

GWENT POLICE
FLEXIBLE RETIREMENT FOR POLICE STAFF
PROCEDURE



Heddlu
Gwent
Police

SUMMARY

STAFF ARE REMINDED THAT THIS SUMMARY IS STRICTLY AN OVERVIEW OF THE KEY ELEMENTS OF THE DOCUMENT AND FOR A MORE COMPREHENSIVE EXPLANATION THE WHOLE OF THE DOCUMENT SHOULD BE READ IN PARTICULAR SECTION 1.2

Changes made to the Local Government Pension Scheme in April 2006 introduced the concept of Flexible Retirement. The Flexible Retirement for Police Staff procedure is a discretionary procedure and it enables police staff employees who are Local Government Pension Scheme members to request a reduction in hours or grade in order to access their pension benefits. The procedure does not cover reductions in grade as a result of job evaluation or organisational change.

PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UP TO DATE VERSION CAN BE FOUND ON THE INTRANET POLICIES SITE.

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1.0 Guidance, Procedures,

1.1 Risk Assessments and Health and Safety Considerations

The Gwent Police Service Dynamic Assessment should be applied as necessary. A training package in the use of this risk assessment will be provided to all police staff if required.

1.2 Specific Instructions, methods, practices and procedures, roles responsibilities.

1.2.1 With the consent of Gwent Police, an employee who has reached 55 years of age and who has a least 3 months pensionable service may apply for flexible retirement. Flexible retirement involves an employee either working at a lower grade or reducing their working hours whilst simultaneously drawing on their accrued pension benefits. Employees who are granted flexible retirement can continue in employment up to the day before their 75th birthday. During this period they can continue to make contributions into the LGPS and hence accrue further pension benefits.

1.2.2 If a police staff employee wishes to apply for Flexible Retirement, it is advisable that he/she obtain details of their pension figures via the Payroll Section, to ensure that it is an option that they wish to pursue. It is the employee's responsibility to look into the financial implications of how flexible retirement will affect them and he/she may wish to obtain independent financial advice.

1.2.3 Having obtained their pension figures, any police staff employee wishing to pursue Flexible Retirement and work reduced hours or at a lower grade, must complete the Flexible Retirement application form and submit it to their line manager.

Eligibility

1.2.4 Any application for Flexible Retirement will be treated on its own merits and on the needs of the service. Reasons for refusal might include:

- Burden of additional costs (including the cost of pension fund strain as a result of the payment of the early pension)
- Inability to re-organise work amongst existing staff
- Detrimental impact on service quality or performance
- Inability to recruit additional staff e.g. to accommodate job share.

1.2.5 All requests for Flexible Retirement are subject to the full costs being reported and agreed by the Assistant/Deputy Chief Constable in consultation with the Director of Resources before approval.

1.2.6 With any of the options available under Flexible Retirement, employees can offset any reduction in benefits by purchasing added years, paying additional voluntary contributions (AVC's), or by paying into a concurrent pension arrangement. Employees wishing to find more about these options should contact the Pensions section at Torfaen County Borough Council. The e-mail address is pensions@torfaen.gov.uk

1.2.7 If an employee is not a member of the LGPS this procedure will not apply but consideration may be given to flexible working. Such options may include:

- Part time working
- Job Sharing
- Term Time Working
- Compressed hours

1.2.8 Reducing the hours worked has always been an option for employees. Although not strictly Flexible Retirement, as employees can apply at any age, it is another option that may be applicable dependent on individual circumstances. LGPS benefits are based on the full time equivalent rate of pay. Employees continue to build up pension entitlement with service in a part time role being applied on a pro-rata basis e.g. 2 years worked at half time equals 1 year's pensionable service. Service accrued before the reduction in hours is unaffected.

Flexible retirement – move to lower graded post/reduction in hours

1.2.9 Normally, local government pensions are based on the best year of the last 3 years of pensionable earnings. However, an employee can voluntarily request to move to a lower graded post as part of a flexible retirement package. If the request is successful the immediate pension benefits of the higher graded post would be paid. New pension benefits would accrue in respect of the new post and paid at the date of retirement for that post.

1.2.10 The decision to let an employee take Flexible Retirement is discretionary and must satisfy the following conditions:

- The additional costs of letting an employee receive pension benefits early will be met by the employing directorate of original post. However see 4.1 regarding financial implications.
- Gwent Police agreeing that there is no detrimental effect on service delivery.
- The new post must be lower graded and not have any conflict of interest with the current post OR the reduction in hours must be a minimum of 20% reduction.
- The appointment to the new post will be subject to Gwent Police

normal recruitment procedures.

- The ability to recruit a job share partner, if applicable
- The employee must have a satisfactory attendance record (also taking into account any disability)
- The employee must not be subject of a current disciplinary investigation or any current disciplinary sanctions

Once a flexible retirement arrangement has been agreed, the Force would not expect an employee to apply for an increase in hours or a higher graded post, unless there is a significant change in his/her personal circumstances.

Retire and Return to Work

1.2.11 Employees who retire, take pension benefits and return to work can contribute to an additional pension in the LGPS provided that, at least one calendar month has passed from the date of retirement to the date of returning to work.

Pension Implications

1.2.12 If an employee joined the pension scheme after 30th September 2006 and takes flexible retirement before age 65 the retirement benefits will be reduced for early payment. If an employee contributed to the scheme on 30th September 2006 some or all of the retirement benefits could be protected from reduction if the criteria for protection are met.

1.2.13 This procedure is intended to provide guidance, it is not considered professional pension advice or as a substitute for such advice, if any employee is considering Flexible Retirement as an option they are strongly urged to seek financial advice. **NB. Before making any decisions employees are advised to contact the Pensions Section, Torfaen County Borough Council regarding their own personal circumstances.**

Applying for Flexible Retirement

1.2.14 In order to make a formal application under this procedure, an employee must complete the Flexible Retirement Application Form shown as **Appendix 1**. Section A of the form must be completed and then submitted to the employee's line manager. A simple guide to the procedure can be seen in **Appendix 2 – Flowchart**.

1.2.15 If an employee fails to provide all the required information as set out in Section A, the line manager must ask the employee to complete the relevant sections and re-submit the application when complete.

1.2.16 The line manager will complete Section B and obtain costings of the flexible retirement from the Finance Department. He/she must also provide supporting information as outlined in the application form under 'Selection Criteria' before forwarding the application to the Service Area / departmental head for comment in Section C. The HR Manager will complete section D before forwarding the application to the Assistant/Deputy Chief Constable who will consult with the Director of Resources before making his/her decision.

Right of Accompaniment

1.2.17 Applicants have the right to be accompanied by their Trade Union Representative or work colleague at any meetings arranged to discuss the application or subsequent appeal. The person accompanying the applicant can address the meeting or confer with the applicant during the meeting. The person accompanying the applicant is not allowed to answer questions on the applicant's behalf.

1.2.18 If the person accompanying the applicant is unable to attend the meeting, the applicant should re-arrange the meeting for a date within seven days of the originally proposed time, ensuring the new time is convenient to all parties; or, consider an alternative individual to accompany the applicant to the meeting.

When a request is accepted

1.2.19 HR staff will notify the employee of the decision in writing. The HR Adviser will amend the employee's terms and conditions accordingly in writing.

When a request is declined

1.2.20 When a request for flexible retirement is turned down, the reasons must be given in writing by the HR Adviser. The letter will include an offer of appeal to the Police Authority, which must be submitted within 10 days of receiving notification of the refusal.

2.0 Procedure Statement & Intentions

2.1 Principle & Scope of Procedure:

To operate Flexible Retirement where a police staff employee draws their pension and carries on working, either at a lower grade or on reduced hours, with the Force's consent. It is available to Local Government Pension Scheme (LGPS) members who are aged 55 or over. Subject to necessary approvals, such employees will be able to draw their local government pension whilst continuing to work. In addition, they can continue to make further contributions into the Local Government Pension Scheme until the day before their 75th

birthday, building up further benefits in the scheme.

2.2 Aims of Procedure

To provide police staff employees with options and flexibility in relation to the period before they choose to retire.

3. 0 Introduction

3.1 Origins/Background Information

Regulation 35(1) of the Local Government Pension Scheme 1997 and section 17 of the Local Government Pension Scheme (Amendment) Regulations 2006 provide for the concept of flexible retirement. Local authorities are required to formulate a policy concerning this issue.

3.2 The Legal Basis and Legitimate Aims

Employment Rights Act 1996
Employment Act 2000
Sex Discrimination Act 1975
Race Relations Act 1976
Race Relations (Amendment) Act 2000
Human Rights Act 1998
Health and Safety at Work Act 1974
Trade Union and Labour Relations (Consolidation) Act 1992 – Section 188 (as amended)
The Collective Redundancies and Transfer of Undertakings (Amendment) Regulations 1999
Redundancy Payments (Local Government) (Modification) Order 1983
Local Government Compensation for Redundancy and Premature Retirement Regulations 1984
Local Government (Compensation) for Redundancy (Amended) Regulations 1994.
Local Government Pension Regulations 1997
Local Government Pension Scheme (Amendment) Regulations 2006
Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007
Local Government Pension Scheme (Administration) Regulations 2008

4.0 Implications of the Procedure

4.1 Financial Implications

There may be additional capital costs to the force should an employee under age

60 request flexible retirement. If the proposed flexible retirement were to result in a capital cost to the authority, approval will not be granted to an application unless there are exceptional circumstances.

4.2 Human Resources/Training

If an employee's request for flexible retirement is approved, there may be additional HR/Training issues involved in the recruitment of a job share partner or filling a vacancy as a result of a reduction in hours or grade.

4.3 Strategic Plan Links

People are the principle means by which we can deliver our aim of becoming the safest place to live, work and visit .

4.4 Diversity

In the application of this procedure, consideration must be given to the possible social impact of this procedure on the community. An equality impact assessment is a requirement to ensure all issues are considered. This is also a requirement of the Gwent Police Race Equality Scheme. Equality impact assessments must be undertaken before and after the application of this procedure.

Under the Race Relations (Amendment) Act 2000 Gwent Police is required to undertake proactive work to meet the General Duty of :

- Eliminating unlawful racial discrimination;
- Promoting equality of opportunity;
- Promoting good relations between people of different ethnic groups.

The General Duty is outlined in Section 71 (1) of the Act, and must be met **in its entirety**.

Monitoring must be undertaken to ensure that there is no adverse impact either positive or negative upon any one particular social group or individual. The results of monitoring must be analysed and be available for publication, and appropriate changes made.

All individuals using this procedure must be aware of the potential impact that this procedure has on the individuals to whom it is applied. The following strands of diversity and their corresponding pieces of legislation must be considered when answering these questions.

- Welsh Language Act 1993
- Race – Race Relations Act 1976
- Race Relations Amendment Act 2000

- Disability - Disability Discrimination Act 1995
- Gender – Sexual Discrimination Act 1975
- Equal Pay Act 1970
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Equality Act 2010

4.5 Consultations

Police Authority
 ACPO
 Service Area/Departmental Heads
 Police Federation
 Superintendents Association
 UNISON
 Gwent Police Women’s Association
 Gwent Black Police Association
 Gwent Police Disability Network
 Freedom of Information Officer
 Data Protection Officer
 Information Security Manager
 Director of Resources
 Pensions Department Torfaen County Borough Council

5.0 Human Rights Consideration Certification

5.1 Auditing for potential interference and discrimination

The articles of the Human Rights Act 1998 may be engaged are Articles 8, Article 9, Article 10, Article 11 and 14.

In the application of this procedure the Force will not discriminate against any persons regardless of sex, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status as defined under article 14 of the European Convention on Human Rights.

5.2 Rights, Publication, Audit and Inspection

Q1. What is the legal basis for your procedure?

Section 3.2

Q2. Does the procedure provide details of what could be considered as a legitimate aim for the potential interference with an individual's rights, through the exercising of this procedure? Restrictions on the rights protected in articles 8 - 11 in the Human Rights Act will be compatible with the convention only if they are aimed at protecting one of the interests listed in articles 8(2), 9(2), 10(2) and 11(2) respectively. The interest protected are broadly the same and generally

include:

1. National Security
2. Public Safety
3. The protection of health or morals
4. The prevention of disorder or crime; and
5. The protection of the rights of others.

Q3. How are staff made aware of the clearly defined decision making processes?

Decision making processes will be outlined at section 1.2.

Q4. What are the minimum standards of documentation in relation to decision making?

As outlined at section 1.2.

Q5. How does your procedure provide guidance on the justification for actions and assessment as to whether the action is the least intrusive?

As outlined at section 1.2.

5.3 Rights, Publication, Audit and Inspection

Q1. What right to make representation and appeal process are available?

The decision as to whether or not an individual can be granted flexible retirement is taken by the appropriate Chief Officer. There is a right to appeal against a decision to grant flexible retirement to the Police Authority.

Q2. Apart from the Gwent Police Publication Scheme how is the procedure made available to the public?

This procedure will be published on the Force intranet site.

Q3. What internal review and audit process is in place or is proposed?

This procedure has been drafted in accordance with the principles and rights contained within the Human Rights Act 1998. It will be reviewed and continuously assessed in the light of any relevant changes and developments in the application of the Act.

Q4. What external independent scrutiny is recommended?

Police Authority Diversity Committee, HMIC.

5.4 Certification of Compliance

Consideration has been given to the compatibility of this procedure and related policies and procedures with the Human Rights Act; with particular reference to the legal basis of its precepts: the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making process's and outcomes of actions.

5.5 Legal Vetting

There are no issues in this procedure under ECHR which have not been resolved.

This procedure has been vetted.

6.0 Promotion and Distribution

Promotion of the procedure will be through inclusion on Force General Orders and the Force Intranet facility.

7.0 Monitoring / Review

The Human Resources Department will monitor this procedure by dip sampling. The principles of the Race Relations Amendment Act must be adhered to in that any recognisable adverse impact should be identified and appropriate action taken.

8.0 Procedure Identification Page

This procedure has been drafted in accordance with the principles of Human Rights Legislation. Public disclosure is approved.

Procedure Title: Flexible Retirement for Police Staff

Reference: 102/10 b issue 2

Underlying Document: Equal Opportunities Policy, Race Equality Scheme, Local Government Pension Scheme 1997

Procedure Ownership: Head of People Services

Portfolio/Business Area Owner: Chief Officer Operations Support

Procedure Written By: HR Manager

Department Responsible: People Services

Procedure Lead: HR Manager

Links to other Policies: Fairness at Work, Equal Opportunities, Race Equality Scheme, Age Discrimination and Employment Matters, Police Authority Policy Statement of Determinations under the Local Government Pension Scheme Regulations 1997.

Procedure Implementation Date: Procedure Approved PSG members 18th April 2008. Reviewed September 2010

Review Date: September 2012

SECTION A (continued)

SUPPORTING SELF-STATEMENT

Please attach separate sheet to summarise your ability to perform your current role, including relevant skills, knowledge. Please refer to the guidance notes before completing this section, to ensure that your application is complete.

SECTION B – to be completed by Applicant’s Line Manager

I have obtained the costings from the Finance Department which are attached. I recommend/do not recommend (delete as appropriate) that this employee’s application for flexible retirement should be approved.

Justification for decision (please refer to the guidance notes on completing this section):

Name:

Position:

Signed:..... **Date:**

SECTION C – to be endorsed by Service Area/ Dept Head

I recommend/do not recommend (delete as appropriate) that this employee’s application for flexible retirement should be approved, and confirm that the workforce planning and diversity implications of this decision have been carefully considered, along with the potential implications for the morale and career development prospects of other police staff employees.

Comments

Name:

Position:

Signed:..... **Date:**

SECTION D – to be completed by HR Manager

I recommend/do not recommend (delete as appropriate) that this employee’s application for flexible retirement should be approved.

Comments

Name:

Position:

Signed:..... **Date:**

SECTION E – to be completed by Assistant/Deputy Chief Constable, having consulted with the Director of Resources.

I have decided that this employee’s application for flexible retirement will / will not* be approved (*delete as appropriate) .

Comments

Name:

Position:

Signed:..... **Date:**

SECTION F – to be completed by HR upon receipt by HR Manager

Have the following been completed/attached and submitted correctly (please tick)?

- Application Form (incl. supporting documents)
- Agreement to Participate in the Flexible Retirement Scheme
- Equal Opportunities Monitoring Form
- Costings Breakdown (supplied by Finance Dept)

To be completed by HR upon receipt of ACC/DCC’s final decision

Employee’s application approved? Yes No

Requested start date of flexible retirement / /

Details of reduction in hours/grade :

END OF FORM

AGREEMENT TO PARTICIPATE IN THE FLEXIBLE RETIREMENT SCHEME

DECLARATION – please read carefully

I would like to be considered for Flexible Retirement. I meet the criteria which are listed below:

- I have 3 months membership of the Local Government Pension Scheme
- My desired commencement date is 3 months hence
- I am aged 55 or over

I understand that the following are conditions of **applying** to undertake flexible retirement::

- Acceptance onto Flexible Retirement is not an automatic right and my application is subject to my acceptance of this agreement and its terms and conditions.
- I am aware of and understand the financial implications of my flexible retirement and that I have been advised of the need to take independent financial advice if I am in any doubt about these implications.
- In the event of my application being unsuccessful, I will have the right to appeal to the Police Authority, whose decision will be final.

Name:

Signed:.....**Date:**

.....

GUIDANCE NOTES ON COMPLETING AND SUBMITTING A FLEXIBLE RETIREMENT APPLICATION

COMPLETING THE FORM

SECTION A – to be completed by applicant on a separate sheet attached to the application form

Police staff applying for the Flexible Retirement Scheme are assessed in terms of their past performance and competence. Please note that employees will not be eligible for consideration if they have current disciplinary sanctions on file, or are facing conduct proceedings for serious breaches, or are subject to capability procedures. Employees must indicate their intention regarding reducing their hours (by a minimum of 20%) or their grade, in which case they must state the role for which they have applied or intend to apply.

Employees wishing to reduce their hours must stipulate:

- Their current working pattern (days/hours/times worked)
- The working pattern they would like to work in the future (days/times/hours worked)
- The date of commencement of the new working pattern
- How they think the change in working pattern will affect his/her work & colleagues
- How these changes could be dealt with

SECTION B – to be completed by Line Manager

The line manager's supporting statement should cover the following points:

- a clear outline of the role, within which the employee is to be retained
- confirm the employee's performance is satisfactory
- confirm the employee's attendance record is satisfactory (taking into account any disability related absences)
- where the individual stipulates a reduction in hours, the line manager must consider how the proposal can be accommodated, and discuss with the individual. Where the individual's original request can not be agreed, every effort must be made to negotiate alternative proposals.
- where the employee is under the age of 60, there may be a cost to the organisation which may be paid for by the employing Service Area /department and the line manager must state the way in which the employee's skills, experience and necessary competence help meet the force's key operational objectives through retention in this role. The line manager will be required to provide a breakdown of the associated costs as outlined in 'Costs' at the end of these guidance notes.

SECTION C – to be endorsed by Service Area/Dept Head or equivalent

The senior manager's statement should consider:

- the line manager's comments and any concerns regarding wider workforce implications of approval to the flexible working application (i.e., workforce planning, diversity, morale, career development implications)

SECTION D – to be endorsed by HR Manager

The recommendations from the line manager and Service Area/departmental head must be endorsed by the HR Manager.

SECTION E – to be completed by Chief Officer

The final decision regarding the flexible retirement application lies with the Assistant/Deputy Chief Constable, having consulted with the Director of Resources. He/she should approve only those applications for flexible retirement where they are fully satisfied, after considering the application form and supporting information, that the operational advantages for the force of retention outweigh any disadvantages. The length to which they go to justify their decision is at their discretion. However, if the application is rejected at this level, a more detailed justification may be necessary considering the potential appeal it may face.

APPEAL STAGE

In the event that an application for flexible retirement has been turned down, an employee may appeal to the Police Authority within 10 working days of being notified of the decision. A further appeal may be made to the police authority in line with section 5.3 of the Flexible Retirement procedure.

COSTS

There are higher costs associated with the retention of employees under the age of 60 since the Service Area will need to pay the costs associated with the flexible retirement to the pension fund. Where there are additional costs, the line manager will therefore be required to produce a detailed breakdown of the financial costs/savings involved in retaining the employee compared with the costs of promoting other staff and taking on a new recruit, including a further explanation/ justification if the retention involves a cost.

Once these issues have been considered, the completed application and all additional sheets will be sent to the Assistant/Deputy Chief Constable for approval. He/she must be satisfied that there is an operational need for the employee either because of a skills gap or because of a noticeable loss of effectiveness in performing specific and important Force tasks and will consult with the Director of Resources before making his/her decision.

Appendix 2

