



To: Members of the County Council

Date: 20 February 2014

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Dear Councillor

I refer to this agenda for the meeting of the **COUNTY COUNCIL** to be held at **10.00 am** on **TUESDAY, 25 FEBRUARY 2014** in **COUNCIL CHAMBER, COUNTY HALL, RUTHIN LL15 1YN** and enclose the following supplemental report(s).

**Agenda Item
No**

10 FLEXIBLE RETIREMENT POLICY (Pages 3 - 16)

To consider a report by Councillor Barbara Smith, Lead Member for Modernising and Performance (copy to follow) presenting the Flexible Retirement Policy for adoption.

Yours sincerely

G Williams
Head of Legal and Democratic Services

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Report To: County Council

Date of Meeting: 25 February 2014

Lead Member / Officer: Councillor Barbara Smith

Report Author: Linda Atkin, Head of HR

Title: Flexible Retirement Policy

1. What is the report about?

Members of the Local Government Pension Scheme have a right to apply for flexible retirement. This is where an employee over the age of 55, can request a change to the nature and intensity of their work and receive their pension whilst continuing to work and receive a salary. The purpose of flexible retirement is to facilitate a gradual move into retirement. This report recommends how Denbighshire County Council should respond to such requests.

2. What is the reason for making this report?

Negotiations on a Flexible Retirement Policy have been ongoing for over 12 months. Both the trade unions and management are agreed on recommendation a) that a minimum reduction in hours or pay of 20% is introduced. However, no agreement has been possible on element b) regarding the maximum length of time between granting Flexible Retirement and retirement.

LJCC has considered the proposals formally on three occasions and despite detailed discussions has not been possible to reach an agreed position with the Trade Union representatives. The last meeting of LJCC agreed to refer the proposals to Council with a recommendation to adopt despite this failure to agree.

3. What are the Recommendations?

LJCC Members agreed that the amended Flexible Retirement Policy be referred to Council with a recommendation to adopt.

- a) Introduction of a minimum reduction - This reduction should equate to a minimum of 20% reduction in either hours or pay.
- b) Introduction of a retirement plan with the employee which will give a definitive date at which the employee will take full retirement. The definitive retirement date should be no later than 24 months from the date of flexible retirement with the option to have this reviewed at the end of the period and extended for a further 12 months in exceptional circumstances if this meets the needs of the business and the individual.

4. Report details.

The Flexible Retirement opportunity in the Local Government Pension Scheme allows employees to request a change to the nature and intensity of their work and receive accrued pension benefits whilst continuing in employment and building up further benefits in the scheme. The change can either be to their hours or pay.

This means that an employee can request to reduce their hours and access their pension and receive a lump sum payment whilst remaining in employment and continue to receive their appropriate salary. Thereby, employees on flexible retirement will get both their pension and their pay whilst continuing to work.

However there are no guidelines to quantify this change and as a result employees have been able to access their pension benefits with very little change to their hours of work or reduction in pay. This has resulted in some employees reducing their working week by an hour, accessing their pension and making minimal reduction in hours or pay, which results in no meaningful consideration of a transition into retirement and can present problems for managers in planning capacity to meet service delivery requirements.

SLT considered more clarity and consistency was required, particularly in relation to the appropriate level of reduction and the method of planning transition into retirement enabling them to plan their workforce accordingly. SLT was also concerned that there should be a more consistent approach across the authority.

A review has been undertaken and discussions progressed with the overall aim of the policy in mind – a mechanism for easing an employee into retirement whilst not causing detriment to service delivery.

Two changes have been proposed to meet this principle:

- a. Introduction of a minimum reduction - This reduction should equate to a minimum of 20% reduction in either hours or pay.
- b. Introduction of a retirement plan with the employee which will give a definitive date at which the employee will take full retirement. The definitive retirement date should be no later than 24 months from the date of flexible retirement with the option to have this reviewed at the end of the period and extended for a further 12 months in exceptional circumstances, if this meets the needs of the business and the individual.

Agreement has been reached on the minimum reduction in hours or pay. However, the trade unions do not support the concept of a retirement plan as they believe it to be contrary to the Local Government Pension Scheme Regulations and the Equality Act.

This has been checked with the Pension Administrators, our Legal Department and ACAS. The advice given is that the age regulations have removed the right to have a statutory retirement age within the organisation. However, we are not implementing a statutory retirement age for all staff, we are instead agreeing a retirement age for staff on an individual basis if they wish to pursue flexible retirement. If an employee does not want to commit to a retirement age, then the employee can, if they so wish make an application for flexible working without accessing their pension benefits.

The trade unions request is that we mirror the Teacher's Flexible Retirement Scheme and allow an employee up to 5 years before they are required to retire fully. However the concept of agreeing a retirement date on an individual basis is the same whether it 2 years or 5 years and therefore, this contradicts the trade unions argument that it is contrary to the Equality Act.

Discussions with the trade unions have been ongoing since October 2012 and has been to LJCC on three occasions.. Whereas the Council have increased the number of years for a retirement plan from 1 – 2 with the potential of 3, there has been no movement on the part of the TUs on this particular issue.

Prior to the LJCC in October the trade unions put two options forward in relation to the introduction of a retirement plan.

a. Introduction of a 5 year period or a phased variation on this outlined in (b)

b. under 60	5 years
61	4 years
62	3 years
63+	2 years

Having considered the Trade Union proposal, the Council's management did not consider either of these as a viable option as any period above two years is a long time once someone has made the decision on retirement and can present problems for managers in terms of workforce planning and potentially have an impact on service delivery. This is supported by ACAS who advise that the period should be as short as possible and that potentially two years was too long. ACAS' rationale behind this was that the longer the period, the more likelihood is that the employee's personal circumstances will have changed. It is more beneficial therefore for the employee to have a shorter period. Also we were concerned that the phased approach under option b was potentially discriminatory as it was linked to age.

The principle of Flexible Retirement is to allow employees to reduce their working hours or reduce the intensity of their work in preparation for their full retirement. At the same time they gain access to their pension rights and continue to receive the appropriate salary for the hours and role they undertake. This is far more financially beneficial than just requesting to reduce their working week as they receive their pension, lump sum and continue to receive a salary.

Management's initial position was that a period of 1 year be applied. This was increased to two years and then at the LJCC in October, in the interests of reaching an agreed position, management stated they were prepared to consider increasing this period to 3 years. The trade unions responded to this proposal with a consensus view that that all staff should be treated the same. As teachers get 5 years they felt strongly that they should also be offered this period. The TU refused to negotiate further on this point.

Teacher's are bound by National Terms and Conditions. The Local Government Pension Scheme allows discretionary powers which can be applied to Flexible Retirement, ie we can determine whether we have a Flexible Retirement Scheme and how it is applied.

If element b) of the policy is not adopted then managers will not be able to forward plan and support staff's transition into retirement, resulting in a situation where Flexible Retirement is not granted. This will lead to inconsistent application of the Flexible Retirement Policy and demotivation of long serving employees. Managers require both elements of the policy to be able to make decisions about their workforce, given the uncertain climate we are currently working in.

For reasons explained above, the Council's management do not consider 5 years to be a viable option and therefore as there is no movement on the trade unions' part, the parties have failed to reach agreement on this issue.

A copy of the proposed policy is attached in Appendix 1 and has been presented in the new format adopted by HR Direct for policies and procedures.

5. How does the decision contribute to the Corporate Priorities?

The agreement and implementation of revised policy will allow the Council to manage its future workforce in order to achieve the corporate priorities.

6. What will it cost and how will it affect other services?

There will be no additional costs with the agreement and implementation.

This will affect all services within the Council as they will need to comply with the revised policy to reduce any risk.

7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.

A copy of the EIA is attached in Appendix 2 for information.

8. What consultations have been carried out with Scrutiny and others?

The changes to the policy have been distributed for consultation with the Council's Senior Leadership Team and recognised Trade Unions and the current position is outlined above. It has been discussed at LJCC on three occasions where LJCC members were not supportive of the TU position and agreed that the policy should be referred to Council with a recommendation to adopt.

9. Chief Finance Officer Statement

There are no significant cost implications resulting from the proposed changes to the flexible retirement policy. Where there is a cost to the council, it is unlikely that the request would be approved unless there is a real business reason for doing so. Measures have been put in place to ensure that these are agreed by the Chief Finance Officer and Head of HR who will challenge any costs and monitor the overall position.

10. What risks are there and is there anything we can do to reduce them?

The proposed changes will address the risk of inconsistent application of the policy and the public perception of allowing employees to access their pension benefits with very little change to their contract.

11. Power to make the Decision

Power to make the decision is s112 Local Government Act 1972

FLEXIBLE RETIREMENT SUPPORTING TEXT

1. What is Flexible Retirement?

Flexible retirement is where an employee over the age of 55, has the right to request to change the nature and intensity of their work and receive accrued pension benefits whilst continuing in employment and building up further benefits in the scheme. The underlying principle of flexible retirement is to ease the employee into retirement through either working less hours or receiving less pay. This reduction should equate to a minimum of 20% reduction in either hours or pay.

This reduction will be for the duration of the current contract and cannot subsequently be increased.

It is also essential that as part of the process, a retirement plan is agreed with the employee which will give a definitive date at which the employee will take full retirement. The definitive retirement date should be no later than 24 months from the date of flexible retirement with the option to have this reviewed at the end of the period and extended for a further 12 months if this meets the needs of the business and the individual.

For employees who have already been granted flexible retirement, managers should have a discussion with them to understand their future plans and agree a definitive retirement date within 24 months with the option to have this reviewed at the end of the period and extended for a further 12 months if this meets the needs of the business and the individual.

The changes proposed to facilitate a flexible retirement must meet the needs of the service and is therefore at the manager's discretion. Although the employee has the right to request a change in their working hours or grade in order to facilitate flexible retirement there is no obligation on the manager to grant it.

Where there is a cost to the council, it is unlikely that the request would be approved unless there is a real business reason for doing so.

Although the pension scheme retirement date remains at age 65, employees will be able to join or remain in the scheme until the day before their 75th birthday and continue to accrue membership. However, payments of benefits must commence before the employee reaches 75.

An employee wishing to apply for flexible retirement must in the first instance make a request to their manager in writing expressing an interest in flexible retirement.

2. Benefits Payable for flexible retirement

Employees will be entitled to their accrued pension and lump sum subject to an actuarial reduction. Employees who were contributing to the scheme prior to 30th September 2006, may have some protection if they take flexible retirement between the age of 60 and 65. However, if they retire between 55 and 59 their pension

benefits will still be reduced to reflect the early payment. **The council will not waive this reduction.**

3. What costs are associated with flexible retirement?

There may be a cost associated with the early release of pension for some employees who were contributing to the scheme prior to 30th September 2006. For such cases, it means that the employing department will have to fund the full cost of the strain on the pension fund. This will be determined by the completion of the Viability Sheet - *link to viability form*

Where there is a cost to the council, it is unlikely that the request would be approved unless there is a real business reason for doing so.

4. Manager meets with employee to discuss request & retirement plan

The manager needs to understand what change the employee is requesting in order to facilitate the flexible retirement. It is important that the manager discusses with the employee when their definitive retirement date is going to be. The definitive retirement date must be no later than 24 months from the date of flexible retirement.

5. Manager requests pension estimate and associated costs – *link to form*

6. On receipt of pension figures manager to consider whether the request is viable

In considering whether to approve the request or not, the manager needs to consider whether it is both:

- a) Financially viable. If there is cost associated with the flexible retirement it is unlikely that it would be approved unless there is a real business reason for doing so. In determining if there is a real business reason for agreeing to the request, the manager needs to consider the cost of the pension strain (if applicable).
- b) Operationally viable. The manager needs to consider whether the changes proposed can be implemented within the service taking into account the impact on service delivery.

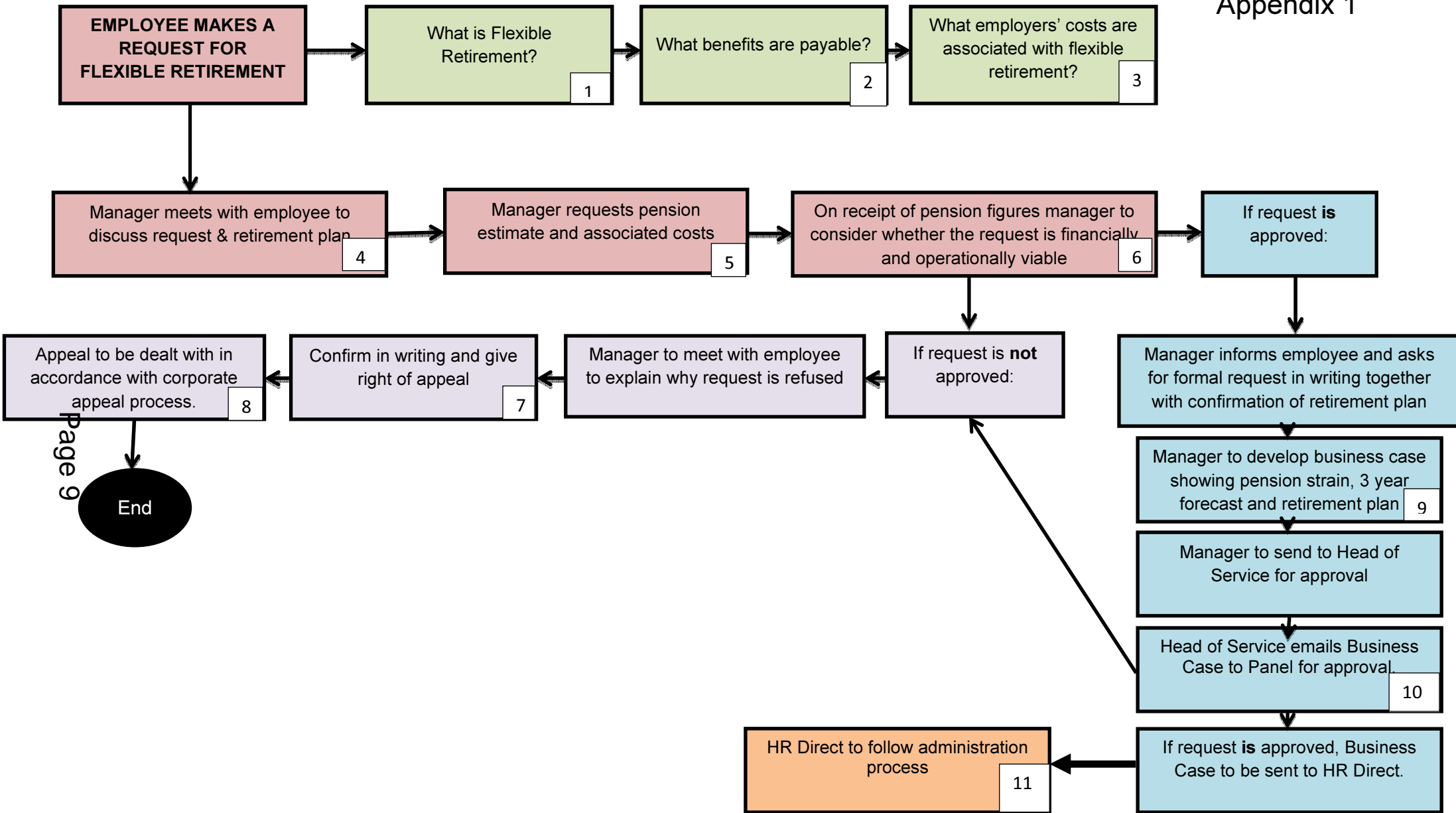
7. Confirm in writing and give right of appeal – *link to standard letter*

8. Appeal to be dealt with in accordance with Corporate Appeal Process – *link to Corporate Appeals Process*

9. Develop Business case showing pension strain, 3 year forecast and retirement plan – *link to Business Case Template*

10. Panel to be made up of Head of Finance and Head of HR. – The panel is responsible for approval all applications for flexible retirements, whether there is a cost involved or not.

11. HR Direct to follow retirement administration process – *link to administration process*



page 9

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Flexible Retirement Policy

23/09/13

Equality Impact Assessment

Flexible Retirement Policy

Contact: Linda Atkin, Head of HR

Updated: 23/09/13

1. What type of proposal / decision is being assessed?

A new or revised policy

2. What is the purpose of this proposal / decision, and what change (to staff or the community) will occur as a result of its implementation?

The purpose of the change is to provide a consistent way of dealing with flexible retirement across the council. The proposed changes are:

- a. Introduction of a minimum reduction - This reduction should equate to a minimum of 20% reduction in either hours or pay.
- b. Introduction of a retirement plan with the employee which will give a definitive date at which the employee will take full retirement. The definitive retirement date should be no later than 24 months from the date of flexible retirement with the option to have this reviewed at the end of the period and extended for a further 12 months if this meets the needs of the business and the individual.

3. Does this proposal / decision require an equality impact assessment? If no, please explain why.

*Please note: if the proposal will have an impact on people (staff or the community) then an equality impact assessment **must** be undertaken*

Yes

<If no, briefly summarise the reasons for this decision here, and skip ahead to the declaration at the end>

4. Please provide a summary of the steps taken, and the information used, to carry out this assessment, including any engagement undertaken

(Please refer to section 1 in the toolkit for guidance)

An assessment has been undertaken against the protected characteristics and the impact of the proposed changes on them using an EIA assessment form.

- 5. Will this proposal / decision have a positive impact on any of the protected characteristics (age; disability; gender-reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation)?**
(Please refer to section 1 in the toolkit for a description of the protected characteristics)

It will provide a positive impact across all protected characteristics as there will be a consistent application of the flexible retirement policy across the council.

- 6. Will this proposal / decision have a disproportionate negative impact on any of the protected characteristics (age; disability; gender-reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation)?**

No as the policy is open to all employees who meet the qualifying criteria set out in legislation.

- 7. Has the proposal / decision been amended to eliminate or reduce any potential disproportionate negative impact? If no, please explain why.**

No

No changes have been made as no disproportionate negative impact was identified.

- 8. Have you identified any further actions to address and / or monitor any potential negative impact(s)?**

No

<If yes please complete the table below. If no, please explain here>

Action(s)	Owner	By when?
<Please describe>	<Enter Name>	<DD.MM.YY>
<Please describe>	<Enter Name>	<DD.MM.YY>
<Please describe>	<Enter Name>	<DD.MM.YY>
<Please describe>	<Enter Name>	<DD.MM.YY>
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9. Declaration

Every reasonable effort has been made to eliminate or reduce any potential disproportionate impact on people sharing protected characteristics. The actual impact of the proposal / decision will be reviewed at the appropriate stage.

Review Date:	<DD.MM.YY>
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Name of Lead Officer for Equality Impact Assessment	Date
Linda Atkin	23/09/13

Please note you will be required to publish the outcome of the equality impact assessment if you identify a substantial likely impact.
