

RETIREMENT POLICY AND PROCEDURE

1 SUMMARY

- 1.1 This report outlines proposals to amend the Council's retirement policy and procedure in order to meet new employment legislation that comes into force on 1 October 2006 – the Employment Equality (Age) regulations 2006.

2 INTRODUCTION

- 2.1 A report was brought to Members on 7 June 2005 and it was agreed the retirement age for employees remain at 65 and that staff be permitted to work beyond the age of 65 (on an annual fixed term basis) up to the age of 70 where a business case for this exists and subject to annual Performance Development Review. It was agreed that this would be kept under review in the light of changing legislation.

3 DETAILED CONSIDERATIONS

- 3.1 The Age Regulations come into effect on 1 October 2006 and allow for a 6-month transition period for implementation from 1 October 2006 to 1 April 2007. It determines that employees can be required to retire only if they have either reached a default retirement age of 65, or a retirement age below 65 if the employer can objectively justify it as necessary for that particular occupational group.
- 3.2 The law provides a right to employees who reach 65 to request to remain at work beyond 65 and mandates for the employer to give careful consideration to such a request. It also mandates for a retirement procedure to be used when employees are dismissed for reason of retirement, which includes a defined notice period of between 6 and 12 months to be notified by the employer prior to the retirement, determining it to be a "planned retirement". This means that if an employee believes that the dismissal was for a reason other than retirement and unlawful the burden of proof on the employee would be onerous and unless the employee could provide strong evidence their complaint would be unlikely to be upheld by a tribunal.
- 3.3 The suggested procedure outlined in the Appendix is intended to satisfy the new legislation. The legislation enables the Council to keep its retirement age of 65. As an employer we do not have to provide reasons for turning down a request, only to enable the request to be made. However this may change as "Heyday", a group set up to help people prepare for retirement and which is backed by the charity Age Concern, is to lodge an application with the High Court for judicial review of the regulations. It contends that the 2006 regulations are incompatible with the European Equal Treatment Directive, which outlaws age discrimination and that employers should have to give a reason for refusal. The legislation also currently allows the Council to stipulate

an upper age limit above 65 for extended work provision until a planned review of the new legislation scheduled in 2011.

- 3.4 The legislation does however take away the upper age limit on unfair dismissals and redundancy and gives equal protection to employees on fixed term contracts so a “fair” capability procedure would need to be followed regardless of age.

4 RISK IMPLICATIONS

- 4.1 The attached procedure complies with the legislation and will help to protect the Council against age discrimination claims.

5 RESOURCE IMPLICATIONS

- 5.1 The procedure will assist in retaining skills and knowledge where this is beneficial to the Council and the individual.

6 LEGAL IMPLICATIONS

- 6.1 The Council must agree a new retirement procedure before the legislation comes into force in October 2006.

7 RECOMMENDATION

- 7.1 It is proposed that the Committee **RESOLVES** to agree the new procedure for considering requests to continue working after age 65 as outlined in the Appendix but retain its normal retirement age of 65.

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Background Papers:-

None

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