

**NORTH LINCOLNSHIRE COUNCIL**

**CORPORATE SERVICES CABINET MEMBER**

**WITHDRAWAL OF THE RETIREMENT PROCEDURE**

**1 OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To seek approval for the withdrawal of the council's Retirement procedure.

**2 BACKGROUND INFORMATION**

- 2.1 The Government has recently confirmed that it will remove the Default Retirement Age (DRA) from 6 April 2011. Currently the DRA enables employers to make employees retire at or above age 65 regardless of their circumstances and this legislation forms the basis of the council's Retirement procedure.
- 2.2 The change means that:
- From 6 April 2011, the council will not be able to issue any new notifications for compulsory retirement using the DRA procedure.
  - Between 6 April and 1 October 2011, only people who were notified before 6 April 2011, and who reached the age of 65 before 1 October 2011 can be compulsorily retired using the DRA.
- 2.3 A transition period provides flexibility to allow a notification of retirement of between six and 12 months to be given before 6 April 2011 and for this retirement date to be extended for up to six months through the right to request procedure. This means that the latest possible lawful compulsory retirement date from this process is 5 October 2012.
- 2.4 Although the council has traditionally retained a normal retirement age of 65 in many cases requests to work beyond this age have been accepted. The council has a continuing duty to consider requests to work beyond the proposed retirement date during the transitional period of 6 April 2011 to 1 October 2011. Each service has and will continue to consider these requests against its employment needs and make decisions on this basis.
- 2.5 Human Resources (HR) service teams are continuing to issue notifications to any employee who will reach the age of 65 before 1 October 2011 or who has previously had an extended retirement date agreed which falls before 5 April 2012. This will include informing employees of their right to request to work beyond this age in line with the existing statutory framework outlined in the current Retirement procedure.

- 2.6 However any agreement to extend a retirement date beyond 5 October 2012, or where a revised retirement has been agreed beyond 5 October 2012 already, will be invalid and can not be relied upon. Any employee who has already stated their intention to retire on a particular date after 5 October 2012 will be able to carry on working beyond that date if they choose to do so.
- 2.7 It is not our intention at this stage to have a policy or procedure which deals with retirement issues outside the transitional arrangements for the withdrawal of the DRA. Discussions regarding career aspirations will be fully incorporated into the council's Employee Development Review process regardless of an employee's age. An ACAS (Advisory, Conciliation and Arbitration Service) guide for employers entitled 'Working without the default retirement age' will be shared with managers to support these conversations.
- 2.8 Performance and capability issues should be managed in accordance with the relevant policies (e.g. Capability/Sickness Absence) regardless of an employee's age.

### **3 OPTIONS FOR CONSIDERATION**

- 3.1 To accept the withdrawal of the council's existing procedure.
- 3.2 To retain the council's existing procedure.
- 3.3 To recommend the retention of the existing procedure subject to amendments.

### **4 ANALYSIS OF OPTIONS**

- 4.1 Withdrawing the council's existing Retirement procedure will ensure that retirements are dealt with legally in accordance with the transitional arrangements for the removal of the DRA.
- 4.2 Retaining the council's existing Retirement procedure will result in the council's approach not keeping pace with legislation in this area and leave the council open to potential age discrimination claims.
- 4.3 After 6 April 2011, employers will be unable to issue any new notifications to automatically retire employees using the DRA. Notifications of retirement issued after this date will have to be objectively justified and employers will need clear evidence to defend this action if challenged. It is the council's view that this will be difficult to justify in the vast majority of circumstances.

### **5 RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

#### **5.1 Financial**

There are no direct financial implications.

#### **5.2 Staffing**

Requests to work beyond the normal retirement age are managed on a service by service basis.

### 5.3 **Property**

None.

### 5.4 **IT**

None.

## **6 OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 CRIME AND DISORDER, RISK AND OTHER)**

6.1 The withdrawal of the council's Retirement procedure complies fully with the Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011.

## **7. OUTCOMES OF CONSULTATION**

7.1 The relevant trade unions have been consulted and are supportive of the proposal.

## **8 RECOMMENDATIONS**

8.1 That the existing procedure be withdrawn with effect from 6 April 2011, but notifications of retirement and requests to work beyond the normal retirement age which are in train prior to this will follow the existing procedure through to conclusion.

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**Background Papers used in the preparation of this report: None**