

# **SOUTH HAMS DISTRICT COUNCIL**

## **FLEXIBLE RETIREMENT POLICY**

### **1 INTRODUCTION**

- 1.1 Under the Local Government Pension Scheme Regulations 2008, South Hams District Council has been able to introduce Flexible Retirement.
- 1.2 This policy applies to all employees who are in the Local Government Pension Scheme (LGPS), have been a member for at least 3 months or have transferred from another pension scheme, and are aged 55 or over, with effect from 1.4.08 (except those employees who are in the pension scheme on 31.3.08 and who make a request before 31.3.2010, can benefit as if the age of 50 were substituted)
- 1.3 With employers consent, the employee is able to reduce their working hours and/or move to a position on a lower grade and/or release pension benefits, without leaving their employment.
- 1.4 Pension benefits may be reduced where these benefits are released before the age of 65 by an actuarial reduction. Any cost of actuarial reduction will be borne by the employee.
- 1.5 An estimate of pension benefits will be produced for each individual, before the final decision is made on whether or not to allow flexible retirement.
- 1.6 Formal flexible retirement requests will be considered by SMT before final approval.
- 1.7 Flexible retirement will be subject to individual negotiation. Whilst the Council is committed to providing a balance between employees' professional and personal lives, this must be considered alongside the council's duty to maintain service delivery.

### **2 PURPOSE**

- 2.1 This policy has been developed in line with the Local Government Pension Scheme. It is intended to meet the requirements of the Employment Equality (Age) Regulations 2006. This policy will not discriminate against any employee regardless of race or ethnicity, disability, gender, marital status, or sexual orientation.
- 2.2 It may provide an opportunity for employees, providing they meet the criteria, to make changes to their working lives, whilst enabling the Council to retain valuable skills and experience.

- 2.3 Employees may request a reduction in hours or to move to a lower graded post within the Council.

### **3. PRINCIPLES**

- 3.1 It is the employee's responsibility to apply in writing for possible flexible retirement. It is recognised that making choices about pensions is a complicated and difficult decision for the employee.
- 3.2 Requests for flexible retirement will be considered on:
- A reduction of hours and/or grade, without the release of benefits or
  - An appointment to a different post within South Hams District Council on reduced hours and/or grade, with or without the release of pension benefits.
- This would be subject to the Council's normal recruitment and selection procedure.
- 3.3 Flexible Retirement will be subject to:
- A reduction in salary similar to the level of pension to be received, such that an employee's new pay plus pension is not significantly more than they received prior to flexible retirement
  - A minimum period of continuing employment for 12 months in the reduced grade and/or hours.
- 3.4 Applications for Flexible Retirement can only be made once in every 12 calendar months.
- 3.5 All other conditions of service, for example annual leave entitlement, will be recalculated on a pro rata basis to take account of any reduction of hours.
- 3.6 Further pension benefits can be accrued for the employment period after flexible retirement has been approved. Where the employee wishes to reduce hours and receive benefits but not continue to contribute to the Local Government Pension Scheme, the employee must make this clear in the written formal request. A refund of contributions will not be possible at a later date.

### **4 PROCEDURE**

- 4.1 Employees have the right to be accompanied by a trade union representative or a workplace colleague (not acting in a legal capacity) at any stage in the procedure. The companion can address the meeting or confer with the employee during it.

## **The Application Process**

- 4.2 A written Flexible Retirement Request (Appendix 2) must be made by the employee
- 4.3 The request must be signed, dated and include details of any previous applications.
- 4.4 The request must contain:
  - The desired change in working pattern (ie reduction in hours)
  - What impact the change in working pattern will have on the service delivery
  - What impact the change in working pattern will have on colleagues;
  - A proposal for addressing any impact
  - How the work will be managed to ensure there is no loss of efficiency
  - Anticipated start date for the new working pattern
  - Whether there have been previous requests for flexible retirement.
- 4.5 The application should be submitted to the Line Manager who will ensure that a meeting is held within 28 calendar days of the date on which the application is made.
- 4.6 Those present at the meeting will be the Line Manager and if appropriate, the Head of Service, the employee making the application and the employee's representative, if required.
- 4.7 If the Line Manager or Head of Service is on leave at the time of the application, the timing of the meeting will be extended for 28 calendar days from the date of their return.
- 4.8 The purpose of the meeting will be to discuss fully the proposal along with the impact on the service.
- 4.9 If an agreement is reached to take the proposal further, the Line Manager will request in writing that Payroll obtain pension figures.
- 4.10 Payroll will arrange for the estimate of pension within 14 calendar days from the receipt of the request.
- 4.11 The employee will be given 14 calendar days from their receipt of the information to consider. They may wish to seek advice from an independent financial advisor.
- 4.12 Once confirmation has been received from the employee, the Line Manager must pass this information to the Head of Service, who will arrange for an item to be placed on the next SMT agenda and provide relevant information regarding the request.

- 4.13 If agreement cannot be reached any one of the participants can request Personnel involvement, setting out in writing the reasons for requesting such an involvement.
- 4.14 Personnel will facilitate a further meeting with all parties within 14 calendar days from the receipt of the request with the aim of reaching an agreement.
- 4.15 Should it be agreed not to take the proposal further Personnel will write to the employee within 7 calendar days, setting out the reasons for refusing the request.
- 4.16 If the proposal is agreed, steps 4.10 to 4.12 will apply.

**NB: If there is a cost to the Council, the flexible retirement request will not proceed.**

## **5 CONFIRMATION OF DECISION**

### **Approval**

- 5.1 Should SMT approve the request the employee will receive a contract of employment confirming the:
- Start date of the new flexible retirement employment contract
  - The revised working hours and/or grade plus the working pattern
  - Changes to any other terms and conditions of employment (example pro rata holiday entitlement).

### **Refusal**

- 5.2 Should SMT refuse the request Personnel will advise the employee in writing as soon as possible, setting out the reason for refusal. A copy will also be given to the Line Manager and Head of Service.
- 5.3 The employee may appeal against the decision reached, within 14 calendar days of the date of the written decision.
- 5.4 The appeal must be made in writing and must clearly specify the grounds on which the appeal is being made. It should be signed, dated and sent to the Chief Executive.
- 5.5 The Chief Executive will arrange for a member of SMT to hear the appeal within 14 calendar days. The employee may be accompanied by a work colleague or a Council Trade Union representative.
- 5.6 South Hams District Council reserves the right to uphold the appeal and should this be the case the employee will be notified in writing.

- 5.7 The Personnel Manager will ensure that the employee is notified of the appeal decision within 14 calendar days.
- 5.8 The appeal notification must be in writing and will clearly specify the contract variation or the grounds for dismissal of the appeal. It will be signed and dated by the member of SMT who heard the appeal.

**NB All decisions reached will be presented to SMT for final approval before the employee receives formal notification.**

- 5.9 Any agreed flexible retirement arrangements will be permanent. Any further application for change can only be made for consideration after 12 months of the new arrangements taking effect.

## **6 GROUNDS FOR REFUSAL**

- 6.1 The application for flexible retirement can be refused for legitimate business reasons. The list of reasons is contained in the Employment Act.
- 6.2 Examples are listed below for information;
- The burden of additional costs
  - Detrimental effect on ability to meet customer demand
  - Inability to reorganize work among existing staff
  - Inability to recruit additional staff
  - Detrimental impact on quality
  - Detrimental impact on performance
  - Insufficiency of work during periods the employee proposes to work.
  - Planned structural changes
  - Such other grounds as specified by the regulations.

## **7 WITHDRAWAL OF APPLICATION**

- 7.1 South Hams District Council will treat the application as withdrawn if the employee;
- Indicates verbally or in writing that the application is withdrawn
  - Fails to attend a meeting more than once
  - Unreasonably refuses to provide relevant information.

**South Hams District Council aims to ensure equality of opportunity in the delivery of its policies, services and employment practices. South Hams District Council will challenge discrimination, and encourages other organisations within South Hams to act in accordance with Equality legislation.**

**If you require any help completing associated paperwork please contact Personnel and Payroll. Contact extensions 1154/1398**