

Committee Name and Date of Committee Meeting

Staffing Committee – 29 April 2019

Report Title

Pension Discretion – Flexible Retirement

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Shokat Lal, Assistant Chief Executive

Report Author(s)

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Ward(s) Affected

None

Report Summary

This report provides an overview of the pension discretion set by the Council in relation to flexible retirement and options for review.

Recommendations

1. That the Council's discretion is amended to mirror the Local Government Pension Regulations.
2. That the revised discretion is applied based on consideration of the following criteria:
 - Any reduction in working hours or salary must be permanent;
 - The reduction in hours or reduction in responsibility allowing the member to be paid a reduced salary must not impact upon the organisation's ability to carry out its business efficiently and effectively;
 - The individual flexible retirement concerned must support the organisation's overall business plan and strategy;
 - Any costs associated with flexible retirement must be funded within the overall service budget.

List of Appendices Included

None

Background Papers

Local Government Pension Scheme (LGPS) Regulations 2014

The Council's Statement of LGPS Discretionary Policies

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Pension Discretion – Flexible Retirement

1. Background

1.1 The Council is required by the 2014 Local Government Pension Scheme Regulations to publish its policies in relation to how it will exercise its discretionary powers under those regulations. One of these discretions, Regulation 30 (6) relates to flexible retirement.

1.2 Regulation 30 (6) states that *“An active member who has attained the age of 55 or over who reduces working hours or grade of an employment may, with the scheme employer’s consent, elect to receive immediate payment of all or part of the retirement pension to which that member would be entitled in respect of that employment if that member were not an employee in local government service on the date of the reduction in hours of grade, adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.”*

1.3 RMBC's Flexible Retirement Policy states that applications will only be considered for 'significant' permanent contractual reductions to either grade or weekly contractual hours. In the policy 'significant' is defined as a change by which budget savings, or 'vacated' hours/position would enable the recruitment of a suitable replacement to maintain service delivery. The policy goes on to state that such reductions **would be in the region** of at least 40% of hours so that alternative resourcing options could be explored.

1.4 However, this definition is tightened in the associated Frequently Asked Questions document and subsequent application of the policy. The FAQs state applicants must be 55 years or over, a member of the pension scheme and apply for a 'significant' reduction to your current contract. A 'significant' reduction would be at least 40% of the hours you currently work. Subsequently, all applications have required a 40% reduction in their contracted hours in order to be considered.

1.5 The full criteria by which applications are currently assessed is set out below:

- Any reduction in working hours or salary must be permanent;

- Any reduction in working hours or salary must be at least 40% of those hours or that salary being worked or earned immediately prior to the member's flexible retirement;
- The reduction in hours or reduction in responsibility allowing the member to be paid a reduced salary must not impact upon the organisation's ability to carry out its business efficiently and effectively;
- The individual flexible retirement concerned must support the organisation's overall business plan and strategy.

1.6 Applications are considered based on a case by case basis in accordance with the current policy, requiring the case to meet service need and where a cost is involved that the cost is covered by the reduction in hours/grade.

2. Key Issues

2.1 Almost half the Council's workforce is over 50 years of age and in line with national trends employees are choosing to work into later life. An increasing number of employees have reached or are approaching the age at which they can access their pension entitlement.

2.2 Employees can access their pension by either ending their employment with the Council or by agreement to flexibly retire. Flexible retirements allow the Council to retain the knowledge and skills within the authority and help succession planning and business continuity.

2.3 The current requirement for a 40% reduction does not always support business requirements, with requests being unable to be supported by management. An example is where an employee currently works standard contractual hours of 37 hours per week across 5 days, the policy requires them to reduce by 14.8 hours (2 days). Where requests are supported it can cause recruitment difficulties for a 2 day replacement or it can lead to rejection of the request because this impacts adversely on business need.

2.4 Alongside the potential benefits of flexible retirement to both the authority and the individual, cost control and reduction has become increasingly important in recent years. The current policy prevents services maximising the benefits to be gained from changes in business practice and technology. If employees were allowed to reduce their working hours by less than 40% (2 days in most cases) in circumstances where a smaller reduction could enable changes in roles and structures without requiring the reduced hours to be filled, this would provide greater organisational flexibility, could deliver cost savings to the service and prevent or reduce compulsory job losses elsewhere in the service.

2.5 Benchmarking in the South Yorkshire region shows that Barnsley Council, Hallam University and AMEY have set the requirement to 20% and that the Probation Service has set to a minimum 1 hour reduction.

3. Options considered and recommended proposal

- 3.1 Option 1 - Maintain current arrangements which have been in place for a number of years.
- 3.2 Option 2 - Adopt a minimum 50% reduction so services are left with half a post to recruit to.
- 3.3 Option 3 - Adopt a minimum 20% reduction where services are able to absorb the 1 day loss and are not allowed to backfill.
- 3.4 Option 4 - Amend the discretion in line with the Local Government Pension Regulation.
- 3.5 In order to allow services the most flexibility when it comes to service need, Option 4 is recommended - that the discretion is aligned to the Local Government Pension Regulations. The business case aspect of the application for any costs associated with the request would still be dependent on those costs being covered by the reduction in salary costs.

4. Consultation on proposal

- 4.1 Consultation has taken place with the Council's Section 151 Officer, Assistant Chief Executive and Assistant Director Human Resources who all support the proposal.
- 4.2 Trade Union colleagues have been consulted and feedback has been positive.

5. Timetable and Accountability for Implementing this Decision

- 5.1 Any change to the pension discretion has to be published 90 days prior to coming into effect.
- 5.2 It is envisaged that the change will become effective from 1st September 2019

6. Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)

- 6.1 On the basis that the Council does not agree to waive any actuarial reductions in pensions that are applicable, flexible retirement is generally cost neutral. The Pensions Authority advises that there are, however, some cases where protections under the 85 year rule could result in the Council incurring costs for flexible retirements granted to staff under the age of 60. In order to avoid such situations the Council would need to request estimates from the Pensions Authority on a case by case basis.
- 6.2 Should the Council choose to permit the waiving of actuarial reductions in its flexible retirement policy there will be cost implications for the Council as it would be required to make a contribution to the Pension Fund to cover the

pension strain. Again, this cost would need to be assessed on an individual basis.

6.3 It is unlikely that any increase in the number of flexible retirements agreed following the proposed change to the Council's policy would be sufficient to affect the pensions fund actuarial valuation.

6.4 There are no direct procurement implications associated with this report.

7. Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)

7.1 Relevant legislation is Local Government Pension Scheme Regulations 2013

7.2 By aligning the discretion with the regulations RMBC has more flexibility in dealing with service needs.

7.3 Consideration needs to be given as to allow employees the right of appeal if their request is rejected. Legal recommendation is that employees should have the right to appeal in the interests of fairness.

8. Human Resources Advice and Implications

8.1 Changes to the discretion would assist with retaining skills and knowledge for longer periods to facilitate better succession planning and act as a motivator to employees who want to access their pension benefits but would be rejected on the needs of the service.

9. Implications for Children and Young People and Vulnerable Adults

9.1 The proposal would affect employees in all Directorates wishing to apply for flexible retirement.

10. Equalities and Human Rights Advice and Implications

10.1 In making any decision the Council is required to have due regard to its equalities duties and in particular with respect to the Equality Act 2010, section 149, part 11 of the public sector duty:

- a) eliminate discrimination, harassment, victimisation and eliminate any other conduct that is prohibited by or under the Act,
- b) advance equality of opportunity between persons who are a protected characteristics and persons who do not share it and to
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.2 The recommendation will not have any adverse impact on anyone with one or more protected characteristics, namely age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

11. Implications for Partners

11.1 There are no implications for Partners.

12. Risks and Mitigation

12.1 There is a risk that without change the organisation will lose experienced and skilled employees who choose to take their pension entitlement and seek continued employment elsewhere.

13. Accountable Officer(s)

Judith Badger Strategic Director Finance and Customer Services

Shokat Lal Assistant Chief Executive

Approvals obtained on behalf of:-

	Named Officer	Date
Chief Executive		Click here to enter a date.
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	12/04/19
Assistant Director of Legal Services (Monitoring Officer)	Named officer	Click here to enter a date.
Assistant Director of Human Resources (if appropriate)		Click here to enter a date.

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