

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**GENERAL PURPOSES COMMITTEE**

**29 October 2013**

**Report of the Director of Central Services**

**Part 1- Public**

**Delegated**

**1 UPDATE OF THE FLEXIBLE RETIREMENT POLICY**

**The Flexible Retirement Policy is set out in Annex 1 to this report. This policy was last updated in July 2012. Following a post implementation review of the policy's effectiveness, this report recommends a minor procedural change (outlined in Section 1 of the report below), and a further amendment that anticipates forthcoming changes to the Local Government Pension Scheme (explained in Section 2 below).**

**1.1 Recommended procedural change**

- 1.1.1 Members' attention is drawn to paragraph 2:5 of the policy in Annex 1. This section of the policy specifies the procedure to be followed by Chief Officers when considering the business case for all requests from staff for a consideration for flexible retirement.
- 1.1.2 Members will note that the policy states that "if the Chief Officer considers that it is in the interests of the Council to agree to the request for flexible retirement, and there would be no detrimental effects on the Council, its service recipients or its employees, they will present the request to the Management Team for further consideration". Under the current policy Management Team then reach a collective decision concerning the individual's request.
- 1.1.3 Although there is no right of appeal against the decision reached by the Council's Management Team, paragraph 2:9 of the Flexible Retirement Policy states "employees may raise a complaint they may have about the operation of this policy through the Council's Grievance Procedure".
- 1.1.4 Therein lays a theoretical difficulty identified during the post implementation review. Under normal circumstances a grievance would be considered by the manager senior to the line manager of the "aggrieved" individual. In certain circumstances the "senior" manager considering the merits of a flexible retirement grievance could, potentially, be a member of Management Team. Their position as an independent arbiter of the application of the Policy would be compromised

because they would have been involved in the Management Team's consideration of the original request.

1.1.5 In order to avoid such a conflict of interest, it is therefore **recommended** that Section 2:5 of the Flexible Retirement Policy paragraph is amended to read "The relevant Chief Officer, in consultation with the Personnel Manager, will consider requests on business grounds in accordance with the needs of the service and based upon the case put forward. This consideration will include an assessment of whether the flexible retirement would have a detrimental effect on the Council, its service recipients or other employees; it would also identify and consider any arrangements that might need to be made to ensure continuity of service."

1.1.6 Members will be reassured to note that Chief Officers may still discuss such requests with **individual** Management Team colleagues in cases of cross cutting service issues.

## **1.2 Impact of forthcoming changes to the Local Government Pension Scheme (LGPS) Regulations**

1.2.1 The LGPS refers to a "standard retirement age" which, under the terms of the **current** LGPS Regulations, is 65 because this is the age at which most members of the Scheme can retire and draw their pension benefits without reduction. However, in the LGPS Regulations 2014, (that will come into force in April 2014), this is to be amended so that the "standard" pension age for an individual will be equal to the age at which they will become eligible for their State Pension.

1.2.2 To avoid having to bring this Policy to the February meeting of this Committee to reflect this change it is therefore **recommended** that **in April 2014**, the second sentence of section 1:1 of the Flexible Retirement Policy is amended to read "according to the LGPS Regulations 2014, the Normal Pension Age for each member will be equal to their State Pension Age, but subject to a minimum age of 65".

## **1.3 Legal Implications**

1.3.1 The recommended amendments to the Flexible Retirement Policy are compliant with the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007, and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2014.

## **1.4 Financial and Value for Money Considerations**

1.4.1 It is imperative that the Council has HR policies that are transparent and fair not only in the interests of natural justice, but also in order to resource intensive, costly legal challenge.

## **1.5 Risk Assessment**

- 1.5.1 The separation of responsibility for making a decision about whether or not to agree to a request for flexible retirement from that of a chair of a grievance hearing about the application of the policy, mitigates against the risk of accusations of “unfairness”.

## 1.6 Equality Impact Assessment

- 1.6.1 See 'Screening for equality impacts' table at end of report

## 1.7 Policy Considerations

- 1.7.1 HR

## 1.8 Recommendations

- 1.8.1 It is recommended that Section 2:5 of the Flexible Retirement Policy paragraph is amended to read “The relevant Chief Officer, in consultation with the Personnel Manager, will consider requests on business grounds in accordance with the needs of the service and based upon the case put forward. This consideration will include an assessment of whether the flexible retirement would have a detrimental effect on the Council, its service recipients or other employees; it would also identify and consider any arrangements that might need to be made to ensure continuity of service.”
- 1.8.2 It is further recommended that, in April 2014, the second sentence of section 1:1 of the Flexible Retirement Policy is amended to read “according to the LGPS Regulations 2014, the Normal Pension Age for each member will be equal to their State Pension Age, but subject to a minimum age of 65.”

Background papers:

contact: Delia Gordon

Nil

Adrian Stanfield

Director of Central Services & Monitoring Officer

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Yes	It mitigates against potential accusations of “unfairness”.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*