



Frodsham Town Council
Retirements and Related Discretions Policy
[Pursuant to the LGPS Administration Regulations 2008 (Reg 66)]

1. Introduction

- 1.1. The new LGPS scheme, implemented on 1 April 2008, replaced the old scheme by introducing two new sets of regulations:
 - i. The Administration Regulations 2008, and
 - ii. The Benefits, Membership and Contributions Regulations 2007.
- 1.2. Part 7 of the Administration Regulations require employers and administering authorities to update their policy statements in line with the new regulations.
- 1.3. This policy establishes Frodsham Town Council's approach to early retirements, flexible retirements and other related discretions.

2. Applicable Legislation

- 2.1. This Policy is subject to the following Regulations:
 - i. Local Government Pension Scheme (Administration) Regulations 2008
 - ii. Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended)
 - iii. Local Government Pension Scheme (Transitional Provisions) Regulations 2008

3. Scope of the Policy

- 3.1. This policy applies to employees of FTC who are members of the LGPS.

4. Features of the Policy

- 4.1. The Policy takes into account:
 - i. *Funding*: The Council's need to control potential short-term and any recurring financial pressures arising from pensions-related discretions and its commitment to provide good quality services & value for money [*Financial Regulations*];
 - ii. *Workforce Needs*: Commitment to ensure that proper recognition is given to its employees for their work and contribution to the Council's work [*Pay Policy*]; and
 - iii. *Equality*: Current legislation (eg on age discrimination & equal pay)

5. Default Retirement Age

- 5.1. The Council's normal retirement age is 65 years. Employees may, however, apply to continue in employment past the normal retirement age.
- 5.2. On reaching the age of 65 years, employees can retire and have immediate access to a lump sum and annual pension benefits based upon qualifying service without abatement subject to the LGPS.

6. Flexible Retirement [*Regulation 18 of the Benefits, Membership and Contributions Regulations 2007*]

- 6.1. The Regulations provide for employees up to the age of 75 to have immediate access to a lump sum and annual pension benefits whilst remaining at work
- 6.2. Criteria for Flexible Retirement: To be eligible for benefits, the employee must
 - i. Be over 55 years of age;
 - ii. Have been a member of LGPS for three months; and
 - iii. Transfer to a post at a lower grade and/or reduced contractual hours.
- 6.3. Where Flexible Retirement is agreed, employment is considered to be continuous for the purpose of access to pension benefits.
- 6.4. Benefits are actuarially reduced unless the member is in the protected "85 year rule" group.
- 6.5. The employer may choose to waive the actuarial reduction in whole or part. Any cost for paying unreduced benefits (fund strain) has to be paid to the pension fund.

7. Early Retirement [*Regulation 19 of the Benefits, Membership and Contributions Regulations 2007 and the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006*]

- 7.1. Where early retirement is requested by an employee the following criteria will apply:
 - i. The employee must be 55 years or over of age;
 - ii. The employee must have completed at least three months pensionable service with the Council;
 - iii. The employee will be entitled to the immediate payment of their pension benefits.
- 7.2. Where early retirement is proposed by FTC on grounds of improvement of efficiency/effectiveness of a post:

- i. The employee will be entitled to the immediate payment of their benefits, and
- ii. The Council will exercise its discretion under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 to make a compensatory payment of up to a maximum of 30 weeks pay (based on statutory redundancy formula).

8. Retirement on Grounds of Ill Health [*Regulation 20 of the Benefits, Membership and Contributions Regulations 2007 and subject to Disability Discrimination Act, 1995*]

- 8.1. In considering applications for retirement on grounds of ill health, FTC will seek advice from the Occupational Health Service and endeavour to make adjustments to enable the employee to continue in employment with the Council.
- 8.2. If efforts to explore alternatives do not succeed, FTC will seek certification by an Independent Registered Medical Practitioner (IRMP) approved by the pension fund. The IRMP must be satisfied that the applicant is permanently incapable of carrying out the duties for which they are employed and have a reduced likelihood of obtaining gainful employment before age 65.
- 8.3. FTC will determine the level of extra service based on the following criteria:
 - i. Tier 1 (Employee has no reasonable prospect of obtaining gainful employment before the age of 65): Benefits will be enhanced by 100% of prospective service to age 65.
 - ii. Tier 2 (Employee cannot obtain gainful employment within 3 years but is likely to do so before the age of 65): Benefits will be enhanced by 25% of prospective service to age 65.
 - iii. Tier 3 (Employee is likely to be able to obtain gainful employment within 3 years): Short term accrued benefits are payable without enhancements.
 - FTC will write to the retiree after 18 months to verify his/her employment status.
 - Pension will be suspended if the retiree is employed and any overpayment recovered.
 - FTC will review the case 3 years after retirement in consultation with a qualified IRMP to determine whether payments should be stopped or the status upgraded to tier two.

9. Disclosure of Council's Decisions

- 9.1. FTC will disclose all decisions concerning pension scheme members, together with any other information required to discharge pension scheme functions to Cheshire Pension Fund. [*Administration Regulation 64*]

10. Appeals Against Council's Decisions

- 10.1. FTC will endeavour to ensure that the Council's discretionary powers are not "fettered". Any employee, provided he/she is a member of the Scheme, dissatisfied by the exercise of a discretionary power can appeal against the Council's decision.
- 10.2. *The Appeal Process* Appeals against any exercise of the discretions contained in this policy will be dealt with via the LGPS Internal Dispute Resolution Procedure (Copy available from the Town Council Office).
- 10.3. *First Stage of Complaint (The person specified by the body that took the decision)*: In the event of the complaint being against a decision made by FTC, it will be referred to the Chair of the Finance, Personnel & General Purposes Committee in the first instance; or the Mayor if the decision-making involved the Chair of FP&GPC.

11. The Policy

- 11.1. The tables at Annex 1 outline FTC's Policy on discretions as per requirement of LGPS Administration Regulations 2008 (Reg 66).

12. Reviewing the Policy

- 12.1. FTC will update/review the Discretions Policy when such action is indicated by:
 - i. Monitoring of implementation and impact on employees; and
 - ii. Change in legislation.
- 12.2. FTC may seek guidance from its legal advisor and will consult with its employees in any review of the Discretions Policy.

Annex 1 – Table 1

Discretions For Which A Published Policy Statement Is Mandatory [List Published By Cheshire Pension Fund (CPF)]			
Discretion	Regulation ¹	FTC Policy	
		Applies to	Council's Approach
Augmentation: Power to increase total membership of active members	BR12 AR40	All Scheme members	FTC will not award augmentation
Power to award additional pension (<i>New Discretion</i>)	BR13 AR40	All Scheme members	FTC will not award additional pension
Flexible Retirement	BR18	Scheme members over the age 55 years	FTC will allow employees to take flexible retirement but benefits will be actuarially reduced unless the member is in the protected "85 year rule" group. FTC will have regard to it's obligations in providing value for money and maintaining an efficient and effective service for the town community.
Choice of early payment of pension	BR30	Scheme members who cease employment after age 55 years & before age 60 years, and who elect for early payment of their retirement benefits including former scheme members with deferred benefits	FTC will consider each case on its merits and will: <ul style="list-style-type: none"> ▪ Allow early payment of benefits where there is a clear financial or operational advantage to the Council ▪ Consider waiving any actuarial reduction on compassionate grounds²
Contributions Payable by active members (<i>New Discretion</i>)	BR3	All Scheme members	"FTC will re-assess the contribution banding immediately an employee's pay changes, and annually on 1 st April each year." [<i>Pay Policy Para 8.2</i>]
Re-employed & re-joining deferred members ³	AR16	Scheme members who wish to become active after a period of being deferred members	FTC will not allow extension of the 12-month period from the date of the deferred member becoming an active member.
Applications to make absence contributions	AR22	Scheme members who, following a period of unpaid absence, wish to make voluntary contributions to the Scheme	FTC will extend the period during which a member can apply in writing to pay voluntary contributions from 36 days to six calendar months. No extension beyond 6 calendar months will be granted.
Inward transfers of pension rights	AR83	All Scheme members	FTC will not extend normal time limit for acceptance of a transfer value beyond 12-months from joining the LGPS
Final Pay: Fees	BR11	Not applicable	FTC does not employ any variable-time employees whose pensionable pay includes fees
Early Leavers: Ill health	BR20	All Scheme members	FTC will seek advice from Occupational Health Service & certification by a qualified IRMP (see para 7 above). This includes the statutory guidance provided by CLG.
Early Payment of Pension: Ill health	BR31	All Scheme members	

¹ AR = Administration Regulation
BR = Benefits, Membership and Contributions Regulation

² 'Compassionate grounds' is not defined in the regulations. The Council will, therefore, apply the following definition:
"Compassionate Grounds: Where a scheme member is required to take full-time care of a dependant sick relative who has a permanent long-term medical condition and is, therefore, not available to take up gainful employment resulting in financial hardship"

³ 'Deferred Members': Ex-employees and employees who have stopped paying contributions to LGPS

Annex 1 – Table 2

Discretions For Which A Published Policy Statement Is Not Mandatory [Extracted From List Published by Local Government Employers (LGE)]		
Discretion	Regulation ¹	FTC Policy
To whom to offer membership of the LGPS (designation bodies)	AR4 AR8	FTC will offer membership to all its employees [<i>Pay Policy Para 8.1</i>]
Specify in an employee's contract what payments or benefits, other than those specified in B4 (1) (a) and not otherwise precluded by B4 (2) or (3) are to be pensionable	BR4	FTC will specify relevant pensionable payments in its employees' contracts of employment
Shared Cost Additional Voluntary Contribution	BR15 AR25	FTC will not support SCAVS
Employer may deduct contributions from an employee's pay	AR45	FTC will exercise this discretion
Forfeiture of Pension Rights: Offence of a fraudulent character or grave misconduct unless the employer directs that a total or partial refund is to be made	AR47	FTC will consider each case on its merits
Contributions Equivalent Premium in excess of the Certified Amount recovered from a refund of contributions can be recovered from the Fund	AR49	FTC will consider each case on its merits
Whether to extend the 6-month period to lodge a Stage 1 Internal Dispute Resolution Process appeal	AR58	FTC will not extend the 6-month period <i>unless</i> the appeal relates to access to pension benefits on the grounds of ill-health or other extenuating circumstances that may justify an extension.
◦ Whether to apply to the Secretary of State for a forfeiture certificate (where a member is convicted of a relevant offence) ◦ Where a forfeiture certificate is issued, whether to direct that benefits are to be forfeited	AR72	FTC will consider each case on its merits
Where a forfeiture certificate is issued, whether to direct interim payments out of the Fund until a decision is taken to apply the certificate or to pay benefits	AR73	FTC will consider each case on its merits
Recovery from Fund of any monetary obligation or, if less, the value of the member's benefits (other than transferred-in pension rights) where the obligation was incurred as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as result of which the person has left the employment	AR74	FTC will consider each case on its merits
Recovery from Fund of any financial loss caused by fraudulent offence or grave misconduct of employee (who has left because of that) or amount of refund – if less	AR76	FTC will consider each case on its merits

¹ AR = Administration Regulation
BR = Benefits, Membership and Contributions Regulation
