D11(2)(c)	financial implications for the Council and personal circumstances of the employee into account
Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)		
To base redundancy payments on an actual weeks pay where this exceeds the statutory week's pay limit.	5	Redundancy payments will be based on contractual weekly pay where this exceeds the statutory maximum
To award lump sum compensation of up to 104 week's pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.	6	Compensation made in respect of voluntary and compulsory redundancies will be on the basis of applying a multiplier of 1.25 to the statutory redundancy matrix (giving a maximum of 37.5 weeks redundancy pay). No compensation will be paid in relation to employments ending on efficiency grounds.

## Appendix 4 - Further Employer Discretions - Policy Statement

Each application in respect of the following discretions will be considered on its individual merits, taking into account the personal circumstances of the interested parties and the financial implications for the Council.

Decisions in respect of discretions (i) to (vii) below are delegated to the Strategic Director, Corporate Services & Governance.

Cases requiring a determination under the remaining delegations will be considered by Pensions & Pay Discretions Sub-Committee as and when a case arises.

Any discretion which is a cost to the Council will not normally be applied. Discretions which incur a cost will be applied only in exceptional circumstances.

### **Decisions delegated to the Strategic Director, Corporate Services & Governance:**

i) **Shared Cost Additional Pension Contributions (SCAPC)** - where an employee has been on an authorised leave of absence with no pensionable pay, they can elect to buy back the lost pension by way of additional pension contributions (APC). Provided the election is made within 30 days of returning to work, regulations require that the Council shall pay 2/3rds of the cost of the APC.

If notification of the right to elect for a SCAPC is given after the return to work, the Council will give employees 30 days from the date of notification to make such an election. Notification will be deemed to have been provided from the date of any letter or e-mail sent to the employee. Any applications received after this deadline will be considered taking into account the facts of each case.

ii) **Employees wishing to pay APCs** in other circumstances may do so to purchase pension of up to £6,822 (current value). The Council has decided, under this policy, that it will not share the cost of any such arrangement.

iii) **Inward transfer of pension rights** from another registered pension scheme - the Council may allow, where a request for the inward transfer of pension rights from another registered pension scheme is made more than 12 months after the person first became an active member in an employment, that the transfer be accepted. The Tyne and Wear Pension Fund must also agree to such a request before the transfer is classed as fully agreed (Regulation 100 of the Administration Regulations). Requests will be automatically accepted by the Council where it can be proven that the employee did not receive relevant notice informing them of their right to inward

transfer and of the relevant deadlines. Applications received in other circumstances will be considered on their merits.

iv) **Non aggregation of pension benefits** post 31 March 2014 (or combinations of pre-April 2014 and post-March 2014 benefits) - the Council may grant a request by an employee not to aggregate their deferred benefits with their new LGPS employment (or ongoing concurrent LGPS employment) where the request is made more than 12 months after they commenced membership of the LGPS in the new employment (or more than 12 months after they ceased concurrent membership). Requests will be automatically accepted by the Council where it can be proven that the employee did not receive relevant notice informing them of their right to retain separate benefits and of the relevant deadline. Other applications will be considered on the facts of the case.

v) **Aggregation of pre April 2014 LGPS benefits** with a new LGPS employment - the Council may grant a request by an employee to aggregate their deferred benefits with their new LGPS employment where the request is made more than 12 months after they commenced membership of the LGPS in the new employment. Requests will be automatically accepted by the Council where it can be proven that the employee did not receive relevant notice informing them of their right to retain separate benefits and of the relevant deadline. Other applications will be considered on the facts of the case.

vi) **Contribution rates** - the Council will set contribution rates based on a member's contractual pay in each employment as at 1 April each year. However, if the member's contractual pay changes during the year such that it falls into a different contribution band, the rate will be reassessed in the pay period when the change takes effect. Where the change has taken effect mid-month, the rate will be calculated based on a proportion of the old and new salaries. The rate will then be recalculated the following month based solely on the new salary.

If changes to contractual pay are applied retrospectively, contributions will be collected or refunded as appropriate.

If an employee changes job at any time during a pay period, each job will be assessed separately.

If the member is a casual/zero hours employee they will automatically be placed on the lowest contribution band.

vii) **Effect of fees on pensionable pay** - considering each individual case on its merits, only in exceptional circumstances will the Council refuse consent to a member's final pensionable pay being calculated by reference to fees earned over a period of three consecutive years within the final ten years of his/her membership of the Scheme (Regulation 11 of the Benefits Regulations).

**Cases to be considered by Pensions & Pay Discretions Sub-Committee as and when required:**

The following discretions only apply where an Employer has awarded added years under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 or preceding regulations.

viii) Where additional service has been awarded to a retired member and the recipient subsequently enters a relevant employment, the employer must ensure that the aggregate of:

- a. The annual compensation, and
- b. The annual pension from the LGPS, and
- c. The annual rate of pay from the new employment

does not exceed the annual rate of pay from the employment in respect of which the added years were granted, as increased by inflation. If that position cannot be achieved by a reduction in the annual compensation, then the annual compensation must be suspended.

ix) Where the retired member who was awarded additional service subsequently ceases the **new** employment, and the sum in years of-

- a. his earlier extra service adjusted in accordance with paragraph (4) of regulation 9 if paragraph (3) of that regulation applies to him; and
- b. his total membership for the purpose of calculating under the Pension Regulations, on the relevant assumptions, his retirement pension on cessation of his new employment, exceeds the total membership which would have been used for the purpose of that calculation if he had held his terminated employment until his 65<sup>th</sup> birthday,

the Council must reduce the annual compensation by such amount as it considers appropriate (Regulation 19 of the Discretionary Compensation Regulations 2000).

x) When the recipient of the award dies the Council must decide how the compensation is apportioned if there is a joint entitlement to surviving spouse's short and long term annual compensation, (Regulation 21 of the Discretionary Compensation Regulations 2000).

xi) If, at the time of their death, the recipient was in a new pensionable employment, the Council must decide the extent to which any reduction will apply in calculating any short and long term annual compensation (Regulation 22 of the Discretionary Compensation Regulations 2000).

xii) The Council may direct that surviving spouse's additional compensation shall not cease on remarriage or cohabitation where award was made prior to 1st April 1998. Also, where in the past and under old regulations payment of a spouse's additional pension has ceased due to remarriage or cohabitation, the Council must decide if it is to be reinstated on cessation of that remarriage or cohabitation (Regulation 21 of Discretionary Compensation Regulations 2000).

xiii) Where children's pensions are not payable under the Scheme the Council shall determine how, and in what portions, any children's annual compensation shall be paid (Regulation 25 of Discretionary Compensation Regulations 2000).

## Further Information

Gateshead Council recognises that from time to time employees may have questions or concerns relating to the content of this document. In certain situations employees' rights and obligations may change; in such circumstances the Council will abide by any statutory obligations.

The Council wishes to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. Employees are encouraged to seek clarification on any issues with the appropriate Line Manager in the first instance.

## Sustainability

Improving our environmental performance and doing things in a more sustainable way should be seen as integral to our core business practices. To demonstrate the Council's commitment to improving environmental and sustainable performance, please be mindful if printing this document – keeping paper usage to a minimum (print only version), printing on both sides, and recycling.

## Equality Statement

Gateshead Council is an equal opportunities employer where all employees are treated with dignity and respect. We are fully committed to equality, diversity and human rights and to ensuring our culture, working environment, policies, processes and practices are free from bias. This policy applies to all employees regardless of protected characteristics, subject to any eligibility criteria which may include length of service, grade, working pattern or other applicable national terms and conditions of service.

## Inclusive Communications

It is our ambition to ensure that Council documents are readable, accessible and engaging for staff. In formatting this document, good practice principles around engagement and inclusive communications have been adhered to. If you require this document in an alternative format please contact HR and Workforce Development.

## Review and Monitoring

This policy will be reviewed every three years or sooner where applicable to reflect changing the needs of the Council and any other legislative or good practice requirements.