

Example Employer pension discretions– the schedule below is to be read in conjunction with guidance found at: <http://lgpsregs.org/resources/guidesetc.php> and Derbyshire Pension Fund Employers Discretions guidance at <https://derbyshirepensionfund.org.uk/employers/good-practice/employer-discretions.aspx>

Discretion	Regulation reference	DPF Guidance Reference	Example Employer* Discretions Policy	Adopt Example discretion? Yes/No	Published Discretion if Not adopting Example Discretion (attach additional sheet if required)
<u>Discretions relating to current contributing employees and leavers after 31/03/2014</u>					
Whether, how much, and in what circumstances to contribute to a shared cost APC scheme	R16(2)(e) & R16(4)(d)	1.1	Example employer*will not normally exercise this discretion but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer.	Y	
Whether, at full cost to the Scheme employer, to grant extra annual pension of up to £6,822 (figure at 1 April 2018) to an active member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency	R31	1.2	Example Employer will not normally grant any additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer	Y	
Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age	R30(8)	2.1	Example employer*will not normally exercise this discretion but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer.	Y	

Discretion	Regulation reference	DPF Guidance Reference	Example Employer* Discretions Policy	Adopt Example discretion? Yes/No	Published Discretion if Not adopting Example Discretion (attach additional sheet if required)
Whether to waive any actuarial reduction on pre and/or post April 2014 benefits paid early on compassionate grounds	TP3(1), TPSch 2, paras 2(1)	2.2	Example Employer* will not normally exercise this discretion but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer.	Y	
Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, paras 1(2) and 2(2)	3	Example Employer* will not normally exercise this discretion but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer.	Y	
Whether all or some benefits can be paid if an employee over 55 reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	4	Example Employer* Policy is that all pension benefits are to be paid for cases agreed on reduction of hours or grade, See flexible retirement policy for further details.	Y	
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	R30(8)	4 and/or 2.1	Example Employer* will not normally waive the actuarial reduction for routine flexible retirements but will consider on a case by case basis waiving in whole or part for workforce reduction flexible retirements – See flexible retirement policy for further details.	Y	
<u>Discretions relating to leavers 01/04/2008 to 31/03/2014:</u>					
Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30	B30(5), TPSch 2, para 2(1)	2.2	Example Employer* will not normally exercise this discretion but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer.	Y	

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Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A for a suspended tier 3 member.	B30A(5), TPSch 2, para 2(1)	2.2	Example Employer* will not normally exercise this discretion but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer.	Y	
Whether to “switch on” the 85 year rule for a deferred member voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, paras 1(2) and 1(1)(c)	3	Example Employer* will not normally exercise this discretion but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer.	Y	
Whether to “switch on” the 85 year rule for a suspended tier 3 member voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, paras 1(2) and 1(1)(c)	3	Example Employer* will not normally exercise this discretion but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer.	Y	
<u>Discretions relating to leavers 01/04/1998 to 31/03/2008 and councillors:</u>					
Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.	31(5) & TPSch 2, para 2(1)	2.2	Example Employer* will not normally exercise this discretion but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer.	Y	
Whether to “switch on” the 85 year rule for a deferred member voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, para 1(2) & 1(1)(f) & R60	3	Example Employer* will not normally exercise this discretion but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer.	Y	

Discretion	Regulation reference	DPF Guidance Reference	Example Employer* Discretions Policy	Adopt Example discretion? Yes/No	Published Discretion if Not adopting Example Discretion (attach additional sheet if required)
Grant application for early payment of deferred benefits on or after age 50 and before age 55.	31(2)	5	Example Employer* will consider early release on a case by case basis, taking into account the business case, HMRC unauthorised payment charges and foreseeable costs to the employer.	Y	
Optants out only to get benefits paid from NRD if employer agrees.	31(7A)	6	Example Employer will allow optants out to only get benefits paid from normal retirement date (NRD)	Y	
<u>Discretions relating to leavers before 01/04/1998:</u>					
Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds.	TL4, L106(1) & D11(2)(c)	5	Example Employer* will consider early release on a case by case basis, taking into account the business case, HMRC unauthorised payment charges and foreseeable costs to the employer.	Y	

* Where an Employer chooses to adopt the same discretion as “Example Employer”, it will be deemed that any decisions will be made by the relevant Employers Decision Maker(s) (i.e. Appointed Person(s), Governing Body, Director(s), Cabinet or Committee). Please also see next page for reporting of who Decision maker(s) are.

Please note that where an Employer does not wish to adopt “Example Employer” Discretions, it is possible to have discretions to review each case on a “case by case basis”, however please be wary of the extra work involved if you have a large number of staff in reviewing each case individually and also of the risk of setting precedents.

Employer: Wirksworth Town Council _____

Name: Paul Jennings _____

Signature: _____

Job Title: Town Clerk _____

Date: 16/4/19

* Where an Employer chooses to adopt the same discretion as “Example Employer”, it will be deemed that any decisions will be made by the relevant Employers Decision Maker(s) (i.e. Appointed Person(s), Governing Body, Director(s), Cabinet or Committee).

Please confirm below whom your “decision maker(s)” are, (If Governing Body, Cabinet or Committee, please just state the name of “Group”, no need to name individual members):

Decision Maker Job Title or name of “Group” responsible	Name (if individuals)
Personnel Committee sub group (part of Finance, Buildings and Personnel Committee)	

Example Employer Policy for Flexible Retirement (Routine Cases)

An employer can consent to a reduction in an employee's hours or grade and consent to the release of pension benefits where the employee is aged 55 and over.

For the purpose of this policy, requests for flexible retirement can be categorised as follows:

- Category one - Employee is age 60 or over - There is no cost to the employer as the employee is at or past age 60. If they do not meet the Rule of 85 (*1) their pension benefits will be reduced to reflect early payment.
- Category two - Employee is age 55 or over but less than 60 and does not meet the Rule of 85 until on or after their 60th birthday. In this case the regulations allow for the cost of the early payment of pension benefits to be borne by the employee so as to avoid a pension fund shortfall. The benefits are actuarially reduced to reflect the fact that they are paid early.
- Category three - Employee is age 55 or over but less than 60 and does meet the Rule of 85 either at the date of flexible retirement or at a later date that is before their 60th birthday. In this case we would have to meet the Pension Fund shortfall arising from the early payment of pension benefits from the date when the Rule of 85 is met.

For those cases that fall within categories one and two above, our general policy is to consent to the payment of benefits from the Local Government Pension Scheme subject to a reduction of 40% (i.e. move from 5 days per week to 3 days = reduction of 2 days which is 40%) of the employee's contractual hours at the eve of their flexible retirement and/or a reduction of at least 1 grade in post.

A reduction of less than 40% of the employee's contractual hours may be considered:

- i) In exceptional circumstances, and provided that this would also bring an ongoing financial benefit to the employer or
- ii) Where service delivery requires whole shifts to be worked.

The Employers appointed decision maker(s), taking account of HR, legal and financial advice under the established process, makes the decision.

Where the benefits payable are reduced to reflect early payment the employer can agree to waive in whole or in part the reduction and pay the cost to the pension fund. It is our policy, as a general rule, not to agree to this. However, the employer will consider applications; where it is considered that it would be in the employer's interests to meet this cost.

For category three cases, as there would be a cost to the employer, the general policy is not to agree to the early release of pension benefits. However, where it is considered to be in the employers' interests, taking into account the business case and foreseeable costs to the employer; the employers' decision maker(s) will consider applications for flexible retirement.

In every case the needs of the service must be paramount.

Increases in hours or grade after taking flexible retirement

Where an employee has been allowed to reduce their hours or grade for the purposes of flexible retirement they will not be allowed to increase them on a permanent basis. Where it is in our interests, a temporary increase in hours or

grade for a period not exceeding six months can be permitted. The temporary increase in hours or grade must be authorised by the chief officer or decision maker(s).

An employee who has reduced their hours and taken flexible retirement must only be allowed to work additional hours or overtime at the same level that applied prior to the reduction in contractual hours. The aim is to prevent employees compensating for a reduction in contractual hours by working additional hours and overtime. The chief officer or decision maker may only approve requests for temporary increases in additional hours and overtime in advance.

Appeals

Categories one and two - an employee who is dissatisfied with the decision maker(s) decision in response to a request for flexible retirement can appeal in writing within 14 days of receiving the decision to the decision maker(s).

In category three - where the decision maker(s) has refused an employee's request to reduce the hours they work for the purposes of flexible retirement, the person can appeal in writing within 14 days of receiving the decision to the decision maker(s).

Category three - where the decision maker(s) has approved a reduction in hours but the application for the payment of pension benefits on flexible retirement is refused by the decision maker(s), a dissatisfied employee can appeal under the pensions application for adjudication of disagreements procedure; writing in the first instance to "specified person" appointed by their employer.

Details of the application for adjudication of disagreements procedure can be found on Derbyshire Pension Funds Website at <https://derbyshirepensionfund.org.uk/about-the-fund/feedback-complaints-and-appeals/feedback-complaints-and-appeals.aspx>.

Appeals should be made in writing stating the reasons for the appeal to the relevant person appointed by the employer, details of who this is can be found by contacting the employer or Derbyshire Pension Fund.

(*1 The Rule of 85 is where the sum of the scheme member's age plus period of membership in the Pension Scheme (both in whole years) is 85 or greater see <https://derbyshirepensionfund.org.uk/my-pension/active-members/understanding-your-pension/rule-of-85.aspx> for more details).

