



**Ashbourne Town Council**

**Pension Fund Discretions Policy**

# Reviewed August 2019

The Policy was adopted by  
Ashbourne Town Council on 17 June 2014  
Signed ..... (Chair/Mayor)

## Pension fund discretions

Details of Derbyshire Pension Fund's discretions and also Ashbourne Town Council's discretions as an employer in the fund.

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## Fund discretions

The following discretions were approved at the Full Council meeting on 17<sup>th</sup> June 2014, with a revision at the Finance Committee on 12<sup>th</sup> August 2019 to Example Employer Policy for Flexible Retirement (Routine Cases)

## Delegation to committee

Governance policy must state whether the administering authority delegates their function or part of their function in relation to maintain a pension fund to a committee, a sub-committee or an officer of the administering authority.

The administering authority continues to delegate function or part of their function to the Council or an officer of the administering authority was approved, thereby not changing the previous position.

Approval was made that the administering authority continues to delegate function or part of their function to the Council or an officer of the administering authority, thereby not changing the previous position.

### **Funding strategy statement**

Ashbourne Town Council have adopted the funding strategy set by Derbyshire County Council.

### **Communication**

Communication policy must set out the policy on provision of information and publicity to, and communication with, members, representatives of members, prospective members and scheme employers; the format, frequency and method of communications; and the promotion of the scheme to prospective members and their employers.

Ashbourne Town Council have adopted the communication policy on set by Derbyshire County Council.

### **Abatement**

Decide policy on abatement of pre 1 April 2014 element of pensions in payment following re-employment.

Decide policy on abatement of pensions following re-employment.

Decide abatement policy of pensions following re-employment ( pre 1 April 2008 leavers).

From 1 April 2014 The Derbyshire Fund does not abatement pensions in payment based on earnings, following re-employment.

Cases already abated will be considered on a case by case basis.

### **Ashbourne Town Council employer discretions**

Policy statements for Ashbourne Town Council as a scheme employer.

### **Discretions in relation to post 31 March 2014 active members (and post 31 March 2014 leavers**

#### **Additional Pension Contribution - Regulation 16(2)(e) and 16(4)(d)**

Decide whether, how much, and in what circumstances to contribute to a shared cost Additional Pension Contribution (APC).

An APC is payment of pension contributions to cover a break in pensionable service. If the break in service is an authorised break, for example, the no pay period of maternity leave and the person opts to pay for the break within 30 days from the end of the break, the shared cost APC automatically applies. The shared cost is split two thirds employer, one third scheme member.

Approval was made for the Council to consider a shared cost APC in exceptional circumstances, where a person opts to pay for the break after 30 days up to a period of 12 months, from the end of the break.

If the person opts to pay an APC to buy extra pension the shared cost option does not apply.

### **Flexible Retirement - Regulation 30(6) and Transitional Provision Regulation 11(2)**

Decide whether all or some pension benefits can be paid if an employee reduces their hours or grade on flexible retirement.

Approval was made that all pension benefits can be paid.

### **Flexible Retirement (Routine Cases) - Regulation 30(8)**

Decide whether to waive, in whole or in part, actuarial reduction on pension benefits paid on flexible retirement.

Approval was made to not waive the actuarial reduction for routine flexible retirements.

### **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).

Appeals should be made in writing stating the reasons for the appeal to:

Town Clerk  
AshbourneTown Council  
Town Hall  
Market Place  
Ashbourne  
Derbyshire  
DE6 1ES

(\*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).

### **Retirement at age 55 - Regulation 30(8)**

Decide whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age.

Approval was made to not to waive any actuarial reduction on benefits which a member voluntarily draws before normal pension age.

### **Switching on the Rule of 85 - Transitional Provision Schedule 2, paragraph 2(2)**

Decide whether, to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.

Approval was made to not to switch on the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.

### **Compassionate Grounds - Transitional Provision 3(1), Transitional Provision Schedule 2, paragraph 2(1) and 2(2), B30(5) and B30A(5)**

Decide whether to waive any actuarial reduction on pre and/or post April 2014 benefits paid early on compassionate grounds.

Approval was made to continue to take cases to the Council in order for it to consider whether an actuarial reduction is appropriate.

### **Additional Pension - Regulation 31**

Whether to grant additional pension to an active member or within six months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a.)

Approval was made to not to grant any additional pension to an active member or within six months of ceasing to be an active member by reason of redundancy or business efficiency.

## **Discretions in relation to scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014**

### **Augmented Pension - Regulation B12**

Decide whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31 March 2014, to augment membership (by up to 10 years). This resolution has to be made within six months of leaving, so effectively this discretion is spent after 30 September 2014.

Approval was made not to grant any augmentation to a member leaving on the grounds of redundancy or business efficiency.

### **Early Payment of Deferred Benefits - Regulation B30(2)**

Whether to grant application for the early payment of deferred benefits on or after age 55 and before age 60.

Approval was made to only grant application for the early release of deferred benefits on or after age 55 and before age 60 where there is no cost to the council.

### **Compassionate Grounds - Regulation 30(5)**

Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30

Approval was made to continue to take cases to the Council in order for it to consider whether an actuarial reduction is appropriate.

### **Suspended Tier 3 Ill Health - Regulation 30A(3)**

Whether to grant an application for early payment of a suspended tier three ill health pension on or after age 55 and before age 60.

Approval was made to grant an application for early payment of a suspended tier three ill health pension on or after age 55 and before age 60, where there is no cost to the council.

### **Compassionate Grounds - Regulation 30A(5)**

Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A.



Approval was made to continue to take cases to the Council in order for it to consider whether an actuarial reduction is appropriate.

## **Discretions in relation to any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008**

### **Early Payment - Regulation 31(2)**

Whether to grant application from a post 31 March 1998/pre 1 April 2008 leaver for early payment of benefits on or after age 50/55 and before age 60.

Approval was made to grant an application from a post 31 March 1998/pre 1 April 2008 leaver for early payment of benefits on or after age 50/55 and before age 60, where there is no cost to the council.

### **Compassionate Grounds - Regulation 31(5)**

Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31 March 1998/pre 1 April 2008 leaver.

Approval was made to continue to take cases to the Council in order for it to consider whether an actuarial reduction is appropriate.

### **Optant Out Payments - Regulation 31(7)**

Decide whether pre 1 April 2008 employee optant outs only get benefits paid from normal retirement date (NRD) if employer agrees.

Approval was made to allow pre 1 April 2008 employee optant outs to only get benefits paid from normal retirement date (NRD).

### **Voluntary Early Retirement (VER), Voluntary Redundancy (VR), Flexible Retirement Workforce Reduction**

VER, VR and flexible retirement workforce reduction schemes are all currently under review and details will follow once these are finalised

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)
<b><u>Discretions relating to current contributing employees and leavers after 31/03/2014</u></b>					
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.	✓	
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	✓	
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.	✓	

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.	✓	
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.	✓	
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.	✓	
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.	✓	
<b><u>Discretions relating to leavers 01/04/2008 to 31/03/2014:</u></b>					
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.	✓	

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, 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.	✓	
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.	✓	
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.	✓	
<b><u>Discretions relating to leavers 01/04/1998 to 31/03/2008 and councillors:</u></b>					
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.	✓	
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.	✓	
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.	✓	

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)
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)	✓	
<b><u>Discretions relating to leavers before 01/04/1998:</u></b>					
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.	✓	

\* 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: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Job Title: \_\_\_\_\_

Date: \_\_\_\_\_

\* 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):

<b>Decision Maker Job Title or name of “Group” responsible</b>	<b>Name (if individuals)</b>
Ashbourne Town Council	

### **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).