
Report To:	Policy & Resources Committee	Date: 16 August 2011
Report By:	Head of Organisational Development, Human Resources and Performance	Report No: HR/11/11/AH
Contact Officer:	Alex Hughes	Contact No: 01475 712014
Subject:	Abolition of the Default Retirement Age : Revised Council Policy	

1.0 PURPOSE

- 1.1 The purpose of this report is to advise the Committee of the abolition of the Default Retirement Age (DRA) from 1st October 2011. The rules regarding employees retiring at 65 will change and we require to establish operational arrangements.

2.0 SUMMARY

- 2.1 The Council had until 30 March 2011 to advise all employees who are due to retire between 1 April 2011 and the end of September 2011 that they will still require to retire at the age of 65 as per the current arrangements. This has been put in place.
- 2.2 The current procedure is that we write out to the employee advising that if they want to work beyond the age of 65 the employee must make a request to work beyond the age of 65. During the interim period 41 employees retired at age 65. There were 30 requests from employees to work beyond the age of 65 and 11 employees appealed the decision not to grant this, none were upheld.
- 2.3 The reason for this legislation is that people are living longer and working longer and has provided focus on age discrimination legislation during the past few years. This new legislation abolishes the default retirement age and encourages employees to continue working should they wish to and for as long as they wish to.
- 2.4 The previous legislation, the Employment Equality (Age) Regulations, which came into force on 1 October 2006, provided a default retirement age of 65 that employers could rely on if they wished. These regulations made earlier retirement ages unlawful unless employers could objectively justify them. The regulations also introduced a statutory right for individuals to request postponement of retirement beyond the age of 65.
- 2.5 The removal of the default retirement age does not affect an employee's state pension age and entitlements, which may well be separate from the age at which they retire.

3.0 RECOMMENDATIONS

- 3.1 The Committee note that all employees who were due to retire between April 2011 and the end of September 2011 were written to advising that they will retire at the age of 65 and advising that they still had the right to request to work on and the right of appeal.
- 3.2 It is recommended that the Committee agree that all employees can now work after 65 as per the new regulations and agree to the revised Planned Retirement Policy, Appendix 1.

Head of Organisational Development,
Human Resources and Performance

4.0 BACKGROUND

- 4.1 The default retirement age will be abolished from 1 October 2011.
- 4.2 From April 2011 until 30 September 2011, arrangements have been put in place for employees retiring. During the interim period 41 employees retired at age 65. There were 30 requests from employees to work beyond the age of 65 and 11 employees appealed the decision not to grant this, none were upheld.
- 4.3 The backdrop to this legislation is that people are living longer and working longer. This provided the focus on age discrimination legislation during the past few years. This new legislation abolishing the default retirement age encourages employees to continue working should they wish to and for as long as they wish to.
- 4.4 The Employment Equality (Age) Regulations, which came into force on 1 October 2006, provided a default retirement age of 65 that employers could rely on if they wish. The regulations made earlier retirement ages unlawful unless employers could objectively justify them. The regulations also introduced a statutory right for individuals to request postponement of retirement beyond the age of 65.
- 4.5 Since the introduction of the Employment Equality (Age) Regulations, we have received a number of requests from employees to continue working beyond age 65. However, this new legislation repeals the 2006 Employment Equality (Age) Regulations and removes the default retirement age altogether.
- 4.6 For those employees who reach their 65th birthday during the transitional period, notifications of retirement have already been issued. Employees have been made aware of their retirement date (normally the day before their 65th birthday for pension purposes), and of their right to request to continue working beyond age 65.
- 4.7 For those employees who reach their 65th birthday on or after 1 October 2011, no notifications have been issued and employees will continue in post, unless they request to retire i.e. resign from their post.
- 4.8 The removal of the default retirement age does not affect an employee's state pension age and entitlements, which may well be separate from the age at which they retire.

5.0 PROPOSALS

- 5.1 It is proposed that employees aged 65 from 1st Oct 2011 can work till they notify us they wish to retire by resigning.
- 5.2 It is further proposed that the attached revised retirement policy, Appendix 1, be agreed by the Committee. To assist employees and line managers guidelines have been developed and will be issued with the new policy and made available.

6.0 IMPLICATIONS

- 6.1 Finance: Preparations for the implementation of this new legislation will be carried out within existing resources. No additional costs to be incurred.

Financial Implications – One off Costs

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
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Financial Implications – Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments

- 6.2 Human Resources: Compliance with this new legislation is a statutory requirement and if the authority does not comply with the legislation, it could face legal action resulting from claims of unfair dismissal and discrimination.
- 6.3 Legal: The issues in this report arise from new legislation which will abolish the DRA on 1st October 2011
- 6.4 Equalities: There are no equality issues contained within this report as there is no adverse impact on any of the Protected Characteristics of the Equality Act. Complying with the legislation will protect the Council from claims of unfair dismissal and discrimination connected to age.

7.0 CONSULTATION

- 7.1 Consultation has taken place with all trade unions. A copy of the report was sent to the Trade Unions asking for comment. No trade union raised any issues as they expected the change to happen.

8.0 LIST OF BACKGROUND PAPERS

Appendix 1 – Planned Retirement Policy

INVERCLYDE COUNCIL

PLANNED RETIREMENT POLICY

October 2011

1 Introduction

- 1.1 Inverclyde Council is committed to retaining high calibre employees to deliver services. The Council is also committed to supporting a culture of equal opportunity whereby discrimination is eliminated.
- 1.2 On 6 April 2011 legislation was introduced which abolished the default Retirement Age (DRA). This means employees cannot be compulsory retired at a particular age, which previously within Inverclyde Council was age 65.
- 1.3 However it is recognised that many employees may still wish to retire at 65, or another date of their choice, and these guidelines outline the process by which employees can progress this.

2 Scope

- 2.1 The Planned Retirement Policy and Guidelines are applicable to all employees of Inverclyde Council.
- 2.2 There is no normal retirement age for Inverclyde Council employees. The abolition of the Default Retirement Age enables employees to continue to work beyond previous set retirement ages, to a future date of their choice.
- 2.3 Compulsory retirement ages are unlawful unless employers can demonstrate that they are objectively justified. No post within Inverclyde Council is subject to compulsory retirement.

3 Responsibilities

- 3.1 It is each individual line manager's role and responsibility to ensure they understand their employees future work plans, and to advise the employee of the process should the employee indicate that they wish to retire.
- 3.2 Where managers have concerns about an employee's ability to undertake their role, this should be progressed via the appropriate procedure after discussion with Organisational Development and Human Resources.
- 3.3 From 1 October 2011, it is the employee's responsibility to advise their line manager of their plans to retire at a particular date in line with required timescales.

4. Further Information

- 4.1 Further Information and guidance;
 - Management and Employee Planned Retirement Guides
 - Organisational Development and Human Resources
 - Trade Union Representatives
 - Payroll
 - Scottish Public Pensions Agency (for Teachers) – ☎ 01896 893000