

To: Council

Date: 7 December 2015

Report of: Corporate Lead (HR & Organisational Development)

Title of Report: Proposed Revisions to Flexible Retirement Policy

Summary and Recommendations

Purpose of report: To present for approval two revisions to the Council's Flexible Retirement Policy

Key decision No

Executive lead member: Councillor Susan Brown

Policy Framework: Corporate Plan Priority 'Effective and Efficient Council'

Recommendation(s): Council is recommended to:

1) Approve two revisions to the Flexible Retirement Policy (incorporated within the existing Pension & Retirement Options Statement attached at Appendix 1) with effect from 8th January 2016, namely:

- a) to permit employees to choose a 'partial draw-down' of benefits; and
- b) reduce the minimum level of salary/hours reduction from 40% to 20%

2) Authorise the Corporate Lead for HR & Organisational Development in conjunction with the Head of Law and Governance and Director for Organisational Development and Corporate Services to amend the policy from time to time in order to correct any factual or legal errors.

Appendices

Appendix 1 – Pensions and Retirement Options Statement containing Flexible Retirement Policy

Appendix 2 - Risk Register

Appendix 3 - Equalities Impact Assessment

Introduction

1. This policy is under review as more effective use of the flexible retirement discretion could assist in workforce planning, improve service provision, deliver financial savings, improve employee work/life balance and help transition into retirement. Thereby benefiting both the Council and its employees.
2. As per the Local Government Pension Scheme (LGPS) Regulations, the Council has an agreed policy in place regarding what discretions it applies in relation to various aspects of retirement. The current policy was approved in April 2014 and a Flexible Retirement Policy has been in place since 2008. There are up to three LGPS pension schemes to which employees may have membership.
3. In the last 3 years there have been 9 applications for flexible retirement, all of which have been approved.
4. The two flexible retirement areas of discretion which are subject to review in this report are:
 - Whether to adopt the use of the discretion to allow employees to choose a 'partial draw down' of benefits; and
 - To determine the most appropriate level of reduction in pay required for the consideration of flexible retirement requests.

Specific Discretions for Review:

Partial Drawdown of Benefits

5. In flexible retirement situations the Regulations require an employee's full pension must be drawn on all service prior to 1st April 2008. Pension post 1st April 2008 can either be fully, partially or not drawn at all. The Council's current policy requires that the entire pension is drawn down, i.e. no choice for employees.
6. The decision not to allow 'partial draw down' was made when the discretion was first introduced without fully appreciating the potential impact.
7. If a scheme member draws pension early its value is reduced, unless they are a scheme member with full or partial protection from reduction under the 2008 Regulations. Benefits before 31st March 2008 must be fully drawn and are likely to have the greatest level of protection. Pension rights accrued from April 2008 are likely to be more significantly reduced and scheme members have the choice about how much of this they wish to draw (with employer consent). Flexible retirement may therefore be a more attractive option to employees if

they can mitigate some of the actuarial reduction by not drawing their entire pension early.

8. Hence allowing 'partial draw down' could result in an increase in the number of requests which may be beneficial to both the employee and the Council.

Amount of Reduction in Pay Required for Flexible Retirement

9. The Regulations require a pay reduction but the amount is entirely discretionary, and it can be achieved by a reduction in hours or grade. The Council's policy currently requires a reduction of at least 40%.
10. Determining the most appropriate policy in relation the level of reduction and how requests are assessed and determined is pivotal to the effectiveness of this policy. If set it too high employees won't be interested. If set too low the potential financial advantage to employees may attract too much interest and the Council is likely to have to refuse many requests.
11. Research shows some organisations have chosen one of the following options in relation to their flexible retirement policy reduction level:
 - Retain or reset a defined minimum reduction level (e.g. 20%, 40%)
 - Not to set a minimum reduction level and determine each case on its merits
12. Lowering the current limit would give more flexibility to both the Council and employees who wish to apply for flexible retirement. A prescribed limit would provide some certainty but the current one is too high so it is proposed that the minimum level of reduction required for the consideration of requests is reduced to 20%.

Criteria for Considering Requests

13. Employees can make a flexible retirement request to their manager for their consideration. Each request is considered on its merits and will only be approved if it is in the Council's interests.
14. Requests will be declined if there are compelling business reasons. These could include the practicality of re-organising work or recruiting additional staff to meet the reduced hours, the detrimental impact on customers, quality or performance, insufficiency of work during the proposed working times or burden of additional costs.
15. Given the potential costs (see Financial Issues section below) all requests are subject to approval by the relevant Service Head, Corporate Lead – HR / OD, Section 151 and Monitoring Officer
16. The employee will receive written confirmation of the decision and in the event of rejection the basis for that.

Consultation with Trade Unions

17. The policy has previously been through consultation and negotiation with both trade unions. The two changes have been agreed with the respective Branch Secretaries who will report them to their next committee meetings.

Legal Issues

18. The Council is required to formulate and publish its policies on the use of discretions under the Local Government Pension Scheme Regulations. The Flexible Retirement Policy guides the decision making process setting out how the discretion will be used. The Council cannot however bind itself as to how it will exercise discretion as fettering discretion is unlawful. Each case must be decided on its merits.
19. The publication of the approved policy ensures legal compliance and transparent approval procedures should minimise the risk of any legal issues arising.

Financial Issues

20. The application of this policy will incur costs to the Council in those case where a flexible retirement is granted for scheme members who have '85 Year Rule Protection' ¹ and are aged under 60. These costs would need to be met through on-going savings.
21. The approval process includes an analysis of the costs and savings involved in each case which will be considered along with other benefits and risks. Payback periods will in all circumstances be no more than four years.

Environmental Impact

22. There are no environmental impacts.

Level of Risk

23. This policy will ensure that the Council complies with its legal requirements and the clear guidance to managers and employees will ensure consistency. The absence of the policy would increase the risk of legal action against the Council with associated financial and employee relations implications.

¹ Under the old final salary scheme, members could choose to retire from age 60. Earlier retirement from age 55 required employer consent. Pensions were protected from reduction if the '85 Year Rule' was met (age plus pension membership in whole years).

24. A risk register is attached at Appendix 2.

Equalities Impact

25. An initial Equalities Impact Assessment is attached at Appendix 3 indicating there are no adverse impacts.

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