

## ABERDEEN CITY COUNCIL

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COMMITTEE	Corporate Policy and Performance
DATE	14 June 2012
DIRECTOR	Stewart Carruth
TITLE OF REPORT	Revised Managing Retirement Policy
REPORT NUMBER:	CG/12/069

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### 1. PURPOSE OF REPORT

The current Managing Retirement policy was recently reviewed and agreed by Committee on 16 June 2011. The Equality Act (and previous to this the Employment Equality (Age) Regulations 2006) suggests some of the provisions of the current terms and conditions that relate to retirement could potentially be viewed as discriminatory due to age. Consequently, this report brings together these schemes and incorporates them and legally compliant policy.

### 2. RECOMMENDATION(S)

It is recommended that Committee approves:

- i) the revised Managing Retirement policy detailed at Appendix A with immediate effect.
- ii) the deletion of the Phased Retirement Scheme for all employees (except Teachers) with effect from 31 May 2014.
- iii) the deletion of the Salary in the Last Year of Service scheme with immediate effect
- iv) the deletion of the Flexible Retirement Policy with immediate effect (due to the proposal it is incorporated into the Managing Retirement policy)
- iv) the changes to the Long Service Award scheme

### 3. FINANCIAL IMPLICATIONS

The only direct financial implication of this report is the proposed increase in the values of the Long Service Award. It is estimated that the cost of this proposal will be minor and covered by budget provision made within each service. This cost will be offset by raising the length of service an employee is required to complete to qualify for an award (i.e. from 20 years to 25 years)

### 4. OTHER IMPLICATIONS

The removal of the salary advancement in last year of service whilst not a direct saving it will avoid the Council incurring future costs and to some extent

have a minor benefit on the Pension Fund, which currently is in deficit. The ending of the Phased Retirement Scheme will result in the Council not losing 26 days productivity for every retiring employee from June 2014 who would normally qualify for this benefit.

## 5. BACKGROUND/MAIN ISSUES

- 5.1 As stated in the purpose of this report the main reason for the review of this policy, which itself was recently approved by committee is legal compliance. The provisions of the Equality Act, which consolidated and developed most of previous equality legislation into one piece of law, came into force in stages over the past two years. The Equality Act incorporated the previous Employment Equality (Age) Regulations 2006 covering the prevention of discrimination on the grounds of age.
- 5.2 The Council in 2003 was awarded 'Age Positive Champion' status as an employer by the DWP, which was a status awarded to organisations who promote age equality in employment.
- 5.3 Currently the Council has a number of policies and schemes that deal with the issue of retirement. These include:
- Managing Retirement (June 2011\*)
  - Flexible Retirement (March 2009)\*
  - Phased Retirement (October 1997\*)
  - Salary in Last Year of Service (\*carried over from reorganisation in 1996)
  - Long Service Award (June 2003\*)
- \* These denote the date the scheme/policy was last approved by Committee*
- 5.4 To provide benefits to a person solely due to age related criteria is likely to be discriminatory, which is essentially the case with some of these provisions. For example, to increase a person's pay just because they are due to retire within the following 12 months is a condition that can only benefit older employees and could therefore be viewed as being unfair.
- 5.5 The two current local conditions of service that apply to all employees (excluding Teachers), that are viewed as being potentially discriminatory are the Salary in the Last Year of Service and the Phased Retirement Scheme. The Salary in the Last Year of Service condition of service provides for an employee to receive incremental progression to the top of their grade a year prior to their retirement date. This was with a view to increasing the pension of a retiring employee as pension benefits are normally based on the last 12 months pensionable pay.
- 5.6 This arrangement has for some time been difficult to administer as there being no default retirement age in the Council, with employees only requiring to give contractual notice, which in most cases is 4 weeks. This condition of service currently relies on an employee with 20 years' continuous service making a declaration 12 months before they intend to retire. In some cases employees have changed their mind during the 12 months or do not know when they want to retire. This results in employees getting increments they are not entitled to and in some cases employees missing out on the condition.

- 5.7 However, more importantly it would be possible for a younger employee in the same job, on the same grade and perhaps being a high performer, to challenge why an older person has had their salary increased to the top of the grade just because they declared they were retiring. This is clearly an age related condition of employment which is difficult to justify.
- 5.8 There are two Phased Retirement Schemes operating within the Council. One relates to a condition of service that applies to all employees except Teachers and provides for employees to reduce their working week by one day per week in the six months before they are due to retire. The other Phased Retirement Scheme is for Teachers and is provided within the Scottish Teachers Superannuation Scheme and allows a Teacher in the scheme to reduce their working hours whilst at the same time releasing a proportion of their pension benefits in the lead up to full retirement.
- 5.9 There are no proposals to change the Teachers Phased Retirement Scheme, as this is provided for within the pension scheme for Teachers. However, in the case of the Phased Retirement Scheme for all other employees, some of the issues outlined in paragraph 5.6 above also apply. Again this is an age related condition which means a employee can receive a full-time employee can receive full salary for working only four days work per week.
- 5.10 It is therefore proposed to delete both the Salary in last Year of Service and Phased Retirement Scheme for all employees (except Teachers) from the current terms and conditions of service. The trades unions have indicated that they appreciate the legal issues and the reasons for the proposal. Through the process of negotiation a consensus has been reached that the removal of the Phased Retirement Scheme be delayed for two years. Hence it is recommended Phased Retirement Scheme for all employees will no longer be a condition of service with effect from 31 May 2014. The other changes will apply with immediate effect assuming Committee approval.
- 5.11 A further area of change being proposed revised is in relation to the provision for long service awards. Currently, a long service award is made in the form of a gift, based on a monetary value, which is determined on an employee's length of service where they are retiring and have more than 20 years' continuous service with the Council. At present it is entirely possible for an employee who commenced employment at age 18 and leaves employment at age 49, to receive no recognition of their 30 years service with the Council. In contrast, another employee who joined the Council at the age of 31 and applies for and is accepted for early retirement at the age of 52 would receive a long service award to the value of £200. Therefore, in the above example despite working for the Council 10 years longer the first employee's service is not recognised financially because of their age.
- 5.12 It is for this reason the Long Service Award Scheme has been reviewed with a view to make the scheme fairer and remove the probability of a successful age related discrimination claim.
- 5.13 In the proposed scheme, eligibility for a long service award has been revised with the service criterion to qualify being 25 years continuous service which is in keeping with a number of other large employers. It is also proposed to increase the monetary value of the award at the minimum level to £300 for 25

years' service and for over 40 years' service the value to be increased to £600. The table below shows the proposed changes.

No of years continuous service	Exiting Scheme Monetary award (inc VAT)	Proposed Scheme Monetary award (inc VAT)
20	£200	Nil
25		£300
30	£300	
40	£410	£600
41+	£510	

- 5.14 The other amendment to the Long Service Award scheme is for qualification to be based on the employee's leaving irrespective of reason, unless the employee is dismissed on the grounds of conduct or resigns whilst under disciplinary investigation. This is because it removes the requirement for the employee to declare they are retiring, which in many instances is not the case as they go on to secure employment elsewhere. The award is recognition and expression of gratitude by the employer of the fact that the employee has given a period of continuous long service to the Council (and predecessor authorities) not just because they are retiring.
- 5.15 The Flexible Retirement Scheme for all employees, except Teachers, are proposed to be incorporated into the proposed Managing Retirement Policy. Rather than the Flexible Retirement Policy being a stand alone policy in its own right, this represents an attempt for all retirement issues to be brought under one policy. Hence, the deletion of the stand alone Flexible Retirement Policy. It should be noted the content of the provision remains unchanged.
- 5.16 The revised Managing Retirement policy also details the existing eligibility criteria within the Scottish Teachers Superannuation Scheme for the Teachers Phased Retirement Scheme and Teachers Winding Down Scheme. These are discretionary provisions that are provided for in the Teachers Pension Scheme and remain unaltered.

## 6. IMPACT

The main reason for the proposed changes is some of the schemes whilst relevant when agreed back in the 1990's are no longer compliant with Equality legislation that currently exists. The Equality Impact Assessment has highlighted this issue and is the principal reason for the proposed changes.

The revision of the Long Service Award seeks to recognise long service for employees and not benefit only those who retire from the Council.

The proposed Managing Retirement Policy reduces the number of stand alone terms and conditions and policies and seeks to deal with retirement as a holistic issue.

## 7. BACKGROUND PAPERS

- Managing Retirement – Approved June 2011
- Flexible Retirement – Approved March 2009
- Phased Retirement – Approved October 1997
- Salary in Last Year of Service – in place since 1 April 1996 when ACC formed
- Long Service Award Scheme - Approved June 2003

## 8. REPORT AUTHOR DETAILS

Jeff Capstick  
HR Manager – Client & Corporate Support  
[jcapstick@aberdeencity.gov.uk](mailto:jcapstick@aberdeencity.gov.uk)  
Tel (52)2106



# **MANAGING RETIREMENT**

**POLICY & OTHER RETIREMENT RELATED  
SCHEMES**

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## **SECTION 1: INTRODUCTION**

### **Policy statement**

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The Council does not operate a compulsory employee retirement age. It is committed to and recognises the contributions of a diverse workforce, including the skills, knowledge and experience older employees bring to an organisation. We are also of the view that employees should be permitted to continue working for as long as they wish to do so, provided they meet the performance standards required of their job.

## **SECTION 2: SCOPE AND PRINCIPLES**

### **Scope**

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This policy covers all employees of the Council but does not apply to any casual or agency worker where a contract of employment does not exist.

### **Core principles**

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This policy complies with legislation concerning removal of the Default Retirement Age and the equality and diversity obligations in terms of age contained in the Equality Act 2010.

The policy reflects the ACAS guidance on 'Working without the Default Retirement Age'.

Discussions with the employee on their future plans will normally take place annually at their performance, review and development (PR&D) meeting or professional review and development meeting for teachers.

Any discussions with an employee about retirement will not result in any assumptions being made about an employee's commitment to the Council.

Any concerns about an employee's work performance will be addressed through the Managing Work Performance procedure or Code of Practice on Teacher competence, regardless of age.

Employees will be expected to co-operate with handover arrangements and in the transfer of knowledge and skills prior to their retirement.



Within the process special allowance will be made for those employees whose first language is not English or who have difficulty expressing themselves.

### **SECTION 3: RETIREMENT IN GENERAL**

Retirement is a stage in life where an individual employee ceases to work. For most people the decision to retire is influenced by their access to pension benefits as most Council employees are in a pension scheme.

At times the Council, as the employer may deem it necessary to reduce the size of the workforce and the employee may wish to retire early. In this situation the Council's voluntary severance/early retirement scheme details the arrangements and process that applies, with an estimate of benefits issued where there is support for a case.

In addition, there is a facility for employees who are pension scheme members to apply for flexible retirement (phased retirement for teachers) where they can access their pension benefits but remain in employment. This provision allows the Council to retain experienced staff with valuable skills, provided the employee meets the eligibility criteria in the respective scheme. The Teachers Pension Scheme also has a 'winding down' provision which allows the Teacher to continue in employment on a part-time basis whilst protecting their overall final retirement pension entitlement.

Flexible working options in general are available to all employees of any age, including older employees who may be nearing retirement. Flexible working options are discretionary and not a right and as such require prior management approval.

### **SECTION 4: THE RETIREMENT PROCESS AND OTHER ISSUES**

#### **Deciding to Retire**

Where an employee decides that they wish to retire, they should inform their line manager as far in advance as possible to allow the necessary preparation for retirement. In all cases the employee will eventually need to put their decision in writing, the minimum contractual notice is that set out in an employee's contract of employment will be required. Following the stated intention of the employee's decision to retire a meeting should be organised to discuss and plan the arrangements for retirement.

#### **Discussing Future Plans**

It is important that the employee's future plans and work aspirations are discussed on a regular basis. The Council's performance, review and development scheme (PR&D) or professional review and development process for teachers is the setting where such discussions will take place. The ACAS guidance promotes "open discussions between employers and employees about future plans ... can help facilitate the transition from work to retirement."

Within the PR&D process no account of the age of the employee must be taken but the meeting is the opportunity to look forward and may involve a discussion about where the employee sees themselves in the organisation in the future. Such a discussion may lead to a conversation about retirement. Should the employee raise the issue of retirement then a discussion should take place, however it should not result in any assumptions being made about the employee's commitment to the Council.

In short, the Council seeks to retain the best talent, including older employees, with such discussions being an opportunity for both the line manager and the employee to plan jointly for the future.

## **Performance Management**

Any issues and concerns about an employee's work performance, regardless of age, will be addressed through the Council's Managing Work Performance policy or Code of Practice on Teachers Competence. No assumptions should be made about an employee's performance in relation to their age.

## **Pension Arrangements and Benefits**

There are two pension schemes operating in the Council, the Local Government Pension Scheme (LGPS), available to all employees except Teachers and the Scottish Teachers Superannuation Scheme (STSS) available to teachers, with separate rules and regulations applying to each.

Scheme members who have decided to retire on a specified date may request an estimate of benefits. General information on the schemes and benefits is also available at the contact addresses and numbers detailed in the guidance associated with this policy.

## **Retirement provisions of recognised pension schemes**

Within the LGPS and the STSS there are a variety of differing provisions which detail ways employees can retire and/or access their pension benefits. **The provisions of the schemes differ so it is important to check with the particular scheme as some of the following options may not apply to both schemes.** Some examples of the provisions of the schemes are:

- Flexible Retirement (see provisions below)
- Teachers Phased Retirement (see provisions below)
- Teachers Winding Down (see provisions below)
- Ill-Health Retirement (see separate procedure for dealing with IHR)
- Actuarially Reduced Pension Benefits (applies to both LGPS and STSS)
- Rule of 85 (Protected benefit for LGPS only)

## **Employees not in a pension scheme recognised by the Council**

Where an employee is not in one of the pension schemes recognised by the Council (ie LGPS or STSS) and decides that they wish to retire, this should be progressed in the same way as an employee in the pension scheme, as detailed in this procedure, having a discussion on future plans as part of their annual PR&D (or professional review and development for teachers).

## **SECTION 5: RETIREMENT SCHEMES – ELIGIBILITY CRITERIA**

### **Flexible Retirement Scheme**

The provision to flexibly retire is contained within the Local Government Pension Scheme regulations. A flexible retirement request is where an employee seeks the Council's consent to either reduce his/her hours of work and/or grade of post, at the same time accessing his/her pension benefits either in full or in part. As a result the employee would not have to retire completely from employment. The employee can also continue to pay contributions into the pension scheme and accrue further pension service/benefits once the change in hours and/or grade has occurred.

The Council recognises that benefits of flexible retirement can include:-

- an improvement to an employee's work life balance
- the retention of experienced employees with valuable skills
- the extension to employees' working lives

Hence attempts will be made where practicable and operationally feasible to accommodate flexible retirement requests.

### **Eligibility**

The following are conditions that **MUST** be met before a flexible retirement arrangement can be approved and amended working arrangements are put in place:-

- The employee must be a member of the Local Government Pension Scheme
- The employee must have at least 2 years' service in the pension scheme
- The employee must be aged 55 or over in the case of new entrants to the scheme and 50 for existing scheme members up to 31 March 2010
- The employee's basic salary must reduce by at least 25%. This can be achieved either through a reduction in hours or a reduction in grade
- The employee must apply for flexible retirement in accordance with the agreed procedure.
- Normally, only one application may be made by an employee in any 12 month rolling calendar period

Once a flexible retirement arrangement has been agreed and implemented, any subsequent contractual changes arising from a flexible retirement application must result in a continued reduction of at least 25% of the employee's salary. All further changes may only be made by mutual consent.

The Council has sole discretion whether or not to approve applications for flexible retirement. The procedure for applying for flexible retirement is detailed in the guidance notes which accompany this policy.

## **Teachers Phased Retirement Scheme**

The STSS allows members of the scheme to reduce their working commitment (i.e. hours) whilst releasing a proportion of their pension benefits in the lead up to full retirement.

### **Eligibility**

The conditions of phased retirement are set by the pension scheme itself and in summary are:

The applying Teacher must:

- Be aged 55 or over
- Have been in pensionable employment on or after 1 April 2007

In addition:

- The maximum amount of total retirement benefits a member is permitted to take is 75%
- There must be a reduction of at least 20% of the members' pensionable salary
- The reduction in pensionable pay must apply for at least 12 months.

A member may apply for Phased Retirement twice before applying for their final retirement benefits. The benefits the member chooses to take will be Actuarially Reduced if they are applying before their Normal Pension Age (NPA). With each application for Phased Retirement there must be a 20 % reduction of the members' pensionable salary prior to their application and at least 25 % of their total benefits must remain in the scheme.

The Council has sole discretion whether or not to approve applications for phased retirement. The procedure for applying for phased retirement is detailed in the guidance notes which accompany this policy.

## **Teachers Winding Down Scheme**

Winding Down is a phased retirement option for Teachers which offers those members approaching retirement age the opportunity to continue in employment on a part-time basis whilst protecting their overall final retirement pension entitlement.

### **Eligibility**

The Regulations for eligibility to Wind Down were amended from 1 April 2007 to allow members who have a Normal Pension Age (NPA) of 65 to be included. Therefore, to participate in Winding Down employment a teacher must:-

- Have attained the age of 56 if NPA is 60 OR 61 if NPA is 65
- Have been in full-time service for a period of 10 years immediately prior to commencing Winding Down employment
- Have accrued a minimum of 25 years teaching service prior to commencing Winding Down (i.e. the member must have had a contract to teach for at least 25 years). The period may include, for qualifying purposes, a maximum of 5 years during any break or breaks in

teaching service which will count towards the requirement of having 25 years teaching service, (although will not count towards the calculation of benefits)

- Reduce their working hours equal to or more than 0.5 full-time equivalent
- Remain in Winding Down employment up to a maximum of 4 years prior to NPA. Where a teacher ceases to be in the Winding Down Scheme employment (leaving during or at the end of the 4 years permissible) and returns to teaching service, the service credit during the period of Winding Down employment will be removed.

The Council has sole discretion whether or not to approve applications for Winding Down. The procedure for applying for Winding Down is detailed in the guidance notes, which accompany this policy.

## **Long Service Award Scheme**

The purpose of the Long Service Award Scheme is to recognise the loyalty of those employees who have dedicated their main employment to Aberdeen City Council (including its predecessor authorities), subject to the following eligibility requirements:

- employees must have 25 years or more continuous service
- only one Long Service Award will be made per employee

The Long Service Award will be made when the employee decides to leave employment with the Council. The award will not apply where the employee is dismissed by the Council for reasons of discipline.

The Long Service Award will be a monetary value for the employee to purchase a gift as a memento of service with the Council. Below are the monetary values of the levels of award

No of years of continuous service	Monetary Award (inclusive of VAT)
Under 25	nil
25 up to 40	£300
Over 40	£600

The process for making a Long Service Award is detailed in the guidance notes which are associated with this provision.

## ***SECTION 6: REVIEW OF THE POLICY***

The Human Resources and Organisational Development Service will review this policy every 3 years. It will, nevertheless, be subject to continual review and amendment in light of experience of its operation, employment best practice and statutory requirements. Changes will only be made following normal consultation arrangements.

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