

TITLE OF REPORT: RETIREMENT POLICY**1. SUMMARY**

- 1.1 To gain approval for the implementation of a new Retirement Policy and the extension of flexible working to those aged 65 or over or within 6 months of their 65th birthday.
- 1.2

2. FORWARD PLAN

- 2.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

3. BACKGROUND

- 3.1 The default retirement age (DRA) of 65 years was introduced in October 2006 by which employers could compulsorily retire employees at age 65 providing they followed the correct notice procedures. The Regulations also allowed for employers to have an earlier retirement age, but only if this could be objectively justified, and introduced a procedure for employees to request to work beyond the age of 65 years.
- 3.2 Following a legal challenge to the DRA, legislation was passed to phase out the compulsory retirement age over a transitional period running until 30 September 2011. From 1st October those who wish to retire when they reach the age of 65 years are still entitled to do so, however there are also options open to employees who want to ease into retirement gradually, or postpone it until a later date by continuing to work.

4. ISSUES

- 4.1 The removal of the DRA meant the Council's Working Beyond Age 65 Policy was no longer relevant and gave an opportunity for a new policy covering all aspects of retirement to be developed. This new Policy includes information on contractual retirement options, actions to be taken by both employees and the Council, options for flexible retirement and working, support for staff considering their retirement options, details the retirement recognition process and signposts further information on pensions. A copy of the Policy is included as Appendix A.
- 4.2 The draft Policy was circulated for consultation to Management representatives and the Union and discussed at SCF. The results of this consultation are included as Appendix B.

5. LEGAL IMPLICATIONS

- 5.1 From 1st October 2011 the Council no longer has the right to dismiss staff upon reaching 65 years of age. This will now be considered under existing dismissal rules which require a potentially fair reason – one of the five reasons set out in the Employment Rights Act 1996 (capability, conduct, redundancy, statutory ban or some other substantial reason). The Council's HR policies and procedures would also need to be complied with. Failure to do so could lead to a successful claim of unfair dismissal against the Council.

6. FINANCIAL AND RISK IMPLICATIONS

- 6.1 Members of the LGPS can draw their pension from the age of 55 but they need the Council's consent to do so, even where they meet the rule of 85, and in some cases there may be a cost to the Council in agreeing to this. Where there is such a cost the Council will consider the request for early payment of the pension via an Early Severance Panel.
- 6.2 The Top Risk of Workforce Planning identifies the risk of the aging workforce and the consequences of losing valuable experience when Officers retire or leave the Council. Encouraging those that want to remain after the age of 65 is a way of managing this risk.

7. HUMAN RESOURCES IMPLICATIONS

- 7.1 The Council is committed to offering retiring employees support and flexible options to make their transition from working life to retirement an enjoyable one and the Retirement Policy has been developed to make the best use of its existing resources. This will also assist in ensuring the authority is successful in retaining and fully utilising the skills and talents of older employees in an increasingly competitive market.

8. EQUALITIES IMPLICATIONS

8.1 The Council is committed to equal opportunities for all its employees, and recognises the contributions of a diverse workforce, including the skills and experience of older employees. It believes that employees should, wherever possible, be permitted to continue working for as long as they wish to do so. The option to work flexibly beyond age 65 is an important part of the Council's commitment to diversity as it assists in the elimination of unlawful and unfair age discrimination and enhances its belief that flexible working has positive benefits for both employees and the Council.

9. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 9.1 A benchmarking exercise was undertaken with other local authorities via an EELGA survey and the results used to inform the development of the Policy.

10. RECOMMENDATIONS

- 10.1 That the Retirement Policy and the extension of flexible working to those aged 65 or over or within 6 months of their 65th birthday is endorsed by the JSCC.

11. REASONS FOR RECOMMENDATIONS

- 11.1 Up to date and relevant HR policies and procedures are a key component of the effective management of staff and communication of important information to all employees regarding terms and conditions and working practices.

12. ALTERNATIVE OPTIONS CONSIDERED

- 12.1 As an alternative to having no default retirement age the introduction of an employer justified retirement age, (an EJRA), was considered.
- 12.2 To have an EJRA an employer would have to show that it has a 'legitimate aim' and that the retirement is a 'proportionate means of achieving that aim'. Employers would have to demonstrate that what they are doing is actually achieving the aim and any discriminatory effect is significantly outweighed by the importance and benefits of the aim.
- 12.3 A legitimate aim would be based on economic factors such as the needs of and the efficiency of running a business, the health, welfare and safety of the individual (including protection of young people or older workers) and the particular training requirements of the job. A cost saving alone would not be a legitimate aim (for example that an older worker has a higher salary than a younger worker and therefore there is a saving to the organisation if the older worker leaves).
- 12.4 The employer should also have no reasonable alternative to the action they are taking. If the legitimate aim can be achieved by another or less discriminatory means, they must then opt for that route.
- 12.5 A further alternative rather than having a uniform compulsory retirement age also considered is for employers to decide retirements individually. However, the employer will still have to show that any decision to retire someone is objectively justified.
- 12.6 Given the types of roles currently within the Council it is unlikely that it will be able to objectively justify an EJRA, either on an across the board or individual basis, so these alternative options were rejected.

13. APPENDICES

- 13.1 Appendix A – Retirement Policy
13.2 Appendix B – Consultation Feedback

14. CONTACT OFFICERS

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15. BACKGROUND PAPERS

15.1 None

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Appendix A – Retirement Policy

Retirement

Scope

North Hertfordshire District Council acknowledges that changes in demography, government policy and employment patterns mean retirement is now being looked at in a different light to the past. The Council is committed to offering retiring employees support and flexible options to make their transition from working life to retirement an enjoyable one and has developed a retirement policy to make the best use of its existing resources. This will assist in ensuring the authority is successful in retaining and fully utilising the skills and talents of older employees in an increasingly competitive market.

The Council is committed to equal opportunities for all its employees, and recognises the contributions of a diverse workforce, including the skills and experience of older employees. It believes that employees should, wherever possible, be permitted to continue working for as long as they wish to do so. The option to work flexibly beyond age 65 is an important part of the Council's commitment to diversity as it assists in the elimination of unlawful and unfair age discrimination and enhances its belief that flexible working has positive benefits for both employees and the Council.

Applicable to:

ALL (x) Non-management () Management () Members ()

Policy

1. Retirement

Since 1st October 2006 employees have been protected from age discrimination. By law from April 2011 there has been no set retirement age. This means there are several options open to employees reaching what was previously considered to be the retirement age of 65.

Those who wish to retire when they reach the age of 65 years are still entitled to do so, however there are also options open to employees who want to ease into retirement gradually, or postpone it until a later date by continuing to work.

An important distinction to note is the difference between retirement age and your pensionable retirement age. You can leave employment at any age; however, the date you can retire and take your pension is dictated by your pension scheme.

Please note that this Policy gives details in terms of your employment at the Council and contractual options for retirement. It does not give an entitlement to or information on retiring with either a state or occupational pension. Guidance on state pensions can be received from the Directgov website and advice about your occupational pension can be sought from your pension provider. If you are a member of the Local Government Pension Scheme you are advised to seek advice about the impact of your planned retirement date on your pension benefits. This is particularly important if you plan to retire either earlier or later than the retirement age of the LGPS which is 65. Information on pensions can be obtained from the Pension Scheme Administrator, LPFA. Contact details can be found on the Local Government Pension Scheme page of the intranet and there is a link to this on the Retirement page of the intranet. Information can also be obtained from the LGPS website and the address for this is given at the end of this policy.

2. Retirement Age

NHDC no longer has a contractual retirement age. This means that if an employee wishes to continue working beyond age 65 they can do so. It does not mean that staff have to work longer; it means that they can if they chose to do so. An employee can “retire” at any time giving their contractual notice period as they would to leave employment at any time or age. However if an employee is a member of the LGPS they cannot receive a pension before age 55 and even in this case they need the Council’s consent to do so, including where they meet the 85 year rule.

For further information on the rule of 85 and your LGPS pension benefits and options contact the LGPS Administrator, LPFA.

2.1 Retirement Process – Employees Actions

An employee wishing to retire should confirm their resignation by reason of retirement in writing giving a minimum of their contractual notice period unless otherwise agreed by their line manager. Details of notice periods are given in the Notice Periods Policy available on the intranet. Whilst the notice given must be at least the same as the notice required to resign from employment, employees are encouraged to give an early indication of their planned retirement date. On receiving the appropriate leavers documentation, Payroll will inform the LGPS Administrator to ensure any pension arrangements are enacted.

An employee who is shortly to retire will often have considerable knowledge in relation to their role and responsibilities. The Council may require the employee’s assistance and cooperation for succession planning. Prior to retirement, employees

should cooperate with the Council, if requested to do so, by:

- providing full written details of the status of work projects and future steps;
- developing a job description, including key competencies and skills required for the role;
- ensuring a smooth handover of work; and
- assisting in training any successor.

2.2 Retirement Process – Managers’ Actions

Throughout an employee’s time at the Council, appraisals and regular one to one meetings will occur to discuss the employee’s performance, developmental or training needs and the Council’s and employee’s future plans and expectations in the short, medium and long-term. During those meetings, employees may discuss their future plans or proposals for retirement. Such a discussion about possible retirement should not result in the Council making any assumptions about the employee’s commitment to the Council. The Council seeks to retain the best talent, including older employees. These discussions are an informal opportunity for both the Council and employees to plan jointly for the future.

On receiving notice that the employee wishes to retire the line manager should then meet with them to discuss arrangements for retirement, including the intended retirement date, succession and handover plans, any requirement for pre-retirement training, and any phased/flexible retirement if applicable.

Managers should not assume that an employee who continues to work beyond 65 years is any more or less likely to experience health and safety or performance difficulties. The same principles and policies that apply to all employees (i.e. risk assessments, occupational health referrals, performance management etc) should be applied if managers have concerns in any of these areas.

3. Flexible Working Options

Those continuing to work beyond age 65 have the right to request to work flexibly under the Council’s Flexible Working Policy. This enables employees to request a variation to their contract to amend the total number of hours worked, the times they are required to work or the place of work i.e. home or usual place of business.

This could result in arrangements such as: part-time working, compressed hours, home working, term-time working, shift working, staggered hours, or annualised hours. More details are available on the Flexible Working page of the intranet.

As with all NHDC employees, those continuing to work beyond age or 65 can be considered for flexi-time or job sharing. More details of these policies can be found on the relevant pages of the intranet.

Besides the options above, some employees approaching or working beyond the age of 65 might wish to change the way they work as they approach retirement by moving to a different or lower graded post. Employees interested in this option should discuss this with their manager and can also refer to Job Search for current job opportunities. If the individual wants to pursue this option, the manager (with HR advice), should then assess the available options to determine if they are operationally viable. Options may include changing their existing post to accommodate the request where appropriate, reducing hours or supporting the employee in applying for alternative posts within NHDC via the normal recruitment process.

4. Implications

4.1. Pension Implications for LGPS members

4.1.1 Contributions

If you carry on working beyond age 65 you will continue paying into the LGPS scheme (unless you opt out) while your employment continues (up to eve of the day before your 75th birthday) and your pension benefits will be increased to reflect that it will be paid for a shorter time. If you opt out you will not normally be able to draw your pension until your employment ends.

4.1.2 Flexible Retirement

Under the LGPS flexible retirement occurs where an employee draws their pension and carries on working at a lower grade and/or on reduced hours. It is available to LGPS members who are aged 55 or over, and who, with the Council's consent, permanently significantly reduce their hours and/ or reduce their grade. Subject to employers consent, such employees will be able to draw their local government pension whilst continuing to work. However it should be noted that an employee's pension will be actuarially reduced if paid before age 65.

For further information on your LGPS pension benefits and options contact the LGPS Administrator, LPFA.

4.2 Terms and Conditions of Employment

If you continue to work in your current job, at the same hours beyond age 65, you will remain under the same terms and conditions of employment (except that eligibility for the Group Personal Accident Scheme ends at age 75). If you change your grade or your working hours or move from a permanent contract to a temporary one, you will receive a new statement of particulars to this effect.

Continuous service will not be affected by taking advantage of flexible retirement options if you remain in service without a break.

4.3 Staff Benefits

Entitlement to staff benefits (apart from the Group Personal Accident Scheme as mentioned above) will not be affected by taking up the options available as you approach retirement or work beyond age 65. In respect of Personal Accident insurance it is possible that cover can be extended beyond the age limit of 75 but this is entirely dependent on what is available in the insurance market and so is beyond the Council's control. You should contact the Performance and Risk Manager if you are approaching your 75th birthday to see if cover is available.

Further details about Staff Benefits can be found on the Staff Benefits page of the intranet.

4.4 National Insurance Contributions

Currently employees do not have to make any further National Insurance contributions after reaching state retirement age. This is subject to Government reviews.

5. Support

Approaching retirement can be a life changing event and it is natural for employees to be a little apprehensive about such change. Managers should ensure that employees are aware of the advice and guidance that is available to them in good

time so that they can prepare in the lead up to retirement. The correct time to give advice will depend on the employees' circumstances and when they plan to retire although in normal circumstances it may be helpful to make this advice available 5 years prior to their pensionable retirement date.

Details of pre-retirement seminars are available from the HR Development team and via the Learning menu on the Intranet. It is recommended that this course should be attended a minimum of 2 years before an employees estimated retirement date, but ideally at any time from the age of 55.

Advice can also be sought from the Council's free and confidential employee assistance programme, details of which can be found via the Staff Benefits page of the intranet.

If you have any queries about the support available please contact the HR Department via the HR Helpline on 4556 or e-mail Hrhelp@north-herts.gov.uk.

6. Retirement Recognition

NHDC would like to recognise an individual's service, as well as their valuable contribution. Upon retirement, individuals who are aged 55 or more and who have 10 or more years of service will:

- Be presented with a framed letter, signed by the Chief Executive
- Have a buffet, for up to 20 people
- Receive vouchers or a gift, up to the value of £50. Colleagues can choose which type of voucher they think the individual would prefer.

7. Appeals

Where an employee is dissatisfied with a decision in relation to a proposal they have made to work more flexibly in the lead up to retirement, they have the right to appeal, using the Appeals process set out in the Flexible Working Policy.

8. Further Information

Guidance on state pensions can be received from the Directgov website, the address for which is given below. Advice about your occupational pension can be sought from your pension provider. If you are a member of the Local Government Pension Scheme information can be obtained from the Pension Scheme Administrator, LPFA. Contact details can be found on the Local Government Pension Scheme page of the intranet and there is a link to this on the Retirement page of the intranet. Information can also be obtained from the LGPS website and the address for this is given below.

Alternatively, please contact the HR Department via the HR Helpline on 4556 or e-mail Hrhelp@north-herts.gov.uk.

Links to relevant information:

Policies:

Notice Periods
Flexible Working
Job-Share
Flexi-time

Standard documentation:

Employment Law:

Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011
Employment Equality (Age) Regulations 2006.
European Union's Framework Directive for Equal Treatment on age, 2006
Employment Act 2002

Other:

Directgov website:

<http://www.direct.gov.uk/en/Pensionsandretirementplanning/StatePension/index.htm>

LGPS website:

<http://www.lgps.org.uk>

For further advice contact :

Assistant HR Advisor
HR Advisor
Employee Relations Officer
Corporate Human Resources
Manager

Introduced:

October 2011

To be reviewed no later than :

October 2014

Equality Impact Assessment

Required

EIA

Level 1 completed August 2011.
Review August 2014

Policy Sponsor :

Corporate Human Resources
Manager

Appendix B – Consultation Feedback

Feedback	HR Response
Managers and Union Consultation	
It should be by choice that a person moves to a lower grade job, as it originally read that a person could move - which sounded as if it could be a decision taken by the manager, not by the individual.	Revised wording reflects this choice.
Should the policy include details of where to get information about impact on state pension entitlement. Plus if they have a private pension plan should contact the provider for information on impact of retirement age on their pension entitlement.	Reference on where guidance can be obtained on state and occupational pensions added to Policy.
Should you explain what the 85 year rule is? Obviously it is not relevant for everyone.	Reference to where definition of 85 year rule can be found added to Policy.
Add in variation to normal notice period can be agreed by their manager?	Shorter period of notice if agreed by manager added to Policy.
Eligibility for the Group Personal Accident Scheme ends at age 75 - should we review this? I accept that employees of that age are going to be few and far between, and that premiums may become prohibitive or policies not even available, but this could be considered discriminatory. If we have considered the point and decided that eligibility still ends at 75 we will at least be in a better position to defend our policy in the event of challenge	<p>Referred to Performance and Risk Manager. The response was that the Council could do something on an individual basis when employees go over 75. It is possible that the cover won't be as wide as for younger members of staff and it might cost more. When we go out to tender next year she will see if the upper age limit can be extended. In the meantime it is suggested that the retirement policy says something like:-</p> <p>"If you continue to work in your current job, at the same hours beyond age 65, you will remain under the same terms and conditions of employment. However, the Council's Group Personal Accident policy has an upper age limit of 75 years. It is possible that cover can be extended beyond this age limit but this is entirely dependent on what is available in the insurance market and so is beyond the Council's control. You should contact the Performance and Risk Manager if you are approaching your 75th birthday to see if cover is available."</p>

	Policy changed in line with above.
Would suggest that in first paragraph of Policy it says "By law and from April 2011" there has been no set retirement age.	Change made.
There have been some changes in eligibility for the 85 year rule and this should be pointed out in the policy	Guidance on where definition of 85 year rule can be found - see comments above but no further details given as this policy is not to advise on LGPS. Guidance given as to where further information on LGPS can be obtained.
Feedback	HR Response
Managers and Union Consultation - continued	
Retirement seminars – it is suggested that these should be attended from age 55 but this could be 11 years before retirement and a lot can change in that time.	Agreed retirement seminar could be 11 years before retirement actually happens but this is only to give an opportunity to look at options for those considering their future.
It talks about the Group personal accident scheme – this does not exist any more! Nb this is also on the website under staff benefits.	Group Personal Accident Scheme still exists, Group Life Assurance Scheme does not.
It says that the Equality Impact Assessment has been done but where is it? It should surely be looked at alongside the policy?	Copy of EIA sent.
4.2 final sentence should have the word "move before" from a permanent contract"	"Move" added to final sentence of 4.2.
In the scope of the policy suggest that instead of "and to its belief that" in last sentence use a full stop and capital letter instead.	Wording of Scope remains unchanged as it reflects the Council's beliefs.
SCF	
Request to have a consultation period of twelve months before retirement between the manager and the individual planning to retire because time passes too quickly in the year before retirement and it always seems actions are at the last moment.	Regular discussions at appraisals, one to ones etc mean that managers should be aware of an employee's plans for retirement well in advance and therefore a set consultation period is unnecessary.