Retirement policy

Date approved: 18 May 2021

This policy was adopted by NHS Cornwall and Isles of Scilly Integrated Care Board (ICB) on 1 July 2022.

We are working to change the branding on our policies and to make sure they are accessible.

We intend to complete this work by 1 April 2023. While this work is underway, all references to NHS Kernow, the CCG and related structures should be taken to relate to the ICB.

This policy may not be suitable for users of assistive technology. If you use assistive technology (such as a screen reader) and need a version of this document in a more accessible format, please email ciosicb.corporategovernance@nhs.net. Please tell us what format you need. It will help us if you say what assistive technology you use.

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2	September 2009		Amendments following POD team consultation
3	October 2009		Amendments following POD policy subgroup meeting
4	November 2009		Amendments following JPC meeting
5	May 2011		Review of policy
6	May 2012		Review of policy
7	January 2021	POD team	Update of policy from July 2012 to include 2015 scheme and increasing gap in employment break for retire and return.

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1. Introduction

NHS Kernow Clinical Commission Group (NHS Kernow) is keen to support colleagues who wish to look at their retirement with a flexible approach. This policy details the options available for colleagues to consider in retirement.

Colleagues who are eligible can voluntarily retire at a time they choose and draw any occupational pension to which they are entitled. NHS Kernow cannot insist colleagues retire or set a retirement age unless it can be objectively justified.

Whatever the age of a colleague, discussing their future aims and aspirations can help NHS Kernow identify their training and development needs and provide an opportunity to discuss their future work requirements. Managers must use the appraisal process to ask an open question regarding an individual's aims and plans for the short, medium, and long term. The questions can include where they see themselves in the next few years and how they view their contribution to the organisation.

2. Purpose

The purpose is to lay down the principles, practices and guidance that will govern NHS Kernow's approach to a colleague's retirement. Retirement is a time of great significance in a person's life and NHS Kernow is committed to giving colleagues who are retiring every facility to ensure as smooth a transition as possible from work to retirement. This includes a flexible approach to retirement.

This policy aims to:

- allow colleagues to prioritise their own health and wellbeing
- support work and life balance considerations including caring responsibilities
- recognise the business case benefits and the contribution older colleagues can make
- help colleagues make the transition from work to retirement

The policy also aims to enable colleagues to retire at any age, appropriate to their circumstances, taking into consideration the needs of the service. It allows skills to be retained through changing the working arrangements of older colleagues such as, reduced physical demands and/or responsibilities, to provide a range of choices as colleagues prepare to retire or work longer.

3. Definitions

Retirement

When a colleague chooses to cease work on a permanent basis.

Retirement age

The age at which a colleague chooses to retire from work. NHS Kernow does not have a set retirement age and there is no statutory default retirement age.

Pension age

The age at which a colleague can draw their pension, and this will depend upon the NHS scheme section they belong to. This will not necessarily coincide with their retirement age (for example the date they retire).

State pension age

The earliest age at which an individual can claim a state pension (subject to qualifying conditions).

Flexible retirement

Flexibility about the age at which a colleague retires, the length of time a colleague takes to retire or the nature and intensity of work in the lead up to final retirement.

4. Responsibilities

Directors and heads of service

They will ensure the fair application and implementation of the policy within their division. This includes consideration of retire and return requests.

Line managers

They will:

- take part fully in preretirement planning with colleagues
- ensure the principles are adhered to in the required timescales
- ensure colleagues are aware of their options
- offer a preretirement meeting
- ensure consistent application of the policy within their area of responsibility
- decide if retire and return is a possibility
- monitor ill health that might lead to early retirement
- seek advice from the people and organisational development (POD team)

In addition, they will assess with all colleagues as part of the appraisal process their short, medium, and long term aims and aspirations and to organise succession planning and training and development. They will also review the business needs and

implications as well as the needs of the retiree of any requested change including flexible retirement and retire and return.

They will ensure that advanced notice is sent to the pensions department 4 months in advance of the proposed last day of service, inclusive of any outstanding annual leave due.

All colleagues

- Fully engage with their line manager in discussing preretirement options.
- Attend a preretirement meeting with their manager.
- Review the pensions implications of their plan.
- Ensure the most up to date information is reviewed.
- Request retire and return if wanted.

You should raise your intention to retire as part of regular 1 to 1 meetings and/or during annual performance development reviews.

Where possible you will notify your line manager at least 6 months before your expected date of retirement to enable arrangements to be made to ensure service continuity, succession planning and to meet NHS pension notice requirements.

POD team

- Overall responsibility for the implementation, checking and review of the policy.
- Review compulsory retirement.
- Give advice and support to managers and colleagues in the application of the policy.
- Help managers in reviewing ill health that might lead to early retirement.

Pensions

- Provide information to managers.
- Provide quotes and retirement packs to colleagues.
- Process retirement applications for submission to NHS pensions.

It should be noted that, by law, no financial advice can be offered to scheme members except by a suitable registered person under the Financial Service Act.

The director in charge of information governance

- Organise appeals against a POD team decision to approve mandatory retirement.

An alternative executive director can take this role if it is appropriate at the time.

5. Flexible retirement options

Range of options

The range of flexible retirement options available within the NHS pension scheme include:

- preretirement wind down (a reduction in working hours)
- preretirement step down (to a less demanding role)
- retire and return
- draw down (applicable to 2008 section and 2015 scheme members)
- late retirement (applicable to 2008 section and 2015 scheme members)
- early retirement and reduced buy out (2015 scheme only)
- rejoining the scheme after retirement (2008 section and 2015 scheme only)

More details about each choice are provided below but, in all cases, colleagues are encouraged to contact the pensions department to clarify how their pension entitlement may be affected, and/or to seek advice from an independent financial adviser.

The options available are summarised below:

Options	1995	2008	2015	Explanation
Wind down	Yes	Yes	Yes	Remain in your existing post but reduce the number of working hours or day.
Step down	Yes	Yes	Yes	Step down to a different role, for example reduce your level of responsibility, whilst staying in NHS employment.
Retire and return	Yes	Yes	Yes	Retire, take all your pension benefits, and return to NHS employment, with a break in service of at least 2 weeks between employments.
Draw down	No	Yes	Yes	Take between 20% and 80% of your pension benefits and continue to build up future membership in the scheme.
Late retirement enhancement	No	Yes	Yes	Increase the pension benefits available at full retirement by working beyond your normal pension age, up to the age of 75.
Early retirement enhancement	No	Yes	Yes	Pay additional contributions to buy out, or reduce, the reduction that would be applied to your pension for retiring early, for example before normal pension age.
Rejoining	No	Yes	Yes	Rejoining the scheme after retirement.

Wind down or phase retirement

A colleague may be able to reduce their contracted hours.

Colleagues considering this choice must be aware that there will be financial implications to this change. A reduction in hours will result in reduced service membership to the pension scheme for the period of the reduced hours. It will also result in less annual leave and salary will being paid on a pro-rata basis for actual hours worked.

Step down (less demanding role)

Colleagues may change to a lower banded post following consultation with NHS Kernow. Their pension may be preserved at a higher rate and a new rate started and individuals should check pension implications with their pension scheme advisor. The colleague will be paid at the proper level and for the number of hours relevant for the new post.

This can only occur when there is a suitable position available in NHS Kernow or elsewhere in the NHS.

Members of the NHS pension scheme (1995 section) who are over the minimum age of retirement, and whose pay reduces by at least 10%, may apply for the pension rights earned at the higher level to be preserved. The application must be made within 15 months of the date that the rate of pay is reduced. Colleagues should check the details of the calculation of this pay.

Retire and return to work

Colleagues may be able to retire, draw their pension and return to work. Colleagues who wish to retire and return to work for NHS Kernow must have a break in service of at least 2 weeks, to receive benefits. There is no guarantee that an application for this will be approved. The application will be assessed against:

- burden of added cost if further resource is required
- impact on the ability to meet service demand
- ability to reorganise work amongst existing colleagues
- ability to recruit additional colleagues
- could there be a detrimental impact on quality or performance?
- whether there will be sufficient work during the work times requested
- whether any organisational changes are planned and the potential impact

The effect of retiring and returning on their pension is decided by the NHS pension scheme. Applications for retire and return to work should be made via the NHS Kernow flexible working policy.

Draw down, partial retirement

This choice is open to members of the 2008 section and 2015 scheme members. Members may elect to partially retire and take some of their benefits whilst continuing in NHS employment. To do this, the colleague must have reached at least the minimum retirement age of 55 and have reduced their pensionable pay by at least 10%.

Members can take between 20% and 80% of their pension entitlement whilst continuing to build up future membership. Pensionable pay must remain reduced for at least 1 year otherwise eligibility to a pension will cease. Benefits can be drawn down twice before final retirement.

Late retirement

This choice is open to members of the 2008 section and 2015 scheme members. Colleagues who stay in employment beyond the normal retirement age, and remain in the NHS pension scheme, may continue to earn benefits to age 75 or until they reach 45 year's membership.

There are no provisions to increase benefits for members of the 1995 section if they are paid late but members of the 2008 section will have any pension earned before age 65 increased to take account of the fact that it is being paid later than the normal retirement age.

Members of the 2015 scheme will have late retirement factors applied to all pension earned until retirement.

Early retirement and reduced buy out (2015 scheme only)

This provision that applies only to the 2015 scheme allows colleagues and/or their employer to make added contributions to the scheme that will allow colleagues to retire earlier than their state pension age without any or with less early retirement reduction. They cannot add contributions that would allow them to retire more than 3 years earlier than an individuals' state pension age and not allowing for a retirement age of less than 65 years old. Further details are available on the NHS pensions agency website.

Rejoining the scheme after retirement

Members of the 2008 section and 2015 scheme are eligible to rejoin the scheme after drawing their pension benefits up to a maximum age limit of 75, and they can build a separate pension. Further details are available on the NHS pensions agency website.

Business need

Each of the above-mentioned flexible retirement options, are dependent on business needs.

6. Members of the 1995 section (NHS)

If a colleague retires with age, voluntary early retirement or deferred benefits and returns to work in the NHS for more than 16 hours a week within 1 calendar month of retirement, their pension will be suspended from the day the work begins. Their lump sum will not be affected. To avoid this, a colleague will need to work 16 hours or less a week for at least 1 full calendar month following their return. If a colleague does not choose to work 16 hours or less a week for at least 1 full month following their return they may decide to do 1 of the following:

- have a break in their contract of at least 1 full calendar month
- stop working in the NHS
- reach age 75 (70, if your last day of scheme membership was before 1 April 2008)

7. Options for retiring early

Retirement dates

The minimum pension ages for members are 50 for members of the 1995 section of the NHS pension scheme. 55 for members of the 1995 scheme who joined on or returned to the scheme after 6 April 2006 for whom the minimum pension age is 55. 55 for members of the 2008 and 2015 section.

The normal pension age is:

- 60 for members of the NHS pension scheme: 1995 section
- 65 for members of the 2008 section
- state pension age for members of the 2015 scheme

If early retirement is taken benefits will be at a reduced level. This is because they are being paid for longer than expected.

In some cases your pension may be reduced or suspended until you reach age 60. This is called abatement.

There are certain colleague groups (in the 1995 section only) who, due to the nature of their work, are entitled to take age retirement on different terms to those outlines above. Female qualified nurses, midwives, physiotherapists, occupational health nurses and health visitors together with male or female mental health officers, employed before March 1995, can retire age 55 with no reduction to their pension (except that the number of years worked will affect the amount of pension entitlement). Male qualified nurses, midwives, physiotherapists, occupational health nurses and health visitors also retire aged 55 but benefits will only be based on membership from 17 May 1990.

Retirement due to ill health (permanent incapacity)

Colleagues who become ill or permanently incapacitated to such an extent that they are unable to continue in their job may be eligible to retire on the grounds of ill health.

Any retirement under this capacity must be discussed fully with the line manager, a member of the POD team, occupational health, and NHS Kernow's pension department at an early stage. Before an application is made, the manager must ensure that absence has been checked and reviewed in line with the ill health application procedure. The line manager and the POD representative must keep the finance team fully updated on ill health retirement cases.

The NHS pensions agency website has further information.

8. Preparation for retirement

Workforce planning

As part of the annual appraisal process, managers should discuss retirement options with colleagues within 1 year of when they are able to draw their pension with no actuarial reduction. This must be handled sensitively as colleagues do not have to retire unless there are objectively justified reasons.

Preretirement interviews

Colleagues who are retiring should be offered a preretirement interview with their line manager. At this interview, the manager and individual may wish to cover the following:

- preretirement training courses and information
- alternative employment options (including phased retirement and part time working)
- voluntary work

Details of the keep in touch arrangements should also be covered such as, the Cornwall health services retirement fellowship and the NHS retirement fellowship which are sent out with the pension claim form.

For more information, email the pensions department. An email can be used for notification of any retirement cases.

The manager must contact the pensions department 4 months prior to retirement to confirm the leaving date. The pensions department will then send out the pension claim form to the colleague.

9. Information

Information is available from various places. The NHS pensions helpline can offer detailed information on 0300 330 1353 (they will need the members national insurance number or pensions reference). For more information, visit the NHS Pensions Agency website.

Your local library may be able to provide you with further information regarding retirement and a magazine called choicemag for the over 50's is available online or by hard copy.

10. Compulsory retirement objective justification

Under the Equality Act 2010, it became illegal to issue colleagues with notice to compulsory retire at the age of 65 after 1 April 2011 unless this can be objectively justified. NHS Kernow welcomed this change in law as it highly values its older workforce.

Direct and indirect age discrimination will be lawful under the Equality Act 2010 if the employer can show that it is a proportionate means of achieving a legitimate aim (real need in the service or organisation and the criteria that is applied goes no further than achieving this legitimate aim). A legitimate aim might include economic factors such as business needs and efficiency, the health, welfare, and safety of the individual, and the training requirement for the job. The test of objective justification is not an easy one and it will be necessary to supply evidence if challenged. Any such decisions will only be made in extenuating circumstances, by a director and the head of POD.

11. Appeal

The colleague has the right of appeal against the decision made by the director of POD on the grounds outlined below, by notifying the director in charge of information governance with their grounds for appeal.

Any such appeal must be made in writing, within 10 calendar days of receipt of the written decision from the manager and must state the grounds on which the colleague wishes to appeal.

The director in charge of information governance will name an executive to hear the appeal who will invite the colleague to an appeal meeting within 10 working days of receipt of the written appeal. This meeting should be held within 20 working days or as soon as is reasonably practicable. See the template letter in appendix 1.

The colleague will have the right at this meeting to be accompanied by a work colleague, or an official of an employee association recognised under the agenda for

change agreement or an official of any trade union and who is not a family member of acting in a legal capacity.

A letter informing the appellant of the outcome of the appeal will be sent within 5 working days of the appeal hearing. The decision of the appeal panel is final and there is no further appeal stage available.

12. Implementation plans and monitoring effectiveness

The policy will be reviewed by a subgroup of staff voice and by the unions. Colleagues will then be informed of the new policy.

It will be included in management training where appropriate.

The POG team will check the number of retirements and any appeals received in respect of forced retirement. This will be reviewed by the workforce committee.

13. Update and review

The policy will be reviewed every 3 years or where there is a major change in the pension rules.

14. Policies referred to in this document

- Equality and diversity policy
- Flexible working policy

Other references

NHS Pensions website

Appendix 1: Template letter inviting colleagues to an appeal meeting

Private and confidential

Date

Name and address

Dear

Appeal against compulsory retirement

Thank you for your letter of XXXXXXX telling us that you wish to appeal against your manager's decision in respect of your retirement. You have said that grounds for your appeal are:

- state issue
- state issue

I am writing to inform you that an appeal meeting will be held with myself to discuss the grounds for your appeal on XXXXXXX at XXXXXXX in XXXXXXX. You have the right to be accompanied to the meeting by a work colleague, or an official of an employee association recognised under the agenda for change agreement, or an official of any trade union and who is not a family member of acting in a legal capacity.

You'll be informed of my decision in writing within 5 working days of the appeal hearing. I must tell you that my decision is final and there are no further stages of appeal.

Yours sincerely

Director

CC
Personal file
Manager

Appendix 2: Equality impact assessment

Name of policy or service to be assessed: Retirement policy
Department or section: POD
Date of assessment: 29 January 2021
Person(s) responsible for the assessment: Tricia Phillips (POD)
Is this a new or existing policy? Existing

Aims, goals and purpose of the policy

Describe the aims, goals, and purpose of the policy

To support the retirement process and for colleagues to know the retirement options open to them.

Who is intended to benefit from this policy, and in what way?

All colleagues of NHS Kernow.

What outcomes are wanted from this policy?

Clear and consistent process. A good understanding of retirement options.

What factors or forces could contribute or detract from the outcomes?

Failure to consistently apply to the principles of the policy.

Who are the main stakeholders in relation to the policy?

Colleagues, trade union representatives and management.

Who implements the policy, and who is responsible for the policy?

Managers implement with POD support. The POD team are responsible for the policy.

Differential impacts

Perspective of race, nationality and/or ethnic origin

Does this have a positive or negative impact on black, Asian and minority ethnic (BAME)?

There will be no negative impacts on this group providing the policy is applied consistently.

How will any negative impact be mitigated?

N/A

Perspective of sex

Does this have a positive or negative impact on people who identify as male, female, or intersex?

There will be no negative impacts on this group providing the policy is applied consistently.

How will any negative impact be mitigated?

N/A

Perspective of disability

What is the positive or negative differential impact on people from the perspective of disability?

There will be no negative impacts on this group providing the policy is applied consistently and that consideration is given to any issues prior to confirming ways of working.

How will any negative impact be mitigated?

N/A

Perspective of sexual orientation

Does this have a positive or negative impact on people who identify as heterosexual, lesbian, gay, bisexual, pansexual or asexual?

There will be no negative impacts on this group supplying the policy is applied consistently.

How will any negative impact be mitigated?

N/A

Perspective of age

What is the positive or negative differential impact on people from the perspective of age?

There will be no negative impacts on this group providing the policy is applied consistently.

How will any negative impact be mitigated?

N/A

Perspective of religion or belief

What is the positive or negative differential impact on people from the perspective of religion or belief?

There will be no negative impacts on this group providing the policy is applied consistently.

How will any negative impact be mitigated?

N/A

Perspective of marriage and civil partnership

What is the positive or negative differential impact on people from the perspective of marriage and civil partnership? This is particularly relevant for employment policies.

There will be no negative impacts on this group providing the policy is applied consistently.

How will any negative impact be mitigated?

N/A

Perspective of gender re-assignment

Does this have a positive or negative impact on people who identify as trans or transgender, non-binary or gender fluid?

There will be no negative impacts on this group providing the policy is applied consistently.

How will any negative impact be mitigated?

N/A

Perspective of pregnancy and maternity

Does this have a positive or negative impact on people who are pregnant, breast feeding mothers, or those on maternity leave?

There will be no negative impacts on this group providing the policy is applied consistently.

How will any negative impact be mitigated?

N/A

Other identified groups

Consider carers, veterans, different socio-economic groups, people living in poverty, area inequality, income, resident status (migrants), people who are homeless or living in unstable accommodation, long-term unemployed, people who are geographically isolated, people who misuse drugs, those who are in stigmatised occupations, people with limited family or social networks, and other groups experiencing disadvantage and barriers to access.

How will any negative impact be mitigated?

N/A

Human rights values

How have the core human rights values of fairness, respect, equality, dignity, and autonomy been considered in the formulation of this policy, service, or strategy?

The policy aims to ensure fairness through consistent application for all colleagues.

Which of the human rights articles does this document impact?

☐ To life
☐ Not to be tortured or treated in an inhuman or degrading way
☐ To liberty and security
☐ To a fair trial
☐ To respect for home and family life, and correspondence
☐ To freedom of thought, conscience, and religion
☐ To freedom of expression
☐ To freedom of assembly and association
☐ To marry and found a family
☐ Not to be discriminated against in relation to the enjoyment of any of the rights contained in the European Convention
☐ To peaceful enjoyment of possessions

What existing evidence (either presumed or otherwise) do you have for this?

The policy reflects the rules already made within the NHS pension.

How will you ensure that those responsible for implementing the policy are aware of the human rights implications and equipped to deal with them?

Ensuring that managers are aware of the policy and that POD are consulted where appropriate.

Public Sector (Social Value) Act 2012

NHS Kernow is committed and obliged to fulfil the requirements of the Public Sector (Social Value) Act 2012. This Act requires the organisations to consider how services commissioned or procured might improve the economic, social, and environmental wellbeing of an area.

Please describe how this will support and contribute to the local system, wider system, and community.

Please consider:

- The inclusion of small medium size enterprises (SMEs) in the process and supply chain
- Economic – promote skills, tackle worklessness, keep employment, increase volunteer hours to support the community and promote inclusion
- Social – reduce anti-social behaviour, tackle exclusion by promoting inclusion including to vulnerable groups
- Environmental – support local, reduce congestion.

Describe how the policy contributes towards ending discrimination, harassment, and victimisation.

Does this make the system fairer? Does it challenge, positively change the culture?

N/A

Describe how the policy contributes towards advancing equality of opportunity.

Are you using positive action to increase inclusion? Is this helping groups who may be less often heard?

N/A

Describe how the policy contributes towards promoting good relations between people with protected characteristics.

Does it educate, integrate, support?

N/A

If the differential impacts found are positive, explain how this policy is legitimate positive action and will improve outcomes, services and/ or the working environment for that group of people.

N/A

Explain what amendments have been made to the policy or mitigating actions have been taken, and when they were made.

N/A

If the negative impacts found have been unable to be mitigated through amendment to the policy or other mitigating actions, explain what your next steps are using the following equality impact assessment action plan.

N/A

Signed (completing officer): Tricia Phillips

Date: 29 January 2021

Signed (head of department/section): Emma Goudge

Date: 29 January 2021