

GUIDANCE FOR PREMATURE RETIREMENT AND PHASED RETIREMENT FOR (TEACHERS) & FLEXIBLE RETIREMENT FOR (LOCAL GOVERNMENT PENSION SCHEME) EMPLOYEES

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Consultation	<p>This is guidance only and has been shared with the recognised trade unions but has not been subject to formal consultation. It should be noted that within maintained schools the Local Authority is the “employer” for pension’s purposes. Within Academies, they are the employer and must ensure that they remain up to date on employer responsibilities. To do this we recommend Academies are in regular contact with Peninsula Pensions for local government pension scheme and Teachers Pensions.</p>



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1. **Introduction**

Due to differences in the pension regulations for teachers and support staff in schools, this guidance contains separate procedures for members of the Teachers' Pension scheme (TPS) and the Local Government Pension scheme (LGPS).

This guidance applies to members of the pension schemes working in schools maintained by the Local Authority and Academies if their staff are members of either scheme.

This guidance provides advice on the process. However, if you require more detailed advice this should be obtained through the relevant provider; for Teachers; Teachers Pensions and for support staff who are LGPS members; Peninsula Pensions.

Contact Details for Teachers Pensions are;
Telephone: 0345 6066166
Email: tpmail@teacherspensions.co.uk
Web: www.teacherspensions.co.uk

Contact Details for Peninsula Pensions are;
Telephone: 01392 383000 and ask for 'Pensions'
Email: pensions@devon.gov.uk
Web: www.peninsulapensions.org.uk/

2. **Retirement and Pension Benefits Options for Teachers and Support Staff**
 - 2.1 **Teachers**

2.1.1 Normal Age Retirement

This is when a member has reached their Normal Pension Age (NPA) and wishes to take retirement. The Normal Pension Age (NPA) for a teacher depends on when they joined the Scheme.

Before 1 January 2007 it is aged 60 and after 1 January 2007, aged 65. Please refer to Teachers Pensions website for further information.

2.1.2 Early Retirement (Actuarially Adjusted Benefit Retirement)

This is when a Member who is aged 55 or over can choose to retire earlier than their normal pension age and take their pension. However, the member should be aware that pension benefits will be paid at a reduced rate (Actuarially Adjusted Benefit Retirement (AAB)). Please refer to Teachers Pensions website for further information.

2.1.3 Premature Retirement (unreduced pension benefits are paid)

This is when a member who is aged over 55 but below normal retirement age is paid unreduced pension benefits. This will only apply if retirement is on the grounds of redundancy or organisational efficiency. For further information – please see 3.1 onwards below and also refer to Teachers Pensions website. Given the significant costs of this it is unusual for schools to grant premature retirement benefits to teachers.

2.1.4 Phased Retirement

This is when a member who is aged 55 or over with the schools consent chooses to take up to 75% of their pension benefits either by:

- retiring and returning to work but they must return to work within 6 months of leaving. This can be at the same school or with a different school;
- retiring without taking a break in employment.

However, to do either of these the member must take a 20% reduction in salary. For further information – please see 4.5 below and also refer to Teachers Pensions website.

2.2 Support Staff

2.2.1 Normal Age Retirement

This is when a member who has reached their Normal Pension Age (NPA) wants to retire. The Normal Pension Age (NPA) for a support member of staff in the LGPS depends on when they joined the Scheme: Before 1 April 2014 it is age 65 and from 1 April 2014 members can choose when to retire and take their pension at any time between age 55 and 75. Please refer to Peninsula Pensions website for further information.

2.2.2 Flexible Retirement

There are two types of flexible retirement:

- Members aged 55 and under aged 60 voluntarily choosing to retire and with the school's consent reducing their hours and/or pay grade and drawing some or their entire pension.

Pre 1 April 2014 this will be with reduced benefits and post 1 April 2014 with unreduced benefits provided they have been a member of the pension scheme for 2 years or more and remain in work.

Flexible Retirement allows a member aged 55 and over, subject to their employer's approval to reduce their hours and/or grade and to take a proportion of their pension fund as Pension Benefits. The Local Authority's policy is to give approval to an application for a Phased Retirement provided it is supported by the Governing Body.

- Members aged 55 and under aged 60 who are made redundant or lose their job for business efficiency reasons are paid unreduced pension benefits providing they meet the 85 year rule (Pre 1 April 2014) or have at least 2 years membership (post 1 April 2014)

For further information please see below and also refer to Peninsula Pensions website.

3. **Premature or Flexible Retirement (Teacher and LGPS)**

3.1 **Approval**

Although it is possible for teachers and support staff to be granted premature or flexible retirement, it would be extremely unusual due to the potential cost to the school, for unreduced pension benefits to be paid to a teacher (TPS) or a support member of staff (LGPS) who is aged over 55 but below normal retirement age. However, if a maintained school is considering this and requires the Local Authority to meet the costs, then they must obtain written agreement from the Local Authority before they proceed. The request should be supported with a business case explaining the reason why the school wants to consider terminating the employee's employment on the grounds of redundancy or organisational efficiency. The Governing Body should ensure that the cost can be recovered within a period of 3 years but in exceptional cases, within a period of no more than 5 years or by the normal retirement age, whichever is sooner. Applications that do not produce savings can also be considered if they are in the interests of efficiency to a service.

If the school don't do this then under section 37 of the Education Act 2002, the Local Authority has the power to take the cost of this from the school's budget.

3.2 **Criteria for Premature or Flexible Retirement in the interests of efficiency (Teacher and LGPS)**

- The application must be made in writing with reasons and supported by the Headteacher/Chair of Governors'.
- The applicant must be employed on a "permanent" contract of employment or a temporary contract for more than 3 years at the time of application covering a colleague who has been granted an extended period of absence on a non-fixed term basis.
- The applicant must have completed all the information and signed the declaration relating to other employment.

- The applicant must not be going through the capability process.
- The applicant must not be subject to a disciplinary investigation where dismissal is a possibility.
- The applicant must not be suspended from work other than on medical grounds.
- The applicant must not be under investigation in relation a complaint made in relation to child protection arrangements.

3.3 Compensation Payments (Teachers and LGPS)

No compensation payments are made in cases where the school gives its approval for employees to take voluntary early retirement following a request from the employee.

4. Teachers' Pension Scheme (Premature and Phased Retirement)

4.1 Retirement Age

The Normal Pension Age (NPA) for a teacher depends on when they joined the Scheme:

Before 1 January 2007, their NPA is 60.

After 1 January 2007, their NPA is 65

The NPA of a member in the career average arrangements is either their state pension age or age 65 whichever is the later date.

If a member has benefits in more than 1 arrangement then they will have more than 1 NPA.

If a member has benefits in both the final salary and career average arrangements their final salary benefits are protected and will remain in final salary. When they retire, the salary they earned in the career average will be used to calculate their final salary benefits. This is called the final salary link. If a member has a break in pensionable service of more than 5 years ending after 1 April 2015 then the salary link is broken and the salaries earned at the time of the break will be used to calculate the final salary benefits.

4.2 Premature Retirement

New regulations applying to premature retirement compensation for teachers came into force from 1 April 2015 and therefore, the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015 (SI 1997/601) supersedes the 1997 regulations. The link below provides further information.
<http://www.legislation.gov.uk/ukxi/2015/601/contents/made>.

The new regulations allow for premature retirement compensation in respect of benefits in the 2015 Career Average scheme and the existing 2010 scheme. The 2015 premature retirement regulations restructure and consolidate the previous regulations and amendments.

In addition, the new regulations have removed the previous maximum period of

effective service of 40 years. This reflects the higher Normal Pension Ages in the Career Average scheme and the increase in a person's potential pensionable service.

Premature Retirement Compensation (PRC) allows teachers to retire early when their employment has been terminated on grounds of redundancy or organisational efficiency. A teacher must be over 55 and under the NPA for Premature Retirement to apply, this is to enable them to collect their pension and lump sum immediately (rather than waiting for NPA or applying for AAB).

If a teacher is 55 or over, they can ask to access their retirement benefits before their NPA.

The benefits will be actuarially adjusted permanently, although the pension will be index linked.

AAB cannot be awarded if the benefits are less than their guaranteed minimum pension.

4.3 Compensation Payments

If a member is aged 55 or over, and the school decides to grant premature retirement benefits, they will be legally obliged to pay **Mandatory Compensation** for the lifetime of that member. The Scheme will pay the member actuarially adjusted benefits based on the service completed by the member. The school will be required to pay the difference between that and the service they could have completed, so that the member receives unreduced benefits, this is known as Mandatory Compensation. If family benefits are subsequently paid, they are not reduced and the scheme will pay the full amount.

The school will be required to pay mandatory compensation for both schemes if the member has service in both the final salary and career average arrangements. The member will be required to take all their benefits at the same time.

Premature retirement is not an option at the end of a fixed-term contract and if the school is Local Authority maintained and have already made a severance payment, then premature benefits cannot also be paid.

Before premature retirement benefits can be paid the member must cease all teaching employment and their contract(s) of employment must end. Where a member works on a supply or casual basis, their contract must end. A non-working day is not considered as a break in service.

The member can obtain an application form from the secure member area of the Teachers' Pensions website, [My Pension Online](#). They will be required to complete a number of questions and options so must take care in checking that they have correctly completed all the relevant sections. They should access the modellers on the secure member area of the website, [My Pension Online](#) which will assist them in completing their options.

The school will be required to:

- confirm the member's proposed retirement date;
- accept they will have to pay part of the member's benefits;
- decide how they will make the payments; and

- provide details of the member's service and salary.

If there is any delay in providing the information the member may not receive their benefits on time.

Applications should be submitted at least 3 months before the proposed retirement date but any application received more than 6 months from the retirement will be rejected. This is because salaries or absences could occur in the intervening period.

4.4 Payment

The school can choose to make the Mandatory Compensation payment direct to a member or can contract Teachers' Pensions to make the payments on their behalf.

If the school contracts Teachers' Pensions to make the payments they will have to refund the Teachers' Pension Scheme for the payments, in addition to an administration fee. They can make the refund to the Teachers' Pension Scheme by 1 of 3 methods:

- Pay as you go where the refund is made every 3 months based on the payments made in the previous 3 months.
- On a 1 off lump sum basis where an actuarial calculation is undertaken using factors based on life expectancy provided by the Teachers' Pension Scheme actuary.
- On a lump sum basis where an actuarial calculation is undertaken using factors based on life expectancy provided by the Teachers' Pension Scheme actuary but the lump sum is paid over a period of 2 to 5 years. In those circumstances interest is charged on the total payment.

In addition to the mandatory element the school may decide to grant additional benefits to the member. This is known as **Discretionary Compensation** [SCC Redundancy and Early Retirement Discretionary Compensation Policy](#)

(For academies – please also refer to Discretions Policy Guidance on writing your own policy) [Discretions Policy Guidance for Academies](#). Again, the school can choose to make these payments direct to the member or can contract Teachers' Pensions to make the payments on their behalf. The arrangements for refunding the Discretionary Compensation are the same as those for Mandatory Compensation.

Unlike Mandatory Compensation, Discretionary Compensation does not end when a member dies but continues to be paid at a reduced rate to the spouse or civil partner after a member's death.

4.5 Phased Retirement

The **Phased Retirement Scheme** allows a teacher aged 55 and over, subject to their employer's approval, to reduce their hours and/or grade and to take a proportion of their pension fund as Pension Benefits. The Local Authority's policy is to give approval to an application for a Phased Retirement provided it is supported by the Governing Body.

The scheme allows the member to decide how much they wish to take of the benefits they have accrued - up to a maximum of 75% of their total benefits. The member can take Phased Retirement without having a break in employment - but only if their pensionable salary reduces by at least 20% of the average salary they

received in the previous 6 months. The reduction in salary has to be for a minimum of 12 months.

They can also take Phased Retirement if they have had a break in employment provided it's not for more than 6 months and their new pensionable salary is at least 20% less than their previous salary. They will have to maintain that reduction for at least 12 months after they start their new employment.

- The application for Phased Retirement must be made within 3 months of starting employment in a reduced capacity and be made in advance of them starting work in the reduced post.
- The member must agree this arrangement with the school prior to them applying as they will be required to provide confirmation of the salary reduction on their application form.

In both cases the election to take Phased Retirement must be completed within 3 months from the date the salary reduction starts.

Further information about the Phased Retirement option can be found on the Teachers' Pension website at www.teacherspensions.co.uk.

5. Local Government Pension Scheme (Flexible Retirement)

5.1 Retirement Age

Up to 31 March 2014

Any Pension built up before 1 April 2014 has a protected Normal Pension Age (NPA), which for almost everyone is age 65. If staff retire and draw their entire pension at their protected NPA, the pension built up in the scheme before 1 April 2014 will be paid in full.

If members choose to take any pension built up in the scheme in place up to the 1 April 2014 before their NPA, their pension will normally be reduced as a result of it being paid earlier. If they take it later than their protected NPA it will be increased as a result of it being paid later.

The amount of any reduction or increase will be based on how many years earlier or later than their protected NPA they draw the pension they have built up in the scheme to 31 March 2014.

From 1 April 2014

Members can choose when to retire and take their pension at any time between age 55 and 75.

The NPA is the same as the State Pension Age (but with a minimum of age 65). Staff can choose to take their pension before their NPA but it will normally be reduced, as a result of it being paid earlier. If they take it later than their Normal Pension Age it's increased as a result of it being paid later.

Members age 55 or over can, with the school's consent, reduce their hours and/or pay grade and draw some or their entire pension (provided they have met the 2 years vesting period in the Scheme) and remain in work.

Members who choose to carry on working after NPA and continue to pay into the LGPS, build up further benefits. When they eventually retire they will receive their pension unless they choose to delay drawing it. They must draw their pension by no later than age 75.

Members can find out what their State Pension Age is by using the Government's [State Pension Age Calculator](#).

5.2 Flexible Retirement

There are two types of flexible retirement:

- Members voluntarily choosing to retire (for which no compensation payment is made).
- Members who are made redundant or lose their job for business efficiency reasons.

Members cannot normally take benefits built up prior to April 2014 separately from the benefits they built up from April 2014. All of their pension must be drawn at the same time (except in the case of Flexible Retirement).

5.2.1 Redundancy and Business Efficiency

From 1 April 2014 staff aged 55 or over made redundant or lose their job for business efficiency reasons can take their pension with no reduction for early payment providing they have met the 2 years vesting period in the Scheme.

5.2.2 Rule of 85 Protection

To have the rule of 85 protection, the member must have been a member of the LGPS before 1 October 2006. The rule of 85 is satisfied if their age at the date when they draw their pension plus their Scheme membership (each in whole years) adds up to 85 years or more.

The rule of 85 protects some or all of the benefits from the normal early payment reduction.

For members who have the rule of 85 protection this will continue to apply from 1 April 2014. The only occasion where this protection does not automatically apply is if they choose to voluntarily draw their pension on or **after age 55 and before age 60**.

From 1 April 2014 there is a new option in the LGPS where the member can choose to voluntarily draw their pension on or after age 55 and before age 60 without the need for the school's permission.

The rule of 85 will not automatically be applied if the member decides to draw their benefits under this new option but the school can exercise their discretion to apply it. However, if they do, and the member meets the rule of 85 at the date of drawing their benefits then:

- if they are age 60 or over by 31 March 2016 and choose to draw their pension before their NPA and satisfy the 85 year rule when they start to draw their pension, the benefits they built up to 31 March 2016 will not be reduced;

- if they are under age 60 by 31 March 2016 and choose to draw their pension before their protected NPA and satisfy the 85 year rule when they start to draw their pension, the benefits built up to 31 March 2008 will not be reduced. Also, if they are aged 60 between 1 April 2016 and 31 March 2020 and meet the 85 year rule by 31 March 2020, some or all of the benefits they built up between 1 April 2008 and 31 March 2020 will not have a full reduction.

5.3 Pension

On taking Flexible Retirement the current pension is closed. Employees reducing their hours or taking a reduction in pay will be automatically enrolled into a new Pension but can opt-out (see the Peninsula Pensions website).

Where an employer agrees to flexible retirement, the employee will have to draw all of their pre 1st April 2008 benefits, plus some, all or none of their benefits accrued between 1st April 2008 and 31st March 2014, plus some, all or none of their benefits accrued after 31st March 2014. Any extra benefits the member or employer had paid for via extra contributions will be payable in accordance with guidance issued by the Secretary of State.

6. Application Process for Phased or Flexible Retirement

The Application form for each type of retirement can be accessed through the links to the appendices below:

- Appendix A - Application for Premature, Phased or Flexible Retirement
[Application for Premature, Phased or Flexible Retirement](#)
- Appendix A1 – Request for Flexible Working related to an application for Phased or Flexible Retirement
[Request for Flexible Working relating to an application for Phased or Flexible Retirement](#)
- Application for Phased Retirement (Teachers only - Teachers Pensions)
[Application for Phased Retirement - Teachers Pensions](#)

If a member applies for a phased or flexible retirement, they should complete the application form (Appendix A) and attach to it the “Request for Flexible Working” form (Appendix A1).

The member will need to explain the type of flexible working he/she is seeking, the effect these changes would have on the school and how the school might deal with these effects. The approval of the request will depend on the operational viability of the proposal.

{Teachers only} - If the request is approved then the member should also complete the Teachers Pensions application form.