

Report of the Chief Executive to the meeting of Staffing Committee to be held on 19 December 2011.

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Subject:

Flexible Retirement Policy and Early Retirement Policy.

Summary statement:

The Local Government Pension Scheme (Administration) Regulations 2008 require the Council to prepare and publish written statements of policy on Flexible Retirement and Early Retirement and to provide copies of such policy statements to the administering authority.

This Report sets out proposals for an updated Flexible Retirement Policy and Early Retirement Policy for the Council.

Chief Executive

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Suzan Hemingway, City Solicitor

1. SUMMARY

- 1.1 The Local Government Pension Scheme (Administration) Regulations 2008 require the Council to prepare and publish written statements of the Council's policies on Flexible Retirement and Early Retirement and to provide copies to the administering authority.

This Report sets out proposals for an updated Flexible Retirement Policy and Early Retirement Policy for the Council.

2. BACKGROUND

- 2.1 Regulation 18 Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 permits an employee who has attained the age of 55 or above and who is a member of the Local Government Pension Scheme to request to receive all or part of their pension benefits if they reduce the hours they work and/or the grade in which they are employed notwithstanding that they have not fully retired from pensionable employment. This is known as "flexible retirement".
- 2.2 Regulation 30 Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 permits an employee who is a member of the Local Government Pension Scheme who leaves service before s/he has reached the normal age for receiving retirement benefits but who has reached the age of 55 years or above to request to leave service and access his/her accrued benefits from the Pension Fund with immediate effect. This is known as "early retirement".
- 2.3 There are separate provisions within the LGPS Regulations whereby employees can access their pension if they leave the Council's employment early by reason of redundancy or retirement in the efficiency of the service. In addition there are further discretions within the LGPS Regulations for example the power to award additional pension. The Council's policy in relation to these additional discretionary powers is contained within Discretionary Compensation Policy approved in October 2010 by Executive.
- 2.4 In March 2010 Internal Audit recommended that the Council's Flexible Retirement Policy Statement be updated to ensure it reflects the amendments to the Regulations that came into force on 1 April 2008, the key change being the increase in the minimum age for applying for flexible retirement from 50 to 55 years. It was also recommended that the amended policy should be considered by the appropriate Council Committee. It is acknowledged that consideration of the amended policy by Staffing Committee was overlooked.
- 2.5 In addition, the Council is required to prepare and publish a written statement of its policy under Regulation 66 Local Government Pension Scheme (Administration) Regulations 2008.

The proposed policy statement in relation to both flexible retirement and early retirement is attached at Appendix 1. The proposed policy in relation to flexible retirement is based on the procedure and practice that has operated since June 2007.

- 2.6 The policy statement in relation to early retirement has also been updated to reflect the amendments to the Regulations that came into force on 1 April 2008, the key change being the increase in the minimum age for applying for early retirement from 50 to 55 years and to make reference to the relevant regulations.

3 OTHER CONSIDERATIONS

Policy on Flexible Retirement

- 3.1 The proposed Policy attached at Appendix 1 has been updated to show the increase in the minimum age for applying for flexible retirement from 50 to 55 and to make reference to the relevant Regulations. The updated proposed policy also makes it clear that the Council will only exercise its discretion in relation to applications for flexible retirement in exceptional circumstances (and listing a number of factors the Council shall have regard to) unless the application is cost neutral in which case the Council will consider supporting the application.

For applications to be considered on a cost neutral basis the savings in salary must exceed any additional pension costs which the Council is required to pay within the first 12 months. The factors the Council shall have regard to are listed in the attached proposed Policy.

- 3.2 In response to the need to create flexibility within the workforce, retain essential skills and as a strategy to assist with workforce reduction, by minimising the need for compulsory redundancies wherever possible, the Council has been operating a flexible retirement process on a cost neutral basis. In the last 12 months the Council has agreed to 23 flexible retirement applications on a cost neutral basis.
- 3.3 The Council recognises the importance of developing a flexible workforce to continue to deliver a high standard of service to the public. The Council values the retention of the skills of employees and is committed to having a flexible approach to retirement. Flexible retirement can bring benefits for both the Council and the employee.
- 3.4 For the Council, flexible retirement enables retention of valuable experience and knowledge which would otherwise be lost if an employee were to retire or leave. It also offers an effective means to affect workforce reductions on a voluntary basis and increases opportunities for succession planning.
- 3.5 For the employee, it enables a step down towards retirement and enables them to strike an effective work life balance.

Policy on Early Retirement

- 3.6 The Council has discretion as to whether to agree to an application for early retirement made under Regulation 30 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.
- 3.7 The Council recognises that early retirement is one of the strategies that can be used to assist with workforce reduction, by minimising the need for compulsory redundancies wherever possible. It also offers another means to affect workforce

reductions on a voluntary basis and increases opportunities for succession planning. There have been no recent cases of early retirement under this discretion. The existing policy statement is attached at Appendix 2

- 3.8 The proposed Policy attached at Appendix 1 has been updated to show the increase in the minimum age for applying for early retirement from 50 to 55 and to set out the new statutory framework. It is proposed that the Council's policy be that the Council will consider supporting an application for early retirement under Regulation 30 provided that it is cost neutral to the Council (including payments which the Council may be required to make to the Pension Fund). In such cases pension benefits paid to the employee will normally be actuarially reduced to reflect the cost to the Pension Fund of early retirement.
- 3.9 In the event of an application for early retirement giving rise to a cost to the Council it will only be considered in exceptional circumstances and where in the sole opinion of the Council there is supporting evidence justifying the approval of the application. The attached proposed policy statement sets out the factors the Council shall have regard to in considering such an application.

4. OPTIONS

4.1 Option 1

To endorse the proposed Policy Statement attached as Appendix 1 and recommend that the Chief Executive approve the Policy under Article 14.20.3 of the Council's Constitution.

4.2 Option 2

To request the Assistant Director Human Resources to reconsider and make amendments to the draft Policy before it is endorsed and approved.

5. FINANCIAL & RESOURCE APPRAISAL

- 5.1 It is proposed that the Council will generally only consider flexible retirement and early retirement applications on a cost neutral basis unless there are exceptional circumstances.
- 5.2 There are no significant financial and resource implications arising out of the exercise of discretion under normal circumstances.
- 5.3 There will be potential costs arising in the form of additional pension costs should the Council consider exercising its discretion to consider exceptional cases. These costs would relate to the payment made to West Yorkshire Pension Fund to finance the funding gap arising from the early payment of pension scheme benefits for those employees who have been allowed to take early retirement or flexible retirement.
- 5.4 Decisions in relation to approving applications which are not cost neutral are considered by the Council's Managed Early Retirement Panel or Staffing Committee /Sub-Committee of Staffing Committee as appropriate.

6 RISK MANAGEMENT

On the basis that it is proposed the Council will generally only consider flexible retirement applications and early retirement applications on a cost neutral basis then unless there are exceptional circumstances, there are no significant risks arising out of the implementation of this proposed Policy.

7 LEGAL APPRAISAL

The Council is required to produce and publish a policy statement in relation to both flexible retirement and early retirement under Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008. In preparing or reviewing and making revisions to its Policy statement the Council must have regard to the extent to which the exercise of any of its functions in accordance with its Policy could lead to a serious loss of confidence in the public service.

8 OTHER IMPLICATIONS

8.1 EQUALITY & DIVERSITY

The proposed policy is equality compliant please see attached the Equality Impact Assessment, which is attached as Appendix 3.

8.2 SUSTAINABILITY IMPLICATIONS

None

8.3 GREENHOUSE GAS EMISSIONS IMPACTS

None

8.4 COMMUNITY SAFETY IMPLICATIONS

None

8.5 HUMAN RIGHTS ACT

None

8.6 TRADE UNION

The discretionary power for the Council to agree flexible retirement and early retirement applications is to be exercised at the sole discretion of the Council and therefore the proposed Policy Statement is not the subject of a collective agreement with the Trade Unions. The Trade Unions have been consulted on the principles of operating the current procedure on flexible retirement as a strategy to assist in achieving workforce reductions by minimising the need for compulsory redundancies within the Council. The proposals relating to the Early Retirement Policy reflect the existing current Council practice.

8.7 WARD IMPLICATIONS

None

9. NOT FOR PUBLICATION DOCUMENTS

None

10. RECOMMENDATIONS

That the Committee endorse the proposed Flexible Retirement and Early Retirement Policy and recommend that the Chief Executive approve the Policy under Article 14.20.3 of the Council's Constitution.

11. APPENDICES

Appendix 1 - Proposed Flexible Retirement and Early Retirement Policy Statement
Appendix 2 - Existing Early Retirement Policy Statement
Appendix 3 - Equality Impact Assessment

12. BACKGROUND DOCUMENTS

Discretionary Compensation Policy Statement

LOCAL GOVERNMENT PENSION SCHEME (BENEFITS, MEMBERSHIP AND CONTRIBUTIONS) REGULATIONS 2007
LOCAL GOVERNMENT PENSION SCHEME (ADMINISTRATION) REGULATIONS 2008

POLICY STATEMENT OF THE CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL (“THE COUNCIL”) IN RELATION TO FLEXIBLE RETIREMENT AND EARLY RETIREMENT APPLICATIONS MADE UNDER THE PROVISIONS OF REGULATIONS 18 AND 30 LOCAL GOVERNMENT PENSION SCHEME (BENEFITS, MEMBERSHIP AND CONTRIBUTIONS) REGULATIONS 2007

This Policy will apply to any employee of the Council who is a member of the Local Government Pension Scheme (LGPS) and who has attained the age of 55. For the avoidance of doubt this policy does not apply to teachers who are employed by the Council and who are members of the Teachers’ Pension Scheme.

In preparing or reviewing and making revisions to its policy statement the Council must have regard to the extent to which the exercise of its functions under these Regulations in accordance with its policy could lead to a serious loss of confidence in the public service.

REGULATION 18 FLEXIBLE RETIREMENT

This Policy Statement is published pursuant to the duty imposed by Regulation 66 Local Government Pension Scheme (Administration) Regulations 2008.

Regulation 18 Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 permits an employee who has attained the age of 55 or above and who is a member of the Local Government Pension Scheme to request to receive all or part of his/her pension benefits if s/he reduces the hours s/he works and/or the grade in which s/he is employed notwithstanding that s/he has not retired from pensionable employment. Any benefits paid are actuarially reduced to reflect early payment. This is known as “Flexible Retirement”.

The Council has discretion as to whether to agree to such requests and must publish a policy statement on the exercise of that discretion. Set out below is the policy of City of Bradford Metropolitan District Council in relation to “Flexible Retirement”.

Policy Statement

Any person applying for Flexible Retirement must normally be prepared to agree to a reduction of at least 20% of contracted hours or accept a reduction in grade of at least one grade below the employee’s previous grade at the point of application.

The Council will consider supporting an application made under Regulation 18 provided there is evidence that if granted the application is cost neutral. The application will be considered on its individual merits and the Council shall have regard to the following:-

- The operating requirements of the particular Department or Service

- Whether there is evidence of demonstrable cost saving in excess of the potential savings to be made under current severance arrangements
- The individual's personal circumstances.

Any such application which is not cost neutral will only be considered in exceptional circumstances and where in the sole opinion of the City of Bradford Metropolitan District Council there is supporting evidence justifying the approval of the application.

In determining "exceptional circumstances" the City of Bradford Metropolitan District Council shall have regard to the following:

- The interests of the Council
- The operating requirements of the particular Department or Service
- The individual's personal circumstances
- The cost to the Council of meeting the request including the additional contributions due to the West Yorkshire Pension Fund by the Council in respect of the exercise of this discretion
- Any potential benefits or savings to the Council arising from the exercise of this discretion for example whether there is evidence of demonstrable cost saving in excess of the potential savings to be made under current severance arrangements
- Other options that are, from time to time, available under the Council's severance arrangements
- The funding position of the Council within the West Yorkshire Pension Fund
- The ability of the Council to meet the cost of granting the request.
- Whether the request may facilitate further changes within the organisation, which could lead to savings in the future.

An application made under Regulation 18 (3) (where the Council as employer is asked to waive the requirement to actuarially reduce benefits) will only be considered in exceptional circumstances. In such exceptional circumstances the Council shall have regard to the factors listed above under "exceptional circumstances" and

- Whether there is evidence available which in the sole opinion of City of Bradford Metropolitan District Council points to there being extenuating circumstances justifying such approval

Decisions which are not cost neutral to the Council including decisions as to whether to waive the requirement to actuarially reduce benefits shall be made by the Managed Early Retirement Panel or Staffing Committee /Sub-Committee of Staffing Committee as appropriate

REGULATION 30 EARLY RETIREMENT

This Policy Statement is published pursuant to the duty imposed by Regulation 66 Local Government Pension Scheme (Administration) Regulations 2008.

Regulation 30 Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 permits an employee who is a member of the Local Government Pension Scheme who leaves service before s/he has reached the normal age for receiving retirement benefits but who has reached the age of 55 years or above to request to leave service and access his/her accrued benefits from the pension fund with immediate effect. This is normally subject to benefits being actuarially reduced in accordance with the scheme regulations to reflect early payment. This is known as "Early Retirement".

The Council has discretion as to whether to agree such requests and must publish a policy statement on the exercise of that discretion. Set out below is the policy of City of Bradford Metropolitan District Council in relation to "Early Retirement".

The Council will consider supporting an application made under this Regulation provided there is evidence that it is cost neutral. In such a case benefits paid to the employee will normally be actuarially reduced in accordance with the scheme regulations to reflect the cost to the Scheme of Early Retirement. The application will be considered on its individual merits and the Council shall have regard to the following:

- The operating requirements of the particular Department or Service
- Whether there is evidence of demonstrable cost saving in excess of the potential savings to be made under current severance arrangements
- The individual's personal circumstances

In the event that any such application would give rise to a cost to the Council then it will only be considered in exceptional circumstances and where in the sole opinion of the City of Bradford Metropolitan District Council there is supporting evidence justifying the approval of the application.

In determining "exceptional circumstances" the City of Bradford Metropolitan District Council shall have regard to the following:

- The interests of the Council
- The operating requirements of the particular Department or Service
- The individual's personal circumstances
- The cost to the Council in meeting this request including the additional contributions due to the West Yorkshire Pension Fund by the Council in respect of the exercise of this discretion
- Any potential benefits or savings to the employer arising from the exercise of this discretion for example whether there is evidence of demonstrable cost saving in excess of the potential savings to be made under current severance arrangements

- Other options that are, from time to time, available under the Council's severance arrangements
- The funding position of the Council within the West Yorkshire Pension Fund
- The ability of the Council to meet the cost of granting the request.
- Whether the request may facilitate changes within the organisation, which could lead to savings in the future.

The Council may consider waiving the requirement to actuarially reduce the pension benefits to be paid on retirement under Regulation 30(5) on *compassionate grounds*.

Decisions on whether to waive the requirement to reduce benefits shall be a matter for the Council's absolute discretion having considered all the relevant circumstances in an individual case. The Council, in the form of the Managed Early Retirement Panel or Staffing Committee /Sub-Committee of Staffing Committee as appropriate will determine whether reduction in pension benefits is to be waived.



West Yorkshire Pension Fund

Administered by City of Bradford Metropolitan District Council
Strategic Director (Corporate Services): Philip Robinson

APPENDIX 2



LGPS Administration

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Your Employer's Pension Scheme Choices

Your employer has some choice over how certain parts of the Local Government Pension Scheme will be applied. These choices are explained in this leaflet. How your employer intends to use these choices is also shown.

If you wish to enquire about any of the following policies you should contact the Personnel Unit for your particular Directorate or service.

Leaving work at or after age 50

(Regulation 31)

If you leave work voluntarily, at or after age 50, you can apply to your employer for your pension and lump sum to be paid straight away.

If your employer agrees, your pension and lump sum will be paid straight away. If you leave at or after age 50 and your employer does not agree, your pension and lump sum will be payable from age 60 onwards.

If any reductions apply to your pension and lump sum when they are paid, on compassionate grounds you can ask your employer to waive the reductions.

Your employer's policy on this is:

City of Bradford Metropolitan District Council will consider applications made under Regulation 31 having regard to the particular circumstances of each case.

Decisions on requests by employees between the age of 50 and 60 for the early payment of benefits will be made on the merits of each case having particular regard to:

- *operational requirements of the employing service;*
- *the Council's ability to meet the cost of granting such requests;*
- *the potential for savings that the positive exercise of such discretion might create;*
- *the employee's personal circumstances.*

It should be noted that under normal circumstances the Council would not expect to accede to any requests for the early payment of benefits from an employee under the age of 55.

For applications by deferred pensioners (who left the Local Government Pension Scheme after 31 March 1998) for the early payment of benefits between the age of 50 and 60, and for applications on the grounds of compassion for the payment of unreduced benefits to employees and deferred pensioners who do not satisfy the '85-year rule', they will only be granted if:

- *in the Council's sole opinion, based on the supporting evidence provided, the applicant meets the Council's definition of compassionate for the purpose of this regulation; and*
- *the Council can meet the cost of granting such a request.*

The definition of compassionate for the purpose of this regulation is:

- a) *where circumstances prevent the former employee from following any form of paid employment whether whole-time or part-time;*
- b) *where no reasonable alternative arrangements can be made to overcome the immediate compassionate circumstances; and*
- c) *where financial hardship would be caused if the benefits were not put into payment.*

Equalities Impact Assessment Template (Form EIA2)

Department: Human Resources	Completed by (lead): Deb Maclean	Date of initial assessment: 5/12/11
Area to be assessed: (i.e. name of policy, function, procedure, practice or a financial decision)	Flexible Retirement / Early Retirement Policy.	
Is this existing or new function/policy, procedure, practice or decision?	Policy	
What evidence has been used to inform the assessment and policy? (please list only)		
<ul style="list-style-type: none"> Legislation LGPS Regulations 		

1. Describe the aims, objectives or purpose of the function/policy, practice, procedure or decision and who is intended to benefit.	<p>Regulation 18 Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 permits an employee who has attained the age of 55 or above and who is a member of the Local Government Pension Scheme to request to receive all or part of their pension benefits if they reduce the hours they work and/or the grade in which they are employed notwithstanding that they have not fully retired from pensionable employment. This is known as “flexible retirement”.</p> <p>Regulation 30 Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 permits an employee who is a member of the Local Government Pension Scheme who leaves service before s/he has reached the normal age for receiving retirement benefits but who has reached the age of 55 years or above to request to leave service and access his/her accrued benefits from the Pension Fund with immediate effect. This is known as “early retirement”.</p> <p>The Policy Statement has been updated to ensure it reflects the amendments to the Regulations that came into force on 1 April 2008, the key change being the increase in the minimum age for applying for flexible retirement from 50 to 55 years.</p>		
	The Equality Act 2010 requires public bodies to have “due regard” to the need to:- (1) eliminate unlawful discrimination, harassment and victimisation; (2) advance equality of opportunity between different groups; and (3) foster good relations between different groups	2. Could the function/policy, procedure, practice or a decision have a disproportionately negative effect impact in terms of the aims set out in (1) to (3) of the Act on any of the protected characteristics? Please indicate high (H) medium (M), low (L), no effect (N) for each.	3. Briefly explain how the function/policy, procedure, practice or decision furthers or prevents the aims set out in (1) to (3).
Age	M	The policy applies to those over 55 only.	The policy can only be affected on this target

			Therefore, by the very nature of the target group any effect would be disproportionately focused on an older employment base.	group because of the nature of retirement and pension scheme arrangements. This is beyond the Council's own immediate sphere of influence and control. The policy in its own right has been reviewed to ensure that any unwarranted effect is minimised.
	Disability	N/A		
	Gender reassignment	N/A		
	Race	N/A		
	Religion/Belief	N/A		
	Pregnancy and maternity	N/A		
	Sexual Orientation	N/A		
	Sex	N/A		

<p>5. Has there been any consultation/engagement with the appropriate protected characteristics? The Trade Unions have been consulted on the principles of operating the current procedure on flexible retirement as a strategy to assist in achieving workforce reductions by minimising the need for compulsory redundancies within the Council. The proposals relating to the Early Retirement Policy reflect the existing current Council practice.</p>		<p>Ongoing consultation with the Trade Unions on equality issues and impact assessment</p> <p>YES ✓ NO</p>	
<p>6. What action(s) <u>will you take</u> / <u>have you taken</u> to reduce any disproportionately negative impact, if any?</p> <ul style="list-style-type: none"> The policy in its own right has been reviewed to ensure that any unwarranted effect is minimised. Flexible retirement can bring benefits for both the Council and the employee. The employee gains the chance to adapt to the change in work pattern. The organisation reduces employment cost. 			
<p>7. Based on the information in sections 2 to 6, should this function/policy/procedure/practice or a decision proceed to Full Impact Assessment?</p>		<p>YES</p>	<p>NO ✓</p>
<p>Assessor signature:</p> <p>Gill Charlesworth</p>		<p>Approved by:</p> <p>Deb Maclean</p>	
		<p>Date approved:</p> <p>5/12/11</p>	