

Personnel Committee – 08 February 2023

Flexible Retirement Policy

1. Purpose of the report

- 1.1 To gain Personnel Committee approval for the new Flexible Retirement Policy (Appendix 1), as endorsed by CMT at its meeting of 19 January 2023.

2. Recommendations

- 2.1 That the new Flexible Retirement Policy (as set out at Appendix 1 to the report and as summarised below) be approved.

3. Background Information

- 3.1 Under the Local Government Pension Scheme Regulations, each scheme employer must publish and keep under review a Pension Scheme Policy Statement to explain how it will apply certain discretions allowed under the Pension Regulations. The Pension Scheme Statement forms part of the annual Pay Policy Statement.
- 3.2 Under Regulation 30(6) of the Local Government Pension Scheme Regulations and section 11 (2) of the Teachers' Pension Scheme the council has discretion to permit flexible retirement for staff aged 55 or over who, in agreement, reduce their working hours or grade in order to release some or all of their retirement benefits.
- 3.3 For employees in the Local Government Pension scheme, if payment of their accrued benefits (part or all) occurs before the age of 65 the benefits are actuarially reduced. However, as part of the discretions given under the regulations, the council may choose to waive the reduction in whole or part, with the cost of the waiving being paid by the council to the pension fund.
- 3.4 There is no automatic right to flexible retirement, the council must give consent to the employee's reduction in working hours / grade and release of their accrued pension benefits. Currently requests for flexible retirement are approved by the Section 151 Officer and the Director of HR on a case-by-case basis.

Council Policy

- 3.5 The current Pension Statement states:

'The council will consider employee requests to take flexible retirement on a case-by-case basis after taking into factors such as service delivery and any costs that may apply.'

3.6 In relation to the waiving of actuarially reduced benefits the current Pension Statement states:

'The council will consider a waiver in exceptional circumstances only. Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.'

Aim

3.7 In order to ensure that the council consider flexible retirements in a consistent and fair way the new Flexible Retirement Policy sets out criteria in which flexible retirement may be requested and subsequently approved/declined.

3.8 Allowing flexible retirement where the criteria are met will enable managers to consider succession planning and knowledge transfer, whilst the employee is able to prepare for retirement and/or be supported accordingly (e.g. to be able to continue working through illness / support employee with caring responsibilities).

Know

3.9 The new Flexible Retirement Policy sets out the following criteria regarding the minimum reduction required in working hours or a move to a lower graded position in order for the council to consider a flexible retirement request;

- A minimum reduction in hours of 20% [section 3.4 of the policy]. This gives a clear calculation allowing managers to make an informed decision on the impact to the service. Based on a full-time equivalent employee this would equate to a reduction in working hours of 1 day and was consistent with other authorities during the benchmarking.
- A reduction in grade (to any lower graded post) allows the employee to move to a less demanding role / lower level of responsibility [section 3.5 of the policy]. The employee requests flexible retirement in principle, the onus is on the employee to secure a lower grade position following normal recruitment processes. In exceptional circumstances (such as where there is a need to retain a particular skill) the manager may consider redesigning the substantive role with advice from HR. Pay protection for a drop in grade for the purposes of flexible retirement would not apply to ensure that flexible retirement complies with the pension regulations as a reduction in grade.

- 3.10 When considering a request for flexible retirement each case will be judged equally and fairly on its own merits having fully considered the grounds of business continuity / the needs of the service and any financial costs that may apply.
- 3.11 Requests for flexible retirement will continue to be approved by the Section 151 Officer and the Director of HR, using the following criteria [section 3.7 of the policy];
- where there is no or only minimal cost to the service (any cost must not exceed the value of the savings which would be made over 12 months due to the reduction in hours / grade); OR,
 - on compassionate grounds, but only when it can be demonstratively shown that the inability of the employee to work their current hours / grade is as a result of a severe medical condition of either;
 - the employee (subject to medical evidence to support the application); OR;
 - the person for which the employee is the main carer (subject to evidence to support the application).
- 3.12 Consideration of the waiver [section 3.14 of the policy], whereby the council waive the actuarial reduced benefits before Normal Retirement Age, will only be considered in exceptional circumstances and where any costs do not exceed the value of savings to be made over 12 months due to the hours / grade reduction.
- 3.13 The Flexible Retirement Policy should aid the retention of experienced employees, allowing knowledge transfer and succession planning, especially with an aging workforce and where there are recruitment / retention issues.

Our Council Plan priorities

- 3.14 The policy is directly aligned to the council's strategic priority of internal focus ensuring all council services are customer focussed, effective, efficient and equitable and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.

Response

- 3.15 Subject to approval, HR will finalise all associated guidance / forms / process flowcharts (where relevant) and prepare a workforce communications and implementation plan ready for publication.

Review

- 3.16 Employment policies will usually be reviewed on a three yearly cycle, unless legislation or internal organisational need prompt a review earlier.

4. Financial Implications

- 4.1 There are financial implications associated with this policy, however where any flexible retirement is agreed any associated costs will be borne by the service area in which the employee works. Expected costs payable by the council to the Pension Scheme will be sought before any flexible retirement request are approved by the S151 Officer and HR Director. Requests will only be approved where there are no or minimal costs to the council, except as a reasonable adjustment in cases related to severe medical conditions (with appropriate evidence).

5. Legal Considerations

- 5.1 There are no anticipated legal issues arising from this report. Under the Equality Act there may well be circumstances which the council should agree to flexible retirement even if there are some costs implications for the council.

6. Risk Management

- 6.1 An equality impact assessment is attached (Appendix 2).

7. People

- 7.1 Employment policies include a scope section (where applicable) and in each policy it clearly sets out who the policy applies to and who it does not (Appendix 1 section 2).
- 7.2 There is a no direct impact on our residents as a result of this policy. The policy is however, part of the employment framework that helps to ensure that residents of Walsall get the best possible services from council employees.

8. Consultation

- 8.1 Specific collaboration has taken place with colleagues from Payroll and Pensions Team, Finance and Legal, with consultation taking place between 10 to 25 November 2022.
- 8.2 Feedback from senior managers led to a number of minor changes / clarification of wording, with further amendments with regard to the level of costs where flexible retirement would be considered (where not on compassionate / medical grounds). Further consultation took place between 9 and 16 December 2022, with further comments received up to 4 January 2023.
- 8.3 Trade unions were reminded of the council's discretionary policy on flexible retirement (as part of the Pay Policy) at the Employee Relations Forum meeting of 21st December 2022.

8.4 CMT reviewed and endorsed the policy at their meeting of 19 January 2023.

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