

Working here: Criteria re Early release of Deferred Benefits on Compassionate grounds

ACTION AUTHORISED BY Keir Lynch, Director for People & Transformation


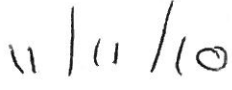


Originating Officer: Maxine Taylor Head of Corporate HR Services Ext: 20745

Local Government Pension Scheme Regulations 1995, 1997 & (Benefit, Membership & Contributions) Regulations 2007. Discretionary decisions by Essex County Council.

I hereby approve the LGPS – Policy on Early Release of Deferred Benefits for the Council.

Please see attached:

- Briefing Paper
- Discretionary Policy decision re Early Release of Deferred Benefits

Signature	Date
Maxine Taylor Head of Corporate HR Services 	
Keir Lynch Director for People & Transformation 	

Criteria re Early release of Deferred Benefits on Compassionate grounds, re: Local Government Pension Scheme Regulations 1995, Local Government Pension Scheme Regulation 1997 & Local Government Pension Scheme (Benefit, Membership and Contributions) Regulations 2007

Purpose of this paper

To provide for consideration a clear and consistent approach when allowing employer consent to early release of pension benefits from the age of 55 and before age 60, where a request in writing has been made directly to Essex County Council (ECC) from ex employees who were members of the Essex Pension Fund (EPF). In view of the fact that an ex employee can challenge Essex Discretionary decisions using the IDR process, it is important to have a clear and succinct policy setting out the criteria for early release of Deferred Benefits on compassionate grounds.

Background

Under the above Local Government Pension Scheme Regulations the rules governing early payment of a deferred benefit are dependent on when the ex employee left the scheme and became a deferred beneficiary. ECC as the employer can exercise discretion to allow for early release of Deferred Benefits from age 55 and before age 60. For leavers prior to 01/04/1998 & between 01/04/1998 and before 31/03/2008 the earliest age of 50 applies. Such an application can be made from the age of 50.

Leavers before 1st April 1998

For all leavers prior to 1st April 1998 a member's deferred benefits would be payable under regulation DII of the Local Government Pension Scheme Regulations 1995. Former employees can submit a formal written application to his or her former employer, and in such cases an employer would need to consider each case on its own merits and consider compassionate grounds as reason for early release. Should a case meet the criteria as set out by ECC and employer consent given, then the benefits must be released in full, no actuarial reduction would be applied and any resulting strain on the fund costs would have to be paid by ECC to the EPF.

Leavers on or after 1st April 1998 and before 1st April 2008

For all leavers after 1st April 1998 and before 1st April 2008 a member's deferred benefits would be payable under regulation 31 of the Local Government Pension Scheme Regulations 1997. Former employees can elect in writing to his or her former employer to request consent to early release of their deferred benefit. An election is ineffective without ECC consent. ECC would need to consider each case on its own merits. There may be an actuarial reduction that would be applied for the benefits to be brought into payment early, which ECC could waive on compassionate grounds. Actuarial reductions are determined by whether or not the member has already met the 85 year rule, or would have met it before age 60. Given that the 85 year rule has in itself been found to be age

discriminatory and has since been removed from the scheme, making a decision on whether or not to agree to early payment for leavers that fall into this category on cost alone could be challenged on age discrimination grounds. ECC would need to be able to demonstrate that their decision was objectively justifiable. Such an election can be made from the age of 50.

Leaver on or after 1st April 2008

For all leavers after 1st April 1998 a member's deferred benefits would be payable under regulation 30 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007. These regulations provide similarities to those that leave the scheme after 01/04/98 and before 01/04/2008, however no election can be made before age 55. Due to the Finance Act 2004 all payments made to members after age 50 but before age 55 are deemed as unauthorised and a tax levy applies to the employer as well as the employee. It is advised that ECC should not authorise early release of benefits before age 55.

Whether to grant applications for the early payment of pension benefits on or after age 55(or on or after age 50 to certain protected members) and before age 60 (Regulation 30 (2) of the LGPS (Benefits, Membership and Contributions) Regulations 2007, Regulation 31 (2) & (5) of the LGPS Regulations 1997and Regulation D11 of the LGPS Regulations 1995

Regulation	Employer Discretion	Policy/Criteria Decisions
D11 (c) 1995	To grant an application for a pre 1 April 1998 deferred member the early payment of pension benefits on or after age 50 on compassionate grounds. Should pension benefits be released on compassionate grounds, benefits must be paid in full, any strain on the Essex Pension Fund must be paid by the employing authority.	Applications from Deferred members will only be considered on or after age 55, due to HMRC ruling on unauthorised payments for ex members from age 50 but under age 55. Approval will be given only on compassionate grounds, which are deemed to be exceptional and meet strict criteria. Financial hardship alone is not deemed sufficient grounds for early release <u>criteria:</u> Where the ex member has had to give up paid employment to care for a severely disabled or seriously ill child following the death of their partner, who was the sole carer of the dependent person, and where reasonable additional support is not viable.

Regulation	Employer Discretion	Policy/Criteria Decisions
31 (2) & (5) 1997	To grant member elections received in writing to ECC for the early release of deferred benefits on or after age 50 and before age 60. Any ex member may seek employer consent to receive an immediate payment of accrued pension benefits. ECC may determine on compassionate grounds to waiver any actuarial reduction that would be applied to the ex members benefits.	<p>Applications from Deferred members will only be considered on or after the ex member has obtained the age of 55, due to HMRC ruling on unauthorised payments for ex members from age 50 but under age 55. Approval will be given only on compassionate grounds, which are deemed to be exceptional and meet strict criteria. ECC will not waiver in whole or part any actuarial reduction which would apply to a members benefits in this case.</p> <p>Financial hardship alone is not deemed sufficient grounds for early release</p> <p><u>Criteria</u></p> <p>Where the ex member has had to give up paid employment to care for a severely disabled or seriously ill child following the death of their partner, who was the sole carer of the dependent person, and where reasonable additional support is not viable.</p>
30 (2) 2007	To grant member elections received in writing to ECC for the early release of deferred benefits on or after age 55 and before age 60. Any ex member may seek employer consent to receive an immediate payment of accrued pension benefits. ECC may determine on compassionate grounds to waiver any actuarial reduction that would be applied to the ex members benefits.	<p>Approval will be given only on compassionate grounds, which are deemed to be exceptional and meet strict criteria. ECC will not waiver in whole or part any actuarial reduction which would apply to a members benefits in this case.</p> <p>Financial hardship alone is not deemed sufficient grounds for early release</p> <p><u>Criteria</u></p> <p>Where the ex member has had to give up paid employment to care for a severely disabled or seriously ill child following the death of their partner, who was the sole carer of the dependent person, and where reasonable additional support is not viable.</p>