



# **Flexible Retirement Policy**

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**Member of Staff Responsible: College Manager**

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# POLICY

## 1.0 Introduction

- 1.1 Changes to the Local Government Pension Scheme (Amendment) Regulations 2006, has enabled Clyst Vale Academy Trust (CVAT) to introduce a Flexible Retirement Policy.
- 1.2 This policy applies to all employees of CVAT who are current members of the Local Government Pension Scheme aged 55 and over.
- 1.3 If the employer gives consent, the employee will be able to reduce working hours and/or grade, and release pension benefits if required and certain criteria are met, without leaving employment.
- 1.4 Where the pension benefits are released before the age of 65, there may be costs due to the Pension Fund. It is expected that these costs will be borne by the employee where permitted by pension regulations.
- 1.5 There are two ways in which costs may arise:
  - normally the employee pension benefits are reduced by actuarial reduction<sup>1</sup> if released early.
  - due to pension regulations, in some cases not all of the costs can be passed to the employee as an actuarial reduction. These costs would be passed to the employer as a “strain” cost<sup>2</sup>. Flexible retirements incurring such a cost will only be permitted in exceptional circumstances.
- 1.6 In exceptional circumstances CVAT may consider bearing these costs for economic and/or business reasons. For example where the flexible retirement reduces the number of redundancies required and the overall cost is reduced. Agreeing to the request in these circumstances would therefore enable the employee to continue in employment and their skills be retained, the number of redundancies to decrease, and an overall reduction in cost.

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<sup>1</sup> An actuarial reduction is applied to a member’s accrued pension benefits, in order to offset any additional cost arising from their payment, in advance of their normal Local Government retirement date.

<sup>2</sup> The cost to the Pension Fund when the employee releases benefits before the normal retirement age (LGPS normal retirement age of 65).

- 1.7 Flexible retirement applications will be considered on an individual application basis
- 1.8 Each pension estimate is specific to an individual as the estimate is based on factors such as the individual's age, length of pensionable service and possible date of flexible retirement. It is therefore important to obtain the pension benefits estimate, and seek independent financial advice regarding their personal situation, before any final decision is taken.
- 1.9 This policy is intended to meet the requirements of the Equality Act 2010. CVAT is committed to the principle of equal opportunities in employment regardless of a person's age, disability, gender reassignment, marital or civil partnership status, pregnancy, maternity status, race (including colour, nationality and ethnic or national origins), religion or belief, sex and sexual orientation.

## **2.0 Purpose**

- 2.1 This policy is a development to the current Local Government Pension Scheme and reflects the simplified tax rules governing pension schemes from 6 April 2006.
- 2.2 It may provide an opportunity for employees aged 55 and over to make changes to their working lives, whilst enabling the Authority to retain valuable skills and experience.

## **3.0 Principles**

- 3.1 It is the employee's responsibility to apply for flexible retirement, should they so wish. It is recognised that making choices about pensions is a complicated and difficult decision for employees to make.
- 3.2 Requests for flexible retirement will be considered on:
  - A reduction of hours and/or grade, in the current post, with or without the release of benefits.
  - Or an appointment to another post with new continuing employment with CVAT on reduced hours and/or grade, with or without the release of pension benefits. This would be subject to an appropriate vacancy arising and the operation of the College's normal recruitment and selection procedures.
- 3.3 Flexible Retirement will be subject to:
  - A reduction in pensionable<sup>3</sup> salary of at least 20% (i.e equivalent to 1 day per week for a full time employee)
  - A minimum period of continuing employment of 12 months in the reduced grade and/or hours following flexible retirement.
  - No return to the higher hours and/or grade within 12 months.

- No other application being made within the previous 12 calendar months.

3.3.1 All other conditions of service, for example annual leave, will be recalculated on a pro rata basis.

3.4 Flexible Retirement may not necessarily be available to all and individual negotiation may be required. Whilst CVAT is committed to providing a balance between employees' professional and personal lives, the desire to provide Flexible Retirement must be balanced with the College's duty to maintain service delivery and therefore has the final decision on the request.

Each request will be considered individually and measured against its impact, with no precedent being set.

3.4.1 The process will be undertaken in a fair, open and transparent manner. The consideration of the request should be reasonable, fair and objective, taking into account the employee's wishes, but having due regard to confidentiality.

3.4.2 Flexible Retirement requests will need to be discussed and approved the Principal and Finance and Premises Committee. If the request includes release of pension benefits using the flexible retirement process, a proposal will be forwarded to the College Manager for assessment against the policy criteria. If the criteria are met the proposal will be forwarded for 'in principle' approval.

3.5 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.

3.6 An employee continuing in employment beyond their LGPS pension age can only release pension benefits by:

- the approval of a flexible retirement request
- where the principal agree to terminate employment which releases pension benefits and then re-employs the employee. This can only be considered where the employee is aged 60 or over.

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<sup>3</sup>Based on contractual pay

3.7 An employee wishing to release pension benefits will need to have been a Local Government Pension scheme member for at least 3 months or to have transferred from another pension scheme to be able to release their benefits.

3.8 An employee will be contractually enrolled back into the LGPS after Flexible Retirement, continuing to pay pension contributions so that further pension benefits will be accrued, unless they opt out by completing an 'opt out' form from Peninsular Pensions immediately after the date of the flexible retirement.

3.9 Where the employee wishes to reduce hours and receive benefits but not to continue to contribute to the Local Government Pension Scheme after

Flexible Retirement, the employee must state this option before the date of the flexible retirement, and complete an opting out form. A refund of contributions will not be possible at a later date.

## PROCEDURE

### 4.0 Request procedure

- 4.1 The employee completes the 'Request Form' (available at F:\Public\POLICIES CVCC Academy\HR\Flexible Retirement) and returns it to the College Manager, who will arrange to discuss this with them.
- 4.2 The College Manager should acknowledge receipt of the request by returning, to the employee, the Confirmation of Receipt page of a Request Form.
- 4.3 An application is taken to have been made on the date the form is received. Where an application is made by email or fax, it is taken to be received on the day it was transmitted.
- 4.4 Any meetings should be arranged by the line manager at a mutually convenient time and place. This should take place within 28 calendar days.
- 4.5 If the employee has more than one employment and wishes to request for flexible retirement for one or more employments, a separate Request Form must be completed for each employment.
  - 4.5.1 The requests will be considered separately for each employment.

### 5.0 Considering the request

- 5.1 Individual Flexible Retirement requests must be considered by the Principal.
- 5.2 Where the employee is not requesting release of pension benefits arrangements can be put in place for a change in hours and/or grade and the rest of these procedures do not apply.
- 5.3 Where the employee is over 60, the Principal supports the request and the Finance and Premises Committee come to a mutual agreement with the employee to terminate employment, which releases pension benefits, and reemploy, then arrangements can be put into place and the rest of these procedures do not apply. It is essential that the employee is made aware of the implications for future earnings before agreeing to the termination of their contact.
- 5.4 Where an official flexible retirement with pension release is supported by the Principal a Flexible Retirement Proposal Form is completed and sent to the College Manager, for assessment against the required criteria. The forms are available at: F:\Public\POLICIES CVCC Academy\HR\Flexible Retirement
- 5.5 A pension estimate will be requested from LGPS as part of the assessment against the required criteria.

- 5.6 If the flexible retirement criteria (please refer to 3.2 and 3.3) are not met the application will be refused.
- 5.6.1 If the criteria are met, the proposal will be passed to the Finance and Premises Committee for 'in principle' corporate approval.
- 5.6.2 If the proposal is approved in principle the estimate of pension benefits will be passed back to the College Manager with a copy of the signed Approval form. The College Manager can then give the pension benefit estimate to the employee with the covering letter available at: F:\Public\POLICIES CVCC Academy\HR\Flexible Retirement The employee is given 14 working days to consider the estimate. They may wish to speak to an independent financial adviser at this stage.
- 5.7 If the employee wishes to progress with the Flexible Retirement they should confirm this to the College Manager by the end of the 14 working days.
- 5.8 Once this confirmation from the employee has been received a revised employment contract on Flexible retirement can be issued.

## **6.0 Confirmation**

- 6.1 For official flexible retirements with pension release the confirmation letter available at: F:\Public\POLICIES CVCC Academy\HR\Flexible Retirement should be used to confirm the:
- a) Start date of the new Flexible Retirement employment contract;
  - b) Revised working hours and/or grade plus working pattern;

Changes to any other terms and conditions of employment – for example, this will include any condition which should be pro rata for reduced hours working.

- 6.2 A Prism 3 should be completed by the appropriate Personnel Admin to inform Payroll of the change in hours and/or grade.

## **7.0 Refusal of a request**

- 7.1 If a request is refused the line manager should advise the employee in writing as soon as possible.
- 7.2 Where this is a result of business needs, an example letter can be found at: F:\Public\POLICIES CVCC Academy\HR\Flexible Retirement
- 7.3 Although CVAT is able in exceptional circumstances to consider requests where there is a cost to CVAT the Authority, this may not be possible in all cases. An example letter can be found at: F:\Public\POLICIES CVCC Academy\HR\Flexible Retirement

## **8.0 Appeal process**



- 8.1 Employees have the right to appeal against a decision not to approve a Flexible Retirement.
- 8.2 An appeal can only be based on the grounds that the decision was unfair or unreasonable.
- 8.3 The employee should register an appeal using the Appeal Form (available at: F:\Public\POLICIES CVCC Academy\HR\Flexible Retirement) within 14 calendar days of receiving the written refusal for Flexible Retirement. This should be sent to the Principal.
- 8.4 The Principal must hold the appeal meeting within a maximum period of 14 days of the receipt of the appeal.
  - 8.4.1 The Principal must notify the employee of the decision using the Flexible Retirement Appeal Reply Form within a maximum of 14 working days after the date of the meeting.
- 8.5 If the request is accepted the Principal will write to the employee informing them of the detail of the agreement and the date on which the Flexible Retirement is due to take effect.
  - 8.5.1 If the request is refused the Principal will write to the employee setting out the grounds for the refusal and explaining why they apply.
- 8.6 Once the appeal process is complete, the Principal should send copies of the Flexible Retirement Appeal Form and the reply to the Personnel Administrator for filing.
- 8.7 This is the end of the appeal procedure and no further appeal mechanism will operate within the CVAT.

## MANAGEMENT GUIDANCE

### 9.0 Introduction

- 9.1 CVAT is required to make a policy statement and, by giving consent to Flexible Retirement requests, show a full understanding of any cost implications of these decisions.
- 9.2 This guidance is to assist line managers in progressing requests
- 9.3 In the current climate it is timely to consider different mechanisms to reduce costs and the potential number of redundancies, whilst retaining skills with reduced resources.
- 9.4 Care needs to ensure that the process used to consider flexible retirement requests have been applied equitably.

### 10.0 Financial implications

- 10.1 CVAT has the discretion to bear the cost of an employee taking flexible retirement.
  - 10.1.1 These costs could come from the employer waiving an actuarial reduction<sup>4</sup> and/or from the employer “strain”<sup>5</sup> cost.
  - 10.1.2 The decision has been taken to consider Flexible Retirements where there is a cost in exceptional circumstances. For example, where the approval of a request would diminish the possibility of a redundancy.
  - 10.1.3 Each application will be considered on its merits and will only be approved if it is in CVAT’s economic and/or operational interests to do so.
- 10.2 The business case will need to show that it would be appropriate to meet these costs from existing redundancy reserves.
- 10.3 Savings from the approved flexible retirement will be made from the on-going revenue costs of the employee’s salary.

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<sup>4</sup>An actuarial reduction is applied to a member’s accrued pension benefits, in order to offset any additional cost arising from their payment, in advance of their normal Local Government retirement date.

<sup>5</sup>The cost to the Pension Fund when the employee releases benefits before the normal retirement age (LGPS normal retirement age of 65).

- 10.4 The financial examples (Appendix 1) are to enable employees and the Principal to see what possible benefits may be payable in their individual circumstances and any associated costs.
- 10.5 If approved, any cost associated with recruiting for the remaining hours left vacant by the approval of a request will need to be contained within existing budgets. Conversely, where the remaining hours are not replaced, this could be offered up as an efficiency saving.
- 10.6 It has been clarified that an employee is not able to pay the cost of the employer strain cost.

## **11.0 Factors to consider**

- 11.1 The Principal will need to consider several factors when considering an employee's request and the percentage of salary to be dropped. These include:
- the effect on the workload and how this would be managed
  - whether service delivery could be affected by the proposed change
  - whether there may be a requirement to ask the employee to increase hours in the foreseeable future, as the employee will not be able to increase their hours during the 12 months following flexible retirement approval
  - whether recruitment will be needed to cover the remaining hours
- 11.2 It is important to stress that employees should contact Devon Pension Services for clarification of the estimate or an independent financial adviser where necessary.
- 11.3 Managers should not advise employees on financial matters or express an opinion on the advantages or disadvantages of the estimate.
- 11.4 Employees should be advised that all Flexible Retirement requests will be given thorough consideration but that it may not be possible to give approval in all cases. It will be CVAT as the employer who has the final decision on the request.
- 11.5 Where the Principal's decision is to refuse a request due to business needs this refusal must be communicated to the employee as per the flexible retirement procedure and an example letter can be found at:  
F:\Public\POLICIES CVCC Academy\HR\Flexible Retirement

## **EMPLOYEE GUIDANCE**

### **12.0 Introduction**

- 12.1 It is important to read the Flexible Retirement Policy carefully to ensure that you are eligible to apply.
- 12.2 You should ensure that your Request Form is valid by checking that the eligibility criteria are met to the best of your knowledge, and that you have provided all the necessary information.
- 12.3 The level of detail required on the application will depend on the desired changes, but in all cases it is in your interest to be as clear and explicit as possible.

### **13.0 The impact of your request**

- 13.1 You must provide an explanation of what effect you think the proposed change would have on CVAT and your team and how you think this may be dealt with.
- 13.2 This does not mean that you are expected to know every factor that might influence the decision, simply that you should show you have considered the factors that might influence the decision.

### **14.0 Time constraints**

- 14.1 You should ensure that your application is made well in advance of when you wish the Flexible Retirement, and/or release of pension benefits, plus any subsequent changes to your employment contract to take effect.

### **15.0 Terms and conditions of employment**

- 15.1 you should be aware that if you request to reduce your hours and/or reduce your grade, your pay and other terms and conditions will be reduced as well.

## **TERMS/ABBREVIATIONS**

Actuarial Reduction	An actuarial reduction is applied to a member's accrued pension benefits, in order to offset any additional cost arising from their payment, in advance of the normal Local Government Pension Scheme retirement age.
Employer Strain Cost	Any cost to the Pension Fund passed on to the employer when the employee releases benefits before the normal Local Government Pension Scheme retirement age.

## Appendix 1. Financial Examples. Local Government Pension Scheme Benefits upon Flexible Retirement

Making choices about pensions are complex and therefore employees are advised to seek independent financial advice regarding their personal financial situation.

It is anticipated that in practice Flexible Retirement is likely to be more applicable to those employees age 60 and over who:

Meet the 85 year rule, since there would be no actuarial reduction of the pension for the employee, and no strain cost on the fund to the Authority

Or

Do not meet the 85 year rule, but recognise there is an actuarial reduction. There would be no strain cost on the fund to the Authority.

The operation of the Flexible Retirement policy will be monitored and may be subject to change on the basis of experience.

### Examples

At Flexible Retirement Date												
Pensionable Pay <sup>1</sup>	Date of Flexible Retirement	Age	No. of Years Pensionable Service	Age Plus Pensionable Service (for 85 year rule <sup>2</sup> )	Full Pension	Actuarial Reduction <sup>3</sup>	Pension after Actuarial Reduction	Full Lump Sum	Actuarial Reduction	Lump Sum after Actuarial Reduction	Strain Cost <sup>4</sup>	
£19,814	31/03/2007	55	36.01	91.01	£8,829.68	0%	£8,829.68	£26,720.30	0%	£26,720.30	£32,069.54	
£26,928	31/03/2007	58	40.62	98.62	£13,673.34	0%	£13,673.34	£41,020.01	0%	£41,020.01	£17,264.80	
£36,836	31/03/2007	56	13.25	69.25	£5,363.68	32.72%	£3,608.19	£16,090.98	17.81%	£13,223.68	£0.00	
£12,270	31/03/2007	60	9.47	69.47	£1,452.68	21.90%	£1,134.60	£4,358.04	10.42%	£3,903.85	£0.00	
£41,418	31/03/2007	56	36.16	92.16	£18,718.95	0%	£18,718.95	£56,156.85	0%	£56,156.85	£62,299.73	

### NOTES – READ CAREFULLY

<sup>1</sup> Normally your full time equivalent contractual pay during the last 12 months of service

<sup>2</sup> Where the employee age plus pensionable service is at least 85 years

<sup>3</sup> Where there is a reduction in pension benefits as a result of the employee releasing benefits before the Local Government Pension Scheme normal retirement date of age 65

<sup>4</sup> The cost to the Pension Fund when the employee releases benefits before the Local Government Pension Scheme normal retirement age of age 65.

Where there is an employer "strain" cost payable to the Pension Fund, Flexible Retirements will be considered but approval will depend upon business and operational needs

Note: These figures do not make provision for pay awards or pension increases

### Why do some have actuarial reduction but others have strain cost?

This is the affect of the 85-year rule. If you will be age 60 or over by 31 March 2016 and choose to retire before age 65, then, provided you satisfy the 85-year rule when you start to draw your pension, the benefits you build up to 31 March 2016 will not have an actuarial reduction.

There are examples above where the employee will be 60 or over by 31 March 2016 AND satisfy the 85-year rule. Therefore they will not have an actuarial reduction to their pension benefits. There would be a strain cost to the pension fund.

If you will be under age 60 by 31 March 2016 and chose to retire before age 65, then, provided you satisfy the 85-year rule when you start to draw your pension, the benefits you build up to 31 March 2008 will not have an actuarial reduction.

If you will be aged 60 between 1 April 2016 and 31 March 2020, some or all of the benefits you build up will be subject to a tapered actuarial reduction. If you leave after 31/03/20, prior to age 65, there is no protection on service after 01/04/08.

Note: The 85 year rule does not apply to anyone who joined the LGPS after 01/10/06. Their NRD will be 65. If they retire voluntarily before 65 their benefits will have an actuarial reduction.