

PERSONNEL COMMITTEE – 11th JANUARY 2012

Report of the Head of Strategic Support

Part A

ITEM 5 RETIREMENT POLICY & PROCEDURE

Purpose of Report

The purpose of this report is to gain the Personnel Committee's approval on the revised retirement policy and procedure.

This report was presented to the Joint Consultative Committee (JCC) on the 14th September 2011 and, following discussion, was endorsed.

Recommendation

It is recommended that the Committee endorse the Retirement Policy and Procedure outlined in this report and attached as Appendix A.

Reason

To ensure the Council complies with the Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 and has in place a retirement policy and procedure document which includes all forms of retirement.

Policy Justification and Previous Decisions

The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 require the Council to have in place a retirement policy and procedure document which includes all forms of retirement.

Implementation Timetable including Future Decisions

The Policy & Procedure will come into immediate effect if endorsed by the Committee.

Report Implications

The following implications have been identified for this report.

Financial Implications

None identified.

Risk Management

There are no risks associated with the decision the Committee is asked to make, but there would be a risk of legal challenge if the Policy & Procedure were not to be endorsed.

Background Papers:

None

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Part B

Background

1. On the 6th April 2011, the Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 came into force, which abolished the default retirement age of 65 years and the associated statutory procedure. It was agreed by Personnel Committee on the 3rd August 2011, that Charnwood Borough Council would have no retirement age and a revised retirement policy and procedure would follow for approval.

Work Undertaken

2. To ensure the Council complies with legal requirements and best practice, a revised retirement policy and procedure has been developed. The policy was approved by the Senior Management Team on 18th May 2011, TUKIT on 25th August 2011 and the Joint Consultative Committee on the 14th September 2011.
3. Under Regulation 66 of the Local Government Pension Scheme (LGPS) Administration regulations 2008, each scheme employer must publish and keep under review a statement of policy to explain how it will apply certain discretions. The most recent version of this policy statement was authorised by the Council in February 2010 and these discretions have been incorporated into the revised policy where applicable.

Revised retirement policy and procedure

4. The revised policy and procedure is attached as Appendix A. The policy and procedure incorporates all aspects of retirement including flexible, ill-health retirement, early retirement (with employer consent) and early retirement (efficiency of service).
5. The only key change within the retirement policy and procedure is in relation to flexible retirement provision. Following discussions at the TUKIT and Joint Consultative Committee meetings, it has been agreed that to be considered for flexible retirement employees would normally be expected to reduce their hours by a minimum of 40% and/or reduce their grade. If an employee wishes to reduce their hours of work by a lesser amount, they can still apply for flexible retirement and each case will be considered on an individual basis.

Appendices

Appendix A: Retirement Policy & Procedure



Retirement Policy and Procedure

(including Flexible Retirement, Ill Health Retirement and Early Retirement)

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Purpose

The purpose of this policy is to outline the retirement options available and set out the processes to be followed for:

- Staff considering retirement at 'normal' retirement age
- Staff considering flexible retirement
- Ill-Health retirement
- Early retirement (with employer consent)
- Early retirement (efficiency of service)

Scope

This document applies to all employees of Charnwood Borough Council (with a contract of 3 months or more) employed under the terms and conditions of the:

- National Joint Council for Local Government Services; and
- Joint Negotiating Committee for Chief Officers.

Principles

- The Council's commitment to equality of opportunity will be observed at all times during the operation of this policy and procedure. This will ensure that employees are treated fairly and without discrimination on the grounds of race, nationality, ethnic or national origins, sex, marital status or civil partnership, disability, age, sexual orientation, trade union membership or activity, political or religious beliefs, maternity or pregnancy, gender re-assignment and unrelated criminal conviction.
- To ensure that fair procedures are followed in relation to all types of retirement and options, opportunities, benefits and costs have been explored, as appropriate, before retirement decisions are made.

Roles & Responsibilities

Chief Executive Officer	To authorise the Delegated Decision for any changes or the release of funds.
Strategic Directors	To consider requests for flexible and early retirement from LGPS members on receipt of appropriate documentation from managers. In cases of ill-health retirement consider the necessity of obtaining further occupational health opinions where a scheme member disagrees with an assessment during the ill-health retirement process.
Line managers	To provide the necessary support and guidance to employees throughout the various retirement options and processes. To process applications when received in accordance with this policy.
Employees	A personal responsibility to ensure they take an informed

	decision as to when to retire, managing their own retirement and being suitably prepared in line with the Council's procedures, including arranging attendance on a pre-retirement course where applicable. To attend meetings and occupational health appointments as advised and arranged to support a retirement process.
HR Services	To provide advice and support to the line manager and employees as required throughout the process. Undertake any 3 rd Tier review process as advised by Pension Services.
Pension Services	To process as appropriate requests for pension costs and notifications of retirements from managers. To process actual retirement benefits.

Definitions

- **Scheme Member / Member** - An employee who is currently a member of the Local Government Pension Scheme (LGPS) or an ex-employee who has deferred pension benefits within the LGPS.
- **85 Year Rule (rule of 85)** - Where age and scheme membership totals 85 years. The 85 year rule was removed with effect from October 2006. Active members on 30th September 2006 retained some protections against the removal of the 85 year rule. In their case; benefits in respect of membership before April 2008 will be calculated in accordance with the 85 year rule. For members aged 60, and able to achieve the 85 year rule, before 1st April 2016, all benefits in respect of membership before April 2016 will be calculated in accordance with the 85 year rule.
- **Actuarial Reduction** - A reduction of the pension benefits based upon the pension the member would have received had they retired at their normal retirement age
- **Capital Costs** - Capital costs are the strain on the Pension Fund that arise in cases that result in the early payment of pension benefits. These costs could be substantial and are recharged to the employing department.
- **Ill-Health** - Incapable of performing their duties by reason of ill health or infirmity of mind or body as certified by an independent registered medical practitioner qualified in occupational health medicine.
- **Permanently incapable** - This is defined as meaning that the scheme member will, more likely than not, be incapable of obtaining gainful employment until, at the earliest, their 65th birthday. In addressing questions about permanency, whether in terms of the local government employment or gainful employment elsewhere, consideration must be given, not to the immediate or foreseeable future, but to the date when the member attains age 65 (for Coroners this will be age 70).

- **Gainful employment** - Paid employment for not less than 30 hours per week for a period of not less than 12 months
- **Reasonable period** - Means a period of 3 years
- **Independent Registered Medical Practitioner (IRMP)** - Is an independent registered medical practitioner qualified in occupational health medicine who provides an independent service for Charnwood Borough Council managers and employees.

Retirement Age

Charnwood Borough Council operates a policy where they do not require employees to retire at any particular age, even if they are in receipt of a state pension.

Employees therefore wishing to continue working after the age of 65 years may do so without making a formal request and will remain eligible to apply for flexible retirement during this time.

An employee can voluntarily retire at anytime but will only receive their full LGPS benefits from the age of 65 years. Employees who retire between the ages of 60-65 years may receive reduced pension benefits or have the option to defer their pension, unless they meet the rule of 85, and fall into the relevant protection periods where they will receive their full pension. For more information please see [Appendix I](#).

Early Payment of LGPS benefits

Provisions exist, under defined circumstances, for the early payment of LGPS benefits for:

- **Flexible Retirement**
Scheme members may wish to consider the possibility of flexible retirement. From age 55, members wanting to apply for flexible retirement will normally be required to reduce their hours by a minimum of **40%** and/or reduce their grade. Providing the Council agrees, scheme members can then draw some or all of their pension benefits provided the Council agrees - helping members ease into retirement. If employees wish to reduce their hours of work by a lesser amount, they can still apply for flexible retirement, as each case will be considered on an individual basis. Salary can still be drawn from their job on the reduced hours or grade and members can continue paying into the LGPS, building up further benefits in the Scheme. [Appendix 2](#) provides more details with regard to this option including the procedure for applying and processing and provided the Council agrees.
- **Ill-Health Retirement**
The LGPS makes provision for the payment of pension benefits to those scheme members whose employment is terminated on grounds

of ill-health. To qualify for pension benefits on the basis of ill-health, a medical practitioner appointed by the Council must be satisfied that scheme members are permanently incapable of doing their job due to ill-health or infirmity of mind or body and that they have a reduced likelihood of obtaining gainful employment before reaching age 65. The provision comprises of three tiers of ill-health benefits. Appendix 3 provides more details with regard to the application of this option including the processes and tiers.

- **Early Retirement (with employer consent)**
Scheme members can retire from age 55, but must have their employer's permission to draw benefits before age 60. Appendix 4 provides further details.
- **Early Retirement (efficiency of service)**
Charnwood Borough Council provides fair and equitable compensation to employees who leave the Council's employment in the interests of the efficiency of the service and, at the same time, ensuring that legal requirements are met and the burden placed on the public purse is reasonable. This is a discretionary and the Council may seek to apply that discretion from time to time.

Pre-Retirement Courses

Employees who have indicated that they wish to retire may have the opportunity to attend the 'Planning a Positive Retirement' course at no cost to themselves. Courses are currently demand lead and employees should register their interest with the Learning and Development Service through line managers. Paid time off will be granted to employees attending this course.

Rule of 85 Protection Periods

- Scheme Members – joining after 1 October 2006: normal retirement age will be age 65 and if you choose to retire from age 60, benefits will be reduced.
- Existing Scheme members who will not achieve the 'Rule of 85': unaffected by the new rules.
- Scheme members who are born before 1st April 1956 and can achieve the 'Rule of 85': protected by the transitional arrangements and can retire at age 60 without any reduction to their benefits.
- Scheme members who are born between 1st April 1956 and 1st April 1960 and can achieve the 'Rule of 85': have some protection from a full early retirement reduction on the benefits built up from 1 April 2008. All benefits they have accrued up until this date will be protected.
- Scheme members who are born after 1st April 1960: have their benefits reduced on the pensionable membership they gain after 1st April 2008 until retirement age. All membership they have built up until this date will be protected.

Appendix I

Retirement at 'Normal' Retirement Age

For LGPS pension purposes 'normal' retirement age is currently considered to be age 65 years for both men and women; this is the age at which 'full' pension benefits can be drawn. Retirement before this age will see the scheme member offered where reductions do apply, the option of actuarially reduced benefits, or the option of deferring their pension until a later date when such reduction will no longer apply.

Scheme members are responsible for contacting Pension Services regarding obtaining details of their pension benefits on retirement.

It is also an employee's responsibility to notify their manager of their intention to retire. Employees wishing to retire are to submit written notification to their line manager providing the appropriate period of notice in accordance with their contractual arrangements.

Line managers are to inform Pension Services as soon as it is known that a retirement decision has been received from a scheme member.

Employees who have indicated that they wish to retire will be allowed paid time off to attend the 'Planning a Positive Retirement' course. Courses are currently by demand only and employees should register their interest to the Learning and Development Service through line managers.

Flexible Retirement

Eligibility

Employees who are members of the LGPS and are aged 55 or over are eligible to make an application for flexible retirement.

Employees who have made alternative private pension scheme arrangements are not eligible for this provision. Employees with pension scheme arrangements outside of the LGPS are advised to contact their provider accordingly and may consider requesting an alternative working arrangement.

The Council will consider requests for flexible retirement that fall within the criteria outlined below. However, it should be noted that requests will not normally be approved if this results in a cost to the Council and / or where operational requirements might be impinged.

What is flexible retirement?

From age 55, scheme members who normally reduce their hours by a minimum of **40%** and/or reduce their grade with Council agreement can draw some or all of their pension benefits. If an employee wishes to reduce their hours of work by a lesser amount, they can still apply for flexible retirement, as each case will be considered on an individual basis. Salary can still be drawn from the role on the reduced hours or grade and scheme members can continue paying into the LGPS, building up further benefits in the Scheme.

Benefits of flexible retirement

For the Council

Flexible retirement can be beneficial to the Council in helping to retain skilled employees who may otherwise leave their job and can be useful in succession planning arrangements particularly for specialist roles.

For the Scheme Member

Flexible retirement can help members balance work with other outside commitments and / or enable them to retire gradually.

For both

Flexible retirement can in some cases help both scheme members and the organisation in reducing posts / hours of work and in avoiding / reducing the overall number and level of redundancies.

Costs to the Council

Scheme Members who are over 60 (No Cost)

Granting flexible retirement to scheme members over 60 years of age will not incur a capital cost to the Council. If the scheme member meets the rule of 85, and falls into the protection periods (see page 5), they will receive their full pension. If the scheme member does not meet this requirement, they will have to be prepared to take a reduction in the pension benefits¹ they would have received had they retired under normal terms.

Scheme members who are 55 or over, but under 60, and who meet the rule of 85 before age 60 (Cost)

Flexible retirement in this instance will incur a capital cost to the Directorate, and is therefore only expected to be approved in exceptional circumstances. However should a request be agreed by the Council, then, if the scheme member meets the rule of 85 later than their date of retirement but before age 60, there would be a reduction to the pension benefits¹ based on the period between those dates; there would also be a cost to the Directorate.

For example; member retires aged 57, but does not meet the rule of 85 until age 58. The employee would have a reduction based on the difference, i.e. one year, and the Directorate would have to pay the cost based on the pension being paid 2 years early, i.e. from age 58 to 60.

Scheme members who are 55 and over, but under 60, and will not meet the rule of 85 before age 60 or meet it between age 60 – 65 (No Cost)

Granting flexible retirement to scheme members in this category will not incur capital costs to the Council, but the member will incur a reduction to their pension benefit¹.

Reduction in hours

The reduction in hours would normally be a minimum of **40%** of the scheme member's current contractual hours regardless of whether the member is full-time or part-time. If an employee wishes to reduce their hours of work by a lesser amount, they can still apply for flexible retirement, as each case will be considered on an individual basis. Once agreed, there will be no automatic right for the member to increase their hours (or grade if applicable) in the future.

The arrangement of the reduced number of hours to be worked will be by negotiation with the manager and will be based on service provision needs.

Salary, leave entitlement and other terms and conditions of employment will be pro rata to the agreed reduction in hours. Any pay protection already in place at the time the flexible retirement commences will cease immediately, as the arrangement is a voluntary agreement and the scheme member will be in receipt of pension.

Reduction in grade

¹ Scheme members should be aware that these reductions could be quite large, and that the reduced pension will remain for the rest of the individual's life, even when they finish work and lose their salary.

A reduction in grade should normally be to an established post within the scheme member's team / section. A reduction in grade as a result of finding suitable alternative employment through redeployment following organisational change may be approved subject to business need, costs and eligibility.

It will be the responsibility of the scheme member to identify suitable alternative vacant post(s) at a lower grade as part of their request for flexible retirement, the Council and the line manager will not undertake to do so for them.

Appointment will be on merit by appropriate selection process, unless changes to the organisational structure permit a transfer to the post under the terms of a restructure.

Salary, leave entitlement and other terms and conditions of employment will be those applicable to the new post and its attendant grade. Any pay protection already in place at the time the flexible retirement commences will cease immediately as the arrangement is a voluntary agreement and the scheme member will be in receipt of pension.

Considering requests

Whilst requests which result in a cost to the Council will generally not be approved there may be instances where granting flexible retirement will enable departments to review their requirements, e.g. succession planning, managerial or specialist skills development, or ultimately achieve other efficiency savings through staff movement / structure changes etc. That is to say, there must be a significant organisational benefit to the Council.

In considering any requests for flexible retirement the following business reasons are to be taken into account:

- Cost to the Council in releasing the scheme member's pension
- Requirement / ability to recruit to the vacated hours or grade
- Additional costs as a result of recruitment / training to the vacated hours or grade
- Capacity to re-allocate work amongst co-workers
- Impact on service delivery and work performance
- Suitability of individual's proposed working arrangements, i.e. days, hours etc

This scheme will not apply where there are formal conduct or performance issues and the appropriate procedures should be invoked in those instances.

Application for flexible retirement

Step One

Scheme members wishing to apply for flexible retirement should first discuss the proposal with their line manager. The manager may agree to the request *in principle* subject to receipt of information from Pension Services about any costs involved and the approval of the Strategic Director.

The member and line manager (not HR) are then to complete and sign [Form FRI](#) and forward this to the Pensions Services. This gives Pension Services consent to release financial information; for the scheme member this will be the pension benefits they can expect to receive and to provide the line manager with any capital costs that might be attached to the potential flexible retirement.

Step Two

On receipt of the relevant financial details:

- Scheme Member

Scheme Members are strongly advised to seek independent financial advice on receipt of the pension forecast; the costs of any advice sought will be the responsibility of the scheme member. Following this, should the member wish to continue with the request for flexible retirement, they are to submit a formal written application which is to include why and how the proposed request will be beneficial to the Council.

- Line Manager

The line manager is to contact the scheme member and request them to formalise their verbal request by submitting a written request outlining the details of their application. This application is to include why and how the proposed request will be beneficial to the Council.

Where there are no capital costs involved, the scheme member's application and the notification from the Pension Section should be passed to the Strategic Director for consideration ([see above](#)).

Where capital costs have been identified, advice should be sought from HR Business Partner and Head of Finance before submitting the member's application and the notification from the Pension Section to the Strategic Director for consideration ([see above](#)).

The line manager will then draft a Delegated Decision to the Chief Executive for the authorisation of any changes or the release of funds. This must be agreed by legal and finance.

Each application is to be considered accordingly and the scheme member's circumstances may be taken into account, where reasonably practicable, subject to the needs of the service and associated costs.

A scheme member reducing their hours and/or grade can have implications for the rest of the team e.g. a part time vacancy or a re-distribution of work and therefore managers may wish to discuss these issues with HR Services.

Step Three

- Request Approved

Where the request has been agreed by the Strategic Director, the scheme member is to be notified in writing and final confirmation must be provided by the member that they wish to proceed. Following approval, a commencement date on the new hours or grade will be by negotiation and agreement with the line manager and be based upon service provision needs. [Form FR2](#) is then to be completed by the line manager (not HR as the form states²), attaching the authorised Delegated Decision. The scheme member will also be required to sign Form FR2 to confirm whether or not they wish to remain in the Pension Scheme, this completed form is to be sent to Pensions Services.

The manager should then complete an 'variation to contract' e-form, which will authorise the ESC to action the reduction in hours or grade change and issue the appropriate documentation to the scheme member.

It is important to note that once arrangements have been put into place and pension is being paid it cannot be re-calculated and any actuarial reduction cannot be rescinded.

- Request Not Approved

Where the request is not approved by the Strategic Director, the scheme member is to be informed accordingly, and this must be confirmed in writing with the reasons why the application was not approved.

If the individual feels that the request was turned down on unreasonable grounds, a review of the decision may be requested in writing to the line manager within 7 working days of receipt of the decision not to approve. The request should outline the reasons for requesting the review and may include further information in support of the case as is felt appropriate.

The line manager should arrange a meeting with the scheme member to discuss the appeal, within 10 working days of receiving the appeal letter.

After the review meeting has been held, the line manager is to respond in writing within 5 working days to notify the scheme member of the outcome, after which there will be no further right of appeal.

It may still be possible to reduce hours without release of pension benefits or capital costs to the department and scheme members may wish to consider requesting an alternative working arrangement.

Release of pension benefits

² This is due to the form being generic and used by other employers within the Leicestershire County Council Pension Fund.

Pension benefits payable on flexible retirement will be subject to a reduction if the earliest retirement date has not been reached. There may be some exceptional circumstances where all or part of that reduction can be waived but these will require a sound business case. Where the reduction is waived the cost will be borne by the employing department. ([See above regarding costs to the Council](#)).

Pension benefits cannot be actuarially reduced for scheme members whose combined age and LGPS membership, in complete years, total 85 or more years. This is known as the '85 year rule'. Any such requests from members, under the age of 60, who fall into this category can therefore result in significant costs to the department if approved.

New working arrangements

The new working arrangement will be on a permanent basis and a new contract of employment will be issued. Once agreed, there will be no automatic right for the member to increase their hours (or grade if applicable) in the future.

Future retirement / pension arrangements

Following release of pension benefits for any approved flexible retirement, the existing LGPS membership will cease. If the scheme member wishes to pay LGPS contributions on the new contract they may do so; the option on whether to continue in the scheme should be notified by the scheme member on the Form FR2.

The LGPS allows employees to contribute to the scheme up to their 75th birthday.

Upon eventual 'full' retirement any second pension then becomes payable, based on the reduced grade and / or hours as applicable, and length of service in that post. If, after taking flexible retirement, a scheme member decides to fully retire but are still aged under 65 it is likely that the pension benefits that have been accrued during any second period of LGPS membership will be actuarially reduced, although an option exists to have pension benefits deferred until age 65.

Should personal circumstances change during a period of flexible retirement, e.g. in the event of ill-health or redundancy, during the second period of LGPS membership, scheme members are advised to seek advice from Pensions Services about the possible impact on pension payments in the longer term.

Ill-Health Retirement

Ill-health retirement is to be authorised by an 'independent registered medical practitioner qualified in occupational health medicine', and countersigned by a further 'independent registered medical practitioner qualified in occupational health medicine'.

Eligibility

Employees who are members of the LGPS and whose employment is terminated because of ill-health, or ex employees with LGPS deferred pension benefits who subsequently are assessed as no longer having the health and physical capacity to continue in employment.

The LGPS makes provision for the payment of pension benefits to those whose employment is terminated on grounds of ill-health as certified by IRMP. The provision constitutes three tiers of ill-health benefits, details of which are shown below.

A scheme member retiring on grounds of ill-health with less than 3 month's membership of the LGPS will only be eligible to receive a refund of pension contributions.

Employees who are not members of the LGPS

Such employees can be considered for an ill-health assessment following the application of the Attendance Management or Capability policies; however they would not benefit from the provisions of this policy or the LGPS scheme. Employees with pension scheme arrangements outside of the LGPS are advised to contact their pension provider accordingly.

Ill-Health Retirement Process

The responsibility for monitoring sickness absence and identifying cases of ill-health rests with the line manager and the necessary arrangements should be made to ensure this is done in adherence to the Attendance Management policy. Before considering an occupational health assessment the following factors should have been considered and discussed with the employee:

- A phased return to work (if the employee is currently on sickness absence)
- Reduction in working hours or a change in working pattern
- Flexible Retirement (if eligible)
- Seeking redeployment to another post (an occupational health assessment would be required to support this)

Step One

If it is a possibility that there is permanent ill-health, and the scheme member cannot or does not wish to consider any of the above options provided, or where

application of any of the above proves unsuccessful, HR Services are to be consulted, with a view to submitting a request for an occupational health assessment to consider ill-health retirement. The manager is to meet with the scheme member and advise them of the intention to refer to occupational health for consideration for ill-health retirement.

Step Two

The appropriate certificates along with any supporting documentation are to be sent to IRMP by the HR Adviser. There are 2 certificates; one which states the scheme member is permanently incapable of discharging efficiently the duties of their role and the second which does not support that view.

Consideration can only be given to terminating an individual's employment on the grounds of ill-health following receipt of the appropriate certificate from IRMP. The certificate must also determine whether the scheme member has a reduced likelihood of obtaining gainful employment before reaching normal retirement age; 65.

Step Three

Following receipt of the appropriate certificate the manager is to meet with the scheme member and provide them with a copy of the certificate and any report provided by IRMP. One of the following outcomes may be applicable:

- Outcome 1: Ill-Health Retirement Recommended

The certificate received indicates that the scheme member no longer has the health and physical capacity to continue in employment and is therefore to be retired on the grounds of ill health. The certificate will also specify under which 'tier' pension benefits will be paid; these tiers are linked to the likelihood of working again.

A meeting is to be arranged with the scheme member to discuss the content of the certificate and any report and copies are to be provided to them. The scheme member is to be informed in writing of the meeting and of their right to be accompanied at the meeting, which is to take place within 5 working days of receiving the report. During the meeting the scheme member may also wish to submit their own medical advice.

If an individual holds more than one post, then the report must stipulate whether one or all jobs are affected.

If the scheme member disagrees with the occupational health assessment, or where they submit medical evidence that conflicts with the occupational health assessment, the Strategic Director is to consider obtaining a further opinion / report before reaching any decision. If an additional assessment is required, this should ideally be undertaken by a medical practitioner who is mutually acceptable to both the employer and the scheme member.

In many cases IRMP will have already requested access to GP or medical information to assist them in determining the scheme member's employment / work and health position.

- Outcome 2: NOT permanently incapable of discharging efficiently the duties of their current employment

If the certificate and report indicates that the scheme member is capable of or has the capability to continue in their current employment then they should return to their normal duties with application of any appropriate adjustments identified. Ongoing monitoring and support should continue via the Attendance Management Procedure or the Capability Procedure as appropriate until such time as it has been established that the scheme member is now able to fulfil the requirements of the role and / or achieve an appropriate level of attendance as applicable. If this is not established then a re-referral to occupational health may be required or appropriate action taken following guidance in the Attendance Management or Capability policies and procedures.

If the certificate is unable to certify permanent incapacity, but a report from IRMP recognises some work related adjustments are required, such as seeking alternative or 'lighter duties' for the scheme member, then this may provide a successful solution. Should it not be possible to seek alternative or lighter duties, or if the alternative duties do not work out the scheme member will need to be referred once again for re-assessment:

- If any new arrangements have been on a trial basis the scheme member must be re-assessed on their substantive role
- If any new arrangements have been made contractual they should then be re-assessed against the new duties

Where alternative duties are suggested but it is not possible to adopt these a final decision will be based on the duties of the substantive post.

- Outcome 3: Permanently incapable of discharging efficiently the duties of their current employment, HOWEVER, is judged at this time to be capable immediately of obtaining gainful employment.

If the report indicates that the illness is such that the scheme member cannot return to their current role then the possibility of redeployment should be considered as advised by IRMP and be managed through the Redeployment Policy.

However, should the scheme member be referred once more if the alternative role and associated duties do not work out, they must be re-assessed:

- On their substantive post should the new arrangement only have been on a trial basis

- If the change has been contractual they should be assessed against the new duties

Where alternative duties are suggested but are not available a final decision will be based on the duties of the substantive post.

It should be noted that if the member is judged to be “permanently incapable of discharging efficiently the duties of his / her current employment because of ill-health or infirmity of mind or body” BUT is judged at that time to be capable immediately of obtaining gainful employment (and not just within the Council), the member **cannot** be granted ill health retirement.

Where the scheme member has become disabled as defined by the DDA³, and is able to return to work, then consideration must be made to making reasonable adjustments to working arrangements and / or the working environment to allow this, taking into account the requirements of disability legislation; such as:

- Provision of equipment
- Adjustments to the workplace
- Changes in working hours or patterns
- Restriction on duties or changes in the way in which work is carried out

Members with more than one Post

If a scheme member holds more than one post, then the certificate and / or report from IRMP must stipulate whether one or all jobs are affected by any decision.

Release of Pension Benefits – Tiers of Benefits

The three tiers of ill-health retirement are as follows:

(1) Tier	(2) Definition	(3) Pension Benefits
(4) 1	(5) No reasonable prospect of the scheme member being capable of undertaking gainful employment before age 65.	(6) The scheme member receives benefits based on their annual accrued benefits up to the date of termination and enhancement equal to all their prospective service from that date to their normal retirement age.
(7) 2	(8) Member is judged to be incapable of undertaking any gainful employment within three years of leaving, but likely to do so before reaching	(9) Benefits equal to the annual accrued benefits and enhancement of 25% of their prospective service to normal retirement age will be awarded.

³ The DDA defines a disabled person as someone who has a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.

normal retirement age.

(10) 3 (11) The scheme member is judged to be capable of undertaking any gainful employment within 3 years after leaving.

(12) Benefits equal to their annual accrued benefits payable as a pension for such time as the 3rd tier member does not obtain gainful employment, or until the employer stops payments following a review after 18 months. The third tier pension is payable for a maximum of 3 years.

Should a release of benefits be granted, then these will be from the date of leaving.

Third Tier III-Health Retirements

Implications for the employer of third tier retirements

A scheme member who leaves the Council as a 3rd tier member will be entitled to their annual accrued benefits payable as a pension for such time as the 3rd tier member obtains gainful employment, or until the Council stops payments following the review, up to a maximum of 3 years

The 3rd tier member will be required to notify the Council when employment is found, providing details; including pay, working hours and length of contract of that employment. The Council would then stop payments if this was deemed to be 'gainful employment'.

If payments have continued after gainful employment has been found, the Council will have powers to recover any overpayment from the 3rd tier member.

If 3rd tier payments cease, there should be no reinstatement.

- **Scheme members over 60**

It should be noted that should either the review date, or the scheme member find gainful employment on a date after their 60th birthday, in reality, they would not have their pension stopped, as they have passed their notional 'eligible retirement date'. However, it is possible that they would receive a reduced rate of pension, so it is important that all scheme members granted 3rd tier retirement undergo the same review procedures, regardless of age.

If the member attains 65 within the first 18 months, then the pension would never cease, and the member will not be called for review. If the review recommends that the pension continues for a further 18 month period that takes the payment period past age 65, again, the pension would never actually cease.

The Third Tier Review Mechanism

The Council will be required to undertake a review when payments have been made for 18 months if payments are still continuing at that point.

The Pension Section will write to the HR Services approximately 2 months before the assessment date, to remind you of the approaching review. Enclosed with that letter of instruction will be an Employer declaration and also the Review certificate (for the IRMP).

In order to avoid any unnecessary reviews taking place, and the associated cost and inconvenience involved, the Employer is advised to write first to the member to ascertain whether their capability of working is such that a review need not take place, and then the 3rd tier payments would be stopped.

Should that prove to be the case after your investigations, please complete Part A of the Employer declaration and return it to the Pension Services.

HR Services will be required to notify Pension Services without delay when payments should be stopped.

However, if the member maintains that they are in the same position as when the initial retirement took place, or if they inform you that their condition has worsened, you must send them for review.

A review certificate will be completed by IRMP, and a copy forwarded to Pension Services in all cases.

IRMP should be asked whether it remained the case that gainful employment could have been obtained within a reasonable period of leaving Council employment (IRMP should be asked to state the precise point at which gainful employment could be obtained) or if the scheme member is judged to be incapable of undertaking gainful employment within a reasonable period but is likely to be able to obtain gainful employment before their retirement age.

The Council would not be precluded, for the review, from selecting the same IRMP who made the judgement for the 3rd tier decision.

If IRMP is of the opinion that the scheme member remains capable of gainful employment within the reasonable period, the Council will have powers to stop payments at the date specified by IRMP.

The Council will have powers to determine that a 3rd tier member should become a 2nd tier member and the date of further determination will decide the date from which the uplift to 2nd tier will be put into payment. There is no option available to uplift to 1st tier payment.

The Council can determine that a 3rd tier member becomes a 2nd tier member upon the certification by IRMP following the review, or at any time, even if the payment of the 3rd tier benefit has been stopped. However, the pension would only be reinstated from the date of that determination.

Former Employees

Former employees (deferred member) may apply in writing for early payment of their deferred benefits if they believe they have become permanently incapable of performing the duties of their former post by reason of ill health.

IRMP must make their decisions based on the condition of the member at the date the application for early payment of the pension was made. This date is indicated on the certificate.

There are 3 categories of deferred LGPS member:

- Scheme members who ceased membership prior to 1 April 1998 (certificate)
- Scheme members who ceased membership between 1 April 1998 and 31 March 2008, both dates inclusive (certificate)
- Scheme members who ceased membership on or after 1 April 2008 (certificate)

The rules governing each differ slightly and different certificates apply in each instance.

Appeals

Should IRMP complete the certificate NOT recommending ill-health retirement or early release of a deferred pension, the line manager will need to write to the scheme member / former member advising them as to why their request has not been granted.

It should be noted that all scheme members have the right of appeal against a decision not to grant ill-health retirement.

In the first instance, if the individual feels that the ill-health retirement was turned down on unreasonable grounds, a review of the decision may be requested in writing to the line manager within 7 working days of receipt of the decision not to approve. The request should outline the reasons for requesting the review and may include further information in support of the case as is felt appropriate.

The line manager should arrange a meeting with the scheme member to discuss the appeal, within 10 working days of receiving the appeal letter.

After the review meeting has been held, the line manager is to respond in writing within 5 working days to notify the scheme member of the outcome.

In the second instance, should this review fail, they may further appeal to Leicestershire County Council Pension Fund, who will refer the matter to the Internal Disputes Officer.

Early Retirement (with employer consent)

Eligibility

There is scope to retire and draw benefits from age 55, but scheme members must have the Council's permission to draw retirement benefits before age 60. A member must have at least 3 months membership, or have brought in a transfer from another pension scheme and be able to prove responsibility for a medium to long term caring commitment for a dependant person.

Retirement before age 65 may reduce the pension benefits; this is to take account of being paid for longer. How much benefits are reduced depends on how early retirement is taken.

Employees who are members of the LGPS may voluntarily retire at or beyond the age of 60 without the consent of the Council and receive immediate payment of accrued pension benefits. However, a reduction in pension benefits⁴ may apply and any scheme member considering this option is advised to consult Pensions Services for an estimate of likely benefits in advance of any decision.

Requests

In relation to early retirements with employer's consent, policy is that:

- The Council will not consider the premature retirement of any employees except on compassionate grounds.
- The Council will not consent to requests for early retirement where capital costs are applicable unless there are exceptional circumstances.
- All requests for immediate access to retirement benefits under this regulation should be made in writing to be considered on an individual basis.
- The Council will, in principle, consider requests for early retirement as an application of early retirement arising from redundancy where the request would result in the same cost, a lower cost, or nil cost to the Council. In all cases, early retirement will only be considered when supported by a justifiable business case.

Submission

A scheme member who wishes to be considered for early retirement should write to their manager expressing an interest in early retirement and explaining the reasons in support of early retirement.

⁴ Scheme members should be aware that these reductions could be quite large, and that the reduced pension will remain for the rest of the individual's life, even when they finish work and lose their salary.

If, in view of the likely costs and benefits, it appears that the Council might wish to approve the early retirement, the manager should ask Pension Services to provide accurate details of the immediate and subsequent cost to the Council. The scheme member's request and details of any costs, as provided by Pensions Services are to be passed to the Strategic Director for consideration.

If the Strategic Director feels at this stage unable to support the application it should be explained to the scheme member that they cannot be allowed to retire early and this should be confirmed in writing with the reasons why.

If the proposal appears to be one that the Council may wish to approve, the Strategic Director should discuss with the scheme member the possible basis of the retirement and inform the Personnel Committee of the proposal, providing a detailed business case for the proposal and a written statement of the immediate and subsequent cost to the Council previously prepared by Pension Services.

An application may be withdrawn by the applicant at any time prior to its consideration by the Personnel Committee but if it is not withdrawn prior to this consideration it shall then be regarded as a firm application.

Consideration

The Personnel Committee and the Strategic Director involved will consider the proposal and will decide whether the scheme member should be allowed to retire early under the conditions of the scheme. In all cases the financial position of the Council must be considered.

Decision

If the retirement application is approved, the applicant will be informed of the decision in writing and the Strategic Director and Pensions Services shall take the necessary administrative action to put the retirement into effect and to pay to the applicant the benefits to which they are entitled.

If it is decided that the scheme member should not be allowed to retire early they should be informed of the decision in writing, but that the application may be reconsidered, at the scheme member's request, at a future date if business or personal circumstances change.

Early Retirement (Efficiency of Service)

Purpose

The purpose of early retirement (efficiency of service) is to provide fair and equitable compensation to employees who leave the Council's employment in the interests of the efficiency of the service and, at the same time, ensuring that legislative requirements are met and the burden placed on the public purse is reasonable. This provision is a discretionary one and the Council may seek to apply this discretion from time to time.

Eligibility

Early retirement at the instigation of the Council can only apply to employees who are aged between 55 and 65 and who are members of the Local Government Pension Scheme (LGPS).

Arrangements

This arrangement is aimed at individual employees who, whilst having given valuable service in the past, are no longer deemed capable of doing so. The situation may arise from an employee being unable to cope with the new and expanding duties being placed on them. The decline on an employee's ability to perform the duties of the post may be exacerbated by ill health but this arrangement is unlikely to apply in cases of long term absence due to ill health. This arrangement will not apply in the following circumstances:

- Where it is deemed that it is more appropriate to deal with an individual's ability or willingness to perform under the Capability or Disciplinary procedures.
- The decline in an employee's ability to perform the duties of the post due to domestic circumstances
- Ill-health where employees no longer have the health and physical capacity to continue in employment.

Employees who meet the requirements of early retirement are entitled to an immediate and unreduced pension based on their reckonable service. The cost of the early payment of pension will be borne by the Council. The application of this arrangement is entirely at the discretion of Charnwood Borough Council and will be with the consent of the employee. It will only be considered as a last resort.