



RETIREMENT AT  
BRIGHTON & HOVE  
PROCEDURES

# **Retirement at Brighton & Hove**

## **Procedures**

**January 2014**

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# The Procedures

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## Working beyond age 65

The government has announced that the default retirement age of 65 is to be phased out. From 1 October 2011 the compulsory retirement age is abolished. With effect from 1<sup>st</sup> April 2014 an individual's Normal Pension Age will be the date of their State Pension Age.

## Stopping work between the ages of 55 and 64

With effect from 1<sup>st</sup> April 2014 you have the right to retire at any time after your \*55<sup>th</sup> birthday provided that you have at least \*\*3 months membership of the local government pension scheme or you have transferred service into the scheme. You can make arrangements to leave your employment and start drawing your pension. As this is a voluntary resignation you will need to give the council contractual notice of your decision. It is good practice to give the council at least 4 months notice of your intention to retire to ensure that all of the arrangements to pay your pension promptly are in place with the Scheme Administrator. You may apply directly to the Scheme Administrator to find out what estimated benefits you may receive before making your decision.

The 85 year protection will not apply for benefits claimed between your 55<sup>th</sup> and 60<sup>th</sup> birthday. There is no option to apply for an enhanced pension for voluntary retirement after the age of 55.

Once you have made the decision to retire and notified the council then have a look at the section of these procedures on preparing for your retirement.

\*Please note that before 1<sup>st</sup> April 2014 this applies at any time after your 60<sup>th</sup> birthday.

\*\* If pension scheme membership commences after 1<sup>st</sup> April 2014 this will be 2 years' membership.

## Taking early retirement from age 55 or above where you need the council's consent

If you've been in the local government pension scheme for at least three months or have transferred service into the scheme then you can apply to take early retirement. This means that you can stop work and begin to draw your pension.

Early retirement from age 55 at the council's consent is entirely at the discretion of the council and this means that the council can say no. The council has decided that it will consider applications under this provision submitted on the grounds of compassion. This has tended to be in respect of those employees who have a medium to long-term caring commitment for a dependant with a chronic or terminal illness.

If you wish to make an application then please discuss with your manager and speak to the Pensions team to get an estimate of benefits and then complete form RT3 so that your request can be considered.

Your request will be considered by a Compensation Panel (\*). If it is approved then any actuarial reduction that would have applied will be waived on compassionate grounds.

If you want to continue working on a change your hours or grade resulting in a specified reduction in pay and also start to claim your pension benefits then this is a flexible retirement and you should refer to the relevant section of these procedures.

#### Appealing against the decision not to allow early retirement at the employer's consent

There is no right of appeal against this sort of decision and councillors are prohibited from considering grievances under discretionary compensation arrangements made under the Retirement at Brighton & Hove policy.

## **Retiring flexibly from age 55 or above**

Recent changes in the regulations that govern local authority pensions mean that the council has the facility to consider flexible retirement.

Flexible retirement at Brighton & Hove means that you can make a request to access your pension where you either:

- voluntarily and permanently reduce your weekly hours and/or take a lower graded post that results in a reduction in your contractual pay of at least one third, or
- you are declared at risk of redundancy, take a lower graded post and waive any pay protection under the Framework for Managing Change policy.

Although the legislation allows you to apply to draw less than 100% of your accrued pension benefits, this facility is currently not operational pending the issuing of guidance from the Government Actuary's Department.

The regulations allow you to make a request for flexible retirement if you have three months membership of the pension scheme or if you have transferred service into the scheme.

This is a discretionary facility which means the council could say no but the council will look favourably on requests where this meets the savings level for good business decisions, aids transfer of knowledge, succession planning, managing the transition to full retirement or is generally in the council's interests.

If you would like to apply for flexible retirement please contact the Pensions Team, Human Resources, 4<sup>th</sup> Floor, Kings House; Tel: 291348 or 291352.

Preferably at least four months' notice should be given to the Pensions Team before your intention to commence your flexible retirement. Whilst every effort will be made to process your application in a timely fashion no guarantee can be given to your eventual flexible retirement date, if agreed, particularly in cases where late notification is received by the Pensions Team.

An estimate of your pension benefits will be requested and forwarded to you. Upon confirmation of your wish to continue, the relevant costings will then be sent to your manager together with form RT4 which you will need to complete with them. A copy of form RT4 can be found in the standard letters section of these procedures.

In the form you will need to specify:

- the number of hours that you wish to work each week
- the grade of the job if you are looking for a job with less responsibility
- if you have been declared at risk of redundancy
- why you wish to make the request
- when you would like the flexible retirement to apply from

A flexible retirement will be a permanent change to your contract unless otherwise agreed.

If you get agreement to flexibly retire you must enter into a mutual agreement with the council to end your current contract. You will then be issued with a new contract on the terms agreed with your manager. (N.B. If you are reducing your hours in your current position then an amendment to contract only will be issued).

#### What will the manager think about when considering a request for flexible retirement?

When completing form RT4 with your manager please attach a copy of the estimate of the pension benefits that may be due to you should flexible retirement be approved. When received by the Pensions Team, the completed application form will be presented for approval from the Compensation Panel.

Managers can contact the Pensions Team as necessary for any assistance when completing the form.

Your manager will try to accommodate your request where possible and consider the following things:

- availability of work for less hours and/or at a lower grade
- feasibility of doing a particular job on less than full time hours
- operational implications of the proposed working arrangements
- service's financial position
- value for money
- need to retain skills and knowledge in the organisation
- impact the arrangement may have on further long-term recruitment to that post left vacant by retirement

It may be that you can negotiate on the proposed arrangement. If the initial request is difficult for your manager to accommodate then you can discuss alternatives that might be more manageable. Where there is a cost of granting the flexible retirement application then the budget saving should meet the criteria for good business decisions. The council's criteria for good business decisions is for services to aim to achieve a target level of annualised savings of 33.3% as recommended under the Audit Commission guidelines for assessing business cases.

When you complete the application form you will need to sign to confirm that you are aware of the key implications for possible reduction of your pension benefits for drawing them early, that you will not have the benefit of any protection under the '85 year' rule for future service, and any implications on accessing any additional pension provision you may have paid into.

After your manager has considered your request and sought approval then you will be notified of the decision as soon as practicable.

If your request is approved then arrangements will then be made for your contractual amendment to be actioned and for your pension to be put into payment.

#### Appealing against the decision not to allow you flexible retirement

If you are not allowed to retire flexibly, or the terms you are being offered are not what you want, then you may appeal against that decision. There is a special appeals process for this and councillors are prohibited from considering grievances under discretionary compensation arrangements made under the Retirement at Brighton & Hove policy.

You will need to appeal in writing within 7 calendar days of receiving the council's decision if you do not agree with the decision. An appeal meeting will then be arranged. You have the right to bring a representative to such a

meeting. A Human Resources officer will usually attend the meeting to advise the manager.

Following the appeal meeting the council will write to you with its final decision no more than 7 calendar days after the meeting.

### Flexible Retirement and the effects on your pension

When your flexible retirement has been approved then an implementation date will be agreed. You will then transfer onto your new contractual terms and the proportion of your pension benefits accrued to the date of your flexible retirement that you have requested to be paid will be put into payment. Your pension benefits may be actuarially reduced if you draw them early except if you are declared at risk of redundancy in which case all or part of the actuarial reduction may be waived on a case by case basis. You should confirm what estimated benefits you will receive before submitting an application so that you're aware of the financial impact.

There are some specific pension issues that you need to be aware of before deciding whether or not to apply for flexible retirement. You may accrue additional pension benefits in relation to your new contract but you should be aware that this additional service will not benefit from any '85 year' rule (#) protections that may have applied had you not taken flexible retirement. In addition, if you're buying added years in the pension scheme, buying additional pension through Additional Regular Contributions (ARC) or paying into a separate Additional Voluntary Contribution (AVC) scheme then you should speak to the Scheme Administrator to ensure you understand how this affects your personal position.

If you take flexible retirement then as you will remain in employment you become a re-employed pensioner. Normally there would be restrictions on what you could earn as a re-employed pensioner without it affecting your pension but this doesn't apply when you take flexible retirement provided that the re-employment is with the same employer unless you increase your pay above the limit of a permanent reduction of at least a third of your pay at the date of the agreed flexible retirement.

## **Early retirement from age 55 or above on efficiency or redundancy**

The council may need to make organisational change in order to provide services within defined budgets, where a service is no longer required or to generally operate in a way that proves to be more efficient. Where change is necessary then this will be managed under the council's Framework for Managing Change policy.

A decision to terminate employment on the grounds of efficiency or redundancy is either an employer dismissal or mutual termination. This is a formal process but you may have the opportunity to express an interest in leaving in these circumstances if this is what you want and it avoids a compulsory redundancy for another member of staff also affected by any proposals.

Provided that you're aged 55 or over and have at least 3 months membership of the pension scheme or have transferred service in then you will become entitled to the immediate payment of your accrued pension benefits. Your pension will not be actuarially reduced for retiring early.

### Redundancy Payment

If you're redundant and have at least two years recognised continuous service then you're entitled to a redundancy payment. This is a statutory payment as compensation for you losing your job and is based on your number of years continuous service and your contractual weekly pay. The legislation gives a maximum amount that can be used to calculate your weekly pay but the council has the discretion to ignore this maximum amount if you earn above this level. The council has decided that it will normally ignore the statutory maximum weekly pay rate and use your actual weekly pay if this is higher.

You must not accept a job, before leaving the council, to work for an associated employer (one listed in the Modification Order) to start before the fifth Monday after leaving otherwise this does not break your continuity of service and you would not be redundant from the council.

There are circumstances within the legislation that allows the council to reduce your redundancy payment if your pension is greater than one third of your final salary. The council has decided that it will not normally reduce your redundancy payment in these circumstances.

### Additional Compensation

The council has the discretion to make additional compensatory awards if you are made redundant or if your employment ceases on the grounds of efficiency of the service. The total amount of compensation is discretionary up to a maximum of 104 weeks pay but this will include any redundancy payment that you're entitled to.

The council has decided that it will consider making additional compensation awards in cases of redundancy or efficiency of the service in **completely exceptional cases** if you're dismissed and this has a significant impact on you and your ability to get a new job. Any payment made will have to pass scrutiny and be justified to the council's auditors as being appropriate and proportionate.



If you're dismissed, have tried to gain new employment and feel that there are exceptional circumstances why you should receive additional compensation then you will need to complete application form RT5. This should be completed no more than two weeks before your last day of employment and no more than five months after leaving. The application form will ask you details about what jobs you have applied for and if you've received a job offer then what rate of pay you'll receive.

A Compensation Panel (\*) will meet to consider your application. They will judge your application solely on its merits and aim to have a consistent and transparent approach to making any award. The panel may decide not to make any additional compensation award, but whatever their decision you will be notified within 7 calendar days.

If you aren't granted an additional award, or if the amount of the award is less than you think you should receive then you can appeal against the decision of the panel and you must do this within 7 calendar days of the notification of the panel. Councillors are prohibited from considering grievances under discretionary compensation arrangements made under the Retirement at Brighton & Hove policy.

## **Coming back to Brighton & Hove after retiring**

If you return to work with an employer where you're eligible to join the Local Government Pension Scheme after you've retired then this may affect your pension depending on the circumstances of your retirement. This restriction is known as abatement.

If you take flexible retirement from Brighton & Hove and are re-employed by the council then you will not have any restrictions on your pension and what you can earn in your new job unless you increase your pay above the limit of a permanent reduction of at least a third of your pay at the date the flexible retirement is agreed. This does not apply if you are subsequently re-employed by a council different to the one that granted you flexible retirement.

For all other types of retirement then it is up to East Sussex County Council as the Scheme Administrator to decide what their policy is on abatement. They have decided that your Local Government Pension will be subject to reduction, or suspension if appropriate, where the new employment, when added to the current value of your original retirement benefits, exceeds the rate of pay, at its present day value, of your original employment (i.e. if your new pay plus pension exceeds your former pay plus inflation).

The council has also decided that it will not normally re-employ, either as an employee, self employed contractor or through an agency, those employees who take voluntary redundancy or voluntary early retirement on redundancy, efficiency or compassionate grounds, for a period of two years.

## Preparing for your retirement

It's important that you are fully prepared for your retirement and know how this will affect you financially.

You should ensure that you've received an estimate of your pension benefits before retiring so that you know what you may receive. You will also need to make a decision on how much of your pension you want to take as a tax-free lump sum. You can take up to 25% of the capital value of your pension as a tax-free sum and the Scheme Administrator will provide you with figures as to how much this is in your personal circumstances. You should remember though that the higher lump sum you take the lower your annual pension will be.

The Learning & Development team arrange for Pre-Retirement courses to run regularly. The courses cover finance, budgeting, investment, wills, state pensions, occupational pensions and health issues. Further information and an application form to attend can be found on the Wave under Learning & Development, Learning for All Staff, Retirement Planning or alternatively by phoning extension 1403.

\* The Compensation Panel currently comprises of Executive Director Finance & Resources, the Head of Legal & Democratic Services and the Head of Human Resources & OD, or their approved substitutes. The Head of your Service Delivery/Resource Unit will also be required to attend to present cases other than applications for flexible retirement.

# The '85 year' rule allows certain protected scheme members to gain access to, or request access to, unreduced pension benefits if they are drawn before age 65. A scheme member meets the rule of 85 if their membership plus age in whole years is at least 85.

## LOCAL GOVERNMENT PENSION SCHEME (FORM RT3)

### APPLICATION FOR EARLY RETIREMENT AT EMPLOYER'S CONSENT

Page 1 to be completed by the applicant and Page 2 by the line manager and Human Resources

<b>Name</b>	
<b>Job Title</b>	
<b>Directorate</b>	
<p><b><i>I have received an estimate of my pension benefits (attached) and wish to apply for early retirement at the employer's consent on compassionate grounds:</i></b></p> <p>Please give brief details of your compassionate circumstances. For example, if you have a medium to long term caring commitment for a dependant with a chronic or terminal illness then please state the nature of the dependant's illness, how this affects them, what level of care you provide, information if applicable in relation to your own disability or impairment, and what other support they get from other agencies, family or friends. Please enclose any medical information in support of your application.</p> <p>For medical related applications please provide independent medical advice supporting the caring need in accordance with guidance from Human Resources.</p>	
Applicant Signature	Date

**Pension Implications**

Where pension benefits are drawn early and before the rule of 85 is met, your annual pension will be reduced. However, the council has the discretion to waive this reduction on compassionate grounds and has resolved to do this for cases approved at the employers' consent granted on compassionate grounds.

The council has a policy of not re-employing staff for a period of two years if they have been granted voluntary early retirement at the employer's consent.

**Manager's (budget holder) Comments**

Please give details of how this application will impact on your service.

Name and Job Title of Line Manager	Signature	Date
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Financial Implications	Amount
Cost to the council of early payment of pension	
Saving from recruitment	

**Approval**

Service Head and Service Name	Signature	Date
Executive Director Finance & Resources	Signature	Date
Head of Legal & Democratic Services	Signature	Date
Head of Human Resources & OD	Signature	Date

# LOCAL GOVERNMENT PENSION SCHEME (FORM RT4)

## APPLICATION FOR FLEXIBLE RETIREMENT

Page 1 to be completed by the applicant and Page 2 by the line manager and Human Resources

<b>Name</b>	
<b>Job Title</b>	
<b>Directorate</b>	

***I have received an estimate of my pension benefits (attached) and wish to apply for flexible retirement by:***

√ ***please tick***

- Reducing the hours that I work and/or
- Moving to a new post with a lower grade

Please give brief details of the change stating your current grade and hours per week, your proposed grade and hours per week, the proposed date of flexible retirement and the reason for your application.

- Please tick if you have been declared at risk of redundancy

Applicant Signature

Date

### **Pension Implications**

Where pension benefits are drawn early and before the rule of 85 is met, your annual pension will be reduced. The estimate of pension benefits will show if a reduction applies. By signing the application you acknowledge that you're aware of the implications that future service isn't protected by the rule of 85 and that the exemption from abatement only relates to future employment with Brighton & Hove.

<b>Manager's (budget holder) Comments</b>		
<p>Please give details of how this application will impact on your service and whether you intend to recruit to cover the reduction in hours and/or grade and if there are any anticipated costs.</p>		
Name and Job Title of Line Manager	Signature	Date

<b>Financial Implications</b>	<b>Amount/Percentage</b>
Cost to the council of early payment of pension	
Percentage reduction in contractual pay	
Annual saving for reduction in grade and/or hours	
Total severance cost if declared at risk of redundancy	
Capitalised annual saving	

<b>Approval</b>		
Service Head and Service Name	Signature	Date
Executive Director Finance & Resources	Signature	Date
Head of Legal & Democratic Services	Signature	Date
Head of Human Resources & OD	Signature	Date

# LOCAL GOVERNMENT PENSION SCHEME (FORM RT5)

## APPLICATION FOR INCREASE TO SEVERANCE PAYMENT

<b>Full Name</b>	
<b>National Insurance Number</b>	
<b>Last day of Service</b>	

### Employee Declaration

I hereby request that the severance payment awarded in my case is increased because:

I confirm that I have read and understood the notes below. To the best of my knowledge the above statement, together with all supporting attachments and documentation, is a true representation of the facts. I understand that if any information or documentation is given by me in connection with this application which is untrue and which I know or believe to be untrue then I am liable for criminal prosecution and/or civil proceedings for recovery of compensation.

Signed: .....

Date: .....

## Employee Exceptional Circumstances

ADDITIONAL INFORMATION TO BE PROVIDED IN CONNECTION WITH  
ADDITIONAL SEVERANCE PAYMENT REQUEST: TO BE COMPLETED BY  
THE EMPLOYEE

Name of Employee: .....

1. Have you been offered (conditionally or unconditionally) alternative employment with an employer other than Brighton & Hove City Council?  
If so:
  - (a) what is the employer's name and address?
  - (b) when will your employment with that employer begin (or if there is no firm start date when is it likely to begin)?
  - (c) what will be your gross pay and estimated net pay with that employer?
  - (d) will you receive benefits such as access to a pension scheme with that employer? If so please provide details.

N.B. "alternative employment" means employment of any kind whether or not its duties and/or terms and conditions are the same or similar to your employment with Brighton & Hove City Council.

2. If you have not received such an offer of alternative employment:
  - (a) are you looking for such employment and if not why not?
  - (b) if you looked for such employment (whether or not you are looking):
    - (i) what type of job would you be looking for and with what kind of employer?
    - (ii) why would you be looking for that type of job and to work for that kind of employer?
    - (iii) how long would you expect it to take to find that type of job?
    - (iv) what would you expect the gross and estimated net income of that job to be?



3. Have you been offered consultancy work with Brighton & Hove City Council or another client? If so:
  - (a) what is the name and address of the client?
  - (b) when will that consultancy work begin, or if there is no firm start date when is it likely to begin?
  - (c) what do you expect the gross and estimated net income from that work to be?
  
4. Are you considering becoming self-employed following the termination of your employment with the council (e.g. becoming a consultant)? If so:
  - (a) what type of self-employment are you considering?
  - (b) why are you considering that type of self-employment?
  - (c) when do you expect to start working on a self-employed basis?
  - (d) what would you expect the gross and estimated net income from that self-employment to be?
  
5. Please list all jobs that you have applied for below:

Job	Salary	Hours per Week	Date of Application

To the best of my knowledge the answers I have given above, together with all supporting attachments and documentation, are a true representation of the facts. I authorise any third party to provide Brighton & Hove City Council with such information or documentation it may require for the purpose of verifying the accuracy and completeness of any of these answers. I understand that if any information or documentation is given by me in connection with this application which is untrue and which I know or believe to be untrue then I am liable for criminal prosecution and/or civil proceedings for recovery of compensation.

Signed: .....

Date: .....

## Request to increase Severance on Redundancy or Efficiency of the Service

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 allows local authorities the ability to award a compensation payment if your employment is terminated on the grounds of redundancy or efficiency. The total payment, including the statutory redundancy payment, may not exceed 104 weeks' pay.

Under the council's severance policy you will normally be entitled to a redundancy payment based on your actual weekly pay if you're made redundant and qualify for a payment. This payment is in accordance with the council's discretionary compensation scheme and is not a contractual payment.

The Redundancy and Early Retirement Procedure also states that the Compensation Panel is authorised to decide whether in any particular case, in response to a request from an employee dismissed on the grounds of redundancy or efficiency, there are **wholly exceptional circumstances** justifying the council making a total severance payment which exceeds the amount that would otherwise be payable under the scheme.

If the Compensation Panel is satisfied such circumstances apply then they will decide the amount of the total severance payment to be paid. You should note that should your request be successful the amount awarded may not exceed statutory limits laid down in legislation. A decision to make an additional discretionary award must be made within 6 months of your dismissal.

Proof of your "exceptional circumstances" shall include full details and supporting evidence of any personal, financial, domestic or professional issues that not only demonstrate that your case is special but there is a genuine and compelling reason why the severance payment should be increased. The Compensation Panel will make a reasonable decision based on your circumstances. You will be informed in writing of the decision and the reasons for that decision.

You have a right of appeal against the decision of the Compensation Panel (\*). Councillors are prohibited from considering grievances under discretionary compensation arrangements made under the Retirement at Brighton & Hove policy.

Please complete the questionnaire above which will be used in the assessment of your circumstances. Please use additional sheets, if required, giving full details and any supporting documentation explaining clearly your exceptional circumstances.