

MUNICIPAL YEAR 2005/2006 REPORT NO. 146

MEETING TITLE AND DATE:

Cabinet 1 November 2006

REPORT OF:

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Agenda - Part: 1	Item: 11
Subject: The Employment Equality (Age) Regulations Policy on Retirement	
Cabinet Member consulted: Cllr Ann Zinkin	

1. EXECUTIVE SUMMARY

The Employment Equality (Age) Regulations (“the Age Regulations”) are the Government’s response to a European Union directive. The Regulations which came into force on 1 October 2006, affect every aspect of the employment relationship and tackle ageism in relation to all, young or old. The Regulations remove the statutory age restrictions on unfair dismissal and redundancy payments and establish retirement as a statutory reason for dismissal.

The Regulations give employers the right to set an organisational retirement age, give employees a right to request to work beyond retirement and place on the Council a ‘duty to consider’ such requests on employers.

This report recommends that the retirement age for Council staff should be set at 68.

2. RECOMMENDATIONS

Approve the adoption of 68 years as the normal retirement age for Council staff.

3. BACKGROUND

3.1 Current Provisions

- 3.1.1 The normal retirement age for employees of the Council is currently 65 years. The existing substantive retirement policy gives managers the discretion to allow staff to continue to work beyond normal retirement age, particularly where there are recruitment difficulties, for a short time until a replacement member of staff is appointed. Under the policy staff wishing to work beyond this are engaged in a relief or casual capacity.
- 3.1.2 In 2005, in response to a request from the trade unions, the Council anticipated the legislative changes when Members agreed an interim arrangement that allowed members of staff to request to continue to work beyond 65 and retain their terms and conditions, where this was in the mutual interest of the employee and the Council.
- 3.1.3 The Council is already committed to an age positive approach. This was acknowledged in 2005 when the Council became the first London Borough to be awarded as an 'Age Positive Champion Employer' status. The Council's age diverse employment policies and practices demonstrate commitment to employing people entirely on merit, regardless of age. Being positive about age is about building an effective workforce of different ages.

3.2 Age profile

- 3.2.1 The Council currently has a workforce with an age range of 17 to 83. There are currently more employees over the age of 60 than under the age of 25. More than 136 (non-school based) employees are over 65, the vast majority of whom have continued working for the economic reasons having opted not to join the pension scheme. There are already 94 employees age 68 or over covering a variety of jobs.
- 3.2.2 By 2010 it is estimated that nationally employees aged over 45 will make up 40% of the UK workforce. Clearly, whilst recruiting younger workers is necessary to sustain the workforce, this demographic change and the tightening labour market means the effective retention, development and motivation older workers are likely to be of increasing importance. Anticipation of these issues has already caused many private sector employers to specifically target older workers.

3.3 New Provisions

3.3.1 Under the terms of the new Regulations retirement becomes a statutory reason for dismissal and in order for any retirement to be considered as fair the statutory process must be followed. A fair retirement is one that:

- i) Takes effect on or after the normal occupational retirement age.
- ii) Where the employer has given the employee written notice of the date of the intended retirement and advised them of their right to request to continue working.
- iii) Where the employee makes a request to continue working and the correct procedure to deal with the request it has been followed.

3.3.2 Following the statutory procedure should guarantee the reason for dismissal is 'retirement' rather than any other reason. However it will be important that there is a consistency in relation to dealing with requests to continue working beyond the Council's agreed retirement age.

3.4 Retirement Age

3.4.1 Under the legislation the Council is required to either set a normal retirement age of 65 or above or to remove retirement age altogether.

3.4.2 The Council could opt to retain the current retirement age of 65. A range of other options have been considered that coincide with other employment restrictions e.g. 75 being the end of contributions to the Local Government Pension Scheme, 80 being the limit of the Council's Personal Accident insurance policy for employees (Employers' Liability insurance has no age limit).

3.4.3 Having considered a variety of options, after consultation with the Corporate Management Board, it is proposed to establish the normal retirement age for Council staff at 68. Setting retirement at 68 gives employees more choice over when they want to retire and particularly assists employees who for economic reasons wish to remain at work. It does not restrict retirement prior to 68; the terms of the LG pension regulations still retain the option for a member of staff to retire at any time after the age of 60.

4. ALTERNATIVE OPTIONS CONSIDERED

Consideration has been given to adopting a range of other retirement ages. However, in adopting 68 at this point in time, the Council is anticipating the probability of the national retirement age becoming 68 in 2008.

5. REASONS FOR RECOMMENDATIONS

5.1 To meet the Age Regulations and to establish best practice. An age diverse workforce provides the wide variety of skills needed to deliver high quality services.

5.2 To promote the Council as an Employer of Choice, one that retains valued employees, their expertise and know how.

6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

6.1 Financial Implications

There are no direct financial implications arising from the proposal in this report.

6.2 Legal Implications

The legal implications are set out in the body of this report. The Council will need to keep any adopted policy under review in line with interpretation of the Regulations by the courts in decided cases.

7. PUTTING ENFIELD FIRST

Being positive about age is about building an effective workforce of different ages. Businesses of all sizes report the benefits of employing an age diverse workforce. Adopting this proposal will support the delivery of excellent services.

Background Papers