

## **PERSONNEL COMMITTEE**

**26 NOVEMBER 2009**

### **OFFICE OF THE CHIEF EXECUTIVE**

#### **LOCAL GOVERNMENT PENSION SCHEME - FLEXIBLE RETIREMENT**

#### **JOINT REPORT OF THE DIRECTOR OF FINANCIAL RESOURCES AND THE DIRECTOR OF HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT**

##### **1.0 Purpose of Report**

- 1.1 The purpose of this report is to establish the Council's policy on flexible retirement.

##### **2.0 Description of Decision**

- 2.1 Members are invited to consider the contents of this report, and subject to any amendments or additions, agree the proposed Flexible Retirement Policy and Employer's Discretions, as set out below.

##### **3.0 Background**

- 3.1 Members may be aware that it is a requirement of the Local Government Pension Scheme (LGPS) (Administration) Regulations 2008 that "Each employing authority must prepare a written statement of its policy in relation to the exercise of its functions". Thus employers must make, and keep under review, employer discretions which govern how the pension scheme rules will be applied by the employer.
- 3.2 A new provision of flexible retirement was introduced under Regulation 18 of the LGPS (Benefits, Membership and Contributions) Regulations 2007. Under Regulation 18, from age 50 (or age 55 for new employees and age 55 for all employees from April 2010) an employee who reduces their hours, or moves to a less senior position i.e. they reduce their grade, can, provided the employer agrees, draw some or all of their pension benefits that they have built up, allowing for a situation where an individual can draw down their pension benefits but remain an employee.
- 3.3 The Council is required to formulate, publish and keep under review its policy on flexible retirement.

- 3.4 Flexible retirement was introduced into the LGPS as part of a wider government policy to ease the transition from full time working to full time retirement and at the same time increase the number of workers over the age of 55 who are economically active. Essentially, the intention is to create a win/win situation for the employer and employee. This provision allows employees to ease themselves into retirement and may support the Council in areas such as succession planning, the retention of key skills and improving business efficiency. In addition, it may facilitate redeployment of individuals who may be at risk of redundancy, as some individuals may prefer to continue to work in a lower graded post, whilst receiving the pension benefits that they have already accrued, as an alternative to redundancy.
- 3.5 If Flexible Retirement is agreed prior to age 65, the individual's pension benefits will be reduced to take account of their early payment, unless the employer agrees to waive this reduction in whole or in part, or the individual is a protected member under the pension scheme rules i.e. they meet the 85 year rule whereby their age and length of service equal 85 or more. An employee can also continue paying into the LGPS on their reduced hours or in their new role, thereby building up further pension benefits in the scheme.
- 3.6 It was the original intention that Flexible Retirement should be cost neutral for the employer however the cost calculations underpinning the Regulations do not as yet reflect this and there may be some residual Strain on Fund costs to account for the fact that pension benefits are being drawn earlier than would normally have been anticipated by the Government Actuary Department. As the cost of the Strain on Fund must be met by the employer, consideration of this issue will be given when considering all applications.

#### **4.0 Flexible Retirement Scheme - Options**

- 4.1 There are a number of considerations in the development of the Council's policy on flexible retirement:

##### **Business Case**

- 4.1.1 The decision to agree to a flexible retirement request and any subsequent waiving of pension reduction is at the discretion of the employer and the Council must set out its policy and Employer's Discretion on this. In order to be able to approve applications it is recommended that the council should be satisfied that a business case has been established that justifies the proposed approach.

##### **Changes to the Individual's Contract of Employment**

- 4.1.2 There are two aspects to the business case. The first being that a change to the individual's contract of employment needs to be agreed in respect of the individual's grade or hours of work to satisfy the requirements of the LGPS which require that a permanent change is made to the individual's terms and conditions of employment. The organisation needs to be satisfied that this meets the business needs

of the organisation or can otherwise be justified. Where hours of work are to be reduced, which would appear the more likely request that will be received, consideration will need to be given in line with the Council's guidance on flexible working. If an individual is seeking to reduce their grade then consideration will need to be given to redeployment opportunities in line with the Council's redeployment policy. Alternatively organisational changes could be considered through the formal approval processes for staffing proposals.

- 4.1.3 The Regulations make provision for drawing all or part of the accrued pension benefits but it is the opinion of the Local Government Employers Organisation that applications for Flexible Retirement only be considered where all of the pension benefits are being drawn. This is due to the difficulty of ensuring consistent actuarial calculations in respect of each retirement and the fact that there are a wide range of options associated with the partial drawing of pensions.

#### **Flexible Retirement – Financial Implications**

- 4.1.4 The second aspect to establishing a business case relates to the cost of the flexible retirement.
- 4.1.5 Under the regulations, the employee may draw down all or part of their pension benefits accrued up to the date of flexible retirement, and then restart a second period of pensionable service, to earn a second pension. However, under the proposals set out in this report and in accordance with the advice received from the Local Government Employers Organisation, only full drawdown of pension will be permitted.
- 4.1.6 As the employee would take all of their pension benefits, the cost would be of the same level as an early retirement application, and in common with applications for early retirement, there is very likely to be a Strain on the Fund cost for the early release of pension if the employee is under age 65. Where the reduction is waived by the employer, the employer will meet the full cost of the Strain on the Fund. If the employer does not waive the reduction, the reduction in pension may not meet all of the Strain on the Fund cost, depending upon the age and length of service of the employee and the employer may have to pay some residual sum in relation to the Strain on Fund costs.
- 4.1.7 If the employee meets the 85 Year Rule, there is no reduction to the pension, but there may still be a residual Strain on the Fund cost to be paid by the employer, particularly for employees who meet the 85 Year Rule before the age of 60. The Strain on Fund and Actuarial Reduction costs associated with Flexible Retirement will be higher for individuals who are under the age of 60 and who do not meet the 85 rule. It should be noted, however, that the employer still retains the discretion as to whether or not to approve flexible retirement and the costs referred to above forms part of the consideration of each individual application.

### **Actuarial reduction**

- 4.1.8 Consideration must be given as to whether the Council adopts a policy that in all cases of flexible retirement, where an individual would receive an actuarial reduction in benefits as a result of the pension benefits being paid early, then this reduction would not be waived, or alternatively considered on a case by case basis. On balance, it is recommended that each case is considered on an individual basis and only approved where it was in the Council's interest to do so taking account of the overall business case. This would include consideration of waiving, or not, the actuarial reduction in pension benefits.
- 4.1.9 It is recommended that in considering all applications the business case must include a cost benefit analysis using the process that is applied currently for applications for early retirement.

### **Permanency and Level of Reduction in Hours or Salary**

- 4.1.10 The LGPS regulations do not specify the level of reduction, in either hours of work or grade, required to be able to request flexible retirement. A number of organisations have stipulated this in their individual policies and the Department for the Communities and Local Government (CLG) in their guidance, comment that where any reduction is minimal (e.g. less than 10-20%) flexible retirement may be difficult to objectively justify through the establishment of a business case. Looking at 5 examples from other councils their policies range from requiring a reduction in salary or hours worked of between 20% and 50% before applications could be considered. It is suggested that a reduction in salary or hours of work of at least 25% should be required of individuals wishing to pursue flexible retirement.

### **Service Requirement**

- 4.1.11 Other considerations are that the Council may wish to require individuals to have a requisite amount of service with Sunderland City Council in order to be able to apply for flexible retirement. To mirror the service requirements for requesting flexible working individuals need to have 26 weeks continuous service.

### **Decisions**

- 4.1.12 It is proposed that there should be synergy with the current policy applied to the applications for early retirement considered by the Personnel Committee. It is therefore recommended that requests for flexible retirement are considered by Directors in order to establish whether there is a business case, based on the above guidelines, in consultation with the Director of Human Resources and Organisational Development and the Director of Financial Resources. Where a business case can be established then formal approval should be sought from the Personnel Committee and it is recommended that cases should only be approved, including the basis for such an approval, where it can be demonstrated to be in the Council's interests to do so taking into account the overall business case.

## **5.0 Proposed Policy**

5.1 It is recommended that a flexible retirement policy be established on the following principles:

Stage1 Establishment of a Business Case taking account of the following:

- A minimum reduction in salary or hours of the individual employee of 25% is required and changes to contract terms and conditions will be a permanent change.
- Employees must have 26 weeks continuous service with Sunderland City Council.
- Applications will only be considered where the full release of pension benefits is being requested.
- Any actuarial reductions in pension benefits will be considered on an individual basis, and only approved where it is in the Council's interest to do so, taking into account the overall business case.

Stage 2 Consideration by Personnel Committee

- Applications will only be approved where it is in the Council's interests to do so.

## **6.0 Consultation**

This report has been submitted to the trade unions for formal consultation.

## **7. Reason for Decision**

7.1 The reasons for the decision are set out in the report.

## **8. Alternative Options**

8.1 No alternative options are considered appropriate, with the exception of the comments contained within the body of the report.

## **Background Papers**

- Local Government Pension Scheme (Administration) Regulations 2008
- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007

