

**Progressive**  
employer

**Requests to Work Beyond Normal  
Retirement Age Policy**  
July 2007



INVESTOR IN PEOPLE



## 1. Introduction

Under the provisions of the Employment Equality (Age) Regulations 2006 employees have the right to request to work beyond their normal retirement age. The council as the Employer has a duty to inform employees of their right, in writing, between 6 & 12 months prior to the default date of retirement (their 65<sup>th</sup> birthday).

The employee has until the 6<sup>th</sup> week before their retirement date to exercise their right to request to continue working.

Failure to notify an employee of this right means they could bring a claim with compensation of up to 8 weeks pay being awarded if successful. More importantly, if this is not addressed during the remaining weeks/months of employment and the employee is retired without being given the opportunity to request to continue working, their dismissal would be considered to be automatically unfair and compensation payable.

The council recognises the benefits in adopting a flexible approach to employment and work patterns. It also recognises the positive reasons for retaining the experience and knowledge of its workforce.

All requests will be considered and assessed by the appropriate manager. **Please note that the regulations do not provide an automatic right to work beyond the age of 65 and therefore, managers are not under any obligation to agree to the request.**

## 2. Process

### Prior to the intended date of retirement

People and Organisational Development - will write to the employee, with a copy to the line manager, at least 6 months before the intended date of retirement and notify the employee of their right to request to work after this date.

If the employee has not responded within 3 months of the intended retirement date indicating whether they wish to retire or they wish to work beyond that date, it will be assumed that they wish to retire on their 65<sup>th</sup> birthday. If the employee wishes to do so then the line manager should complete a leavers form and forward it to POD who will action in the normal way.

If the employee wishes to work beyond their 65<sup>th</sup> birthday they should follow the process as set out below.

Employee - You should make a written request to your line manager no later than 6 weeks before the intended date of retirement. If the request is made later than 6 weeks before the intended retirement date the council does not have an obligation to consider it. The written request should specify whether you wish to continue working

- indefinitely,
- for a stated period, or
- until a certain date.

It would also be useful to inform your line manager whether you wish to continue with the same working arrangements or whether you wish to work part time or another working pattern.

### Line Manager

In considering the employee's request you should take into account:

- Whether you still need this job done
- The employee's past performance
- The employee's past conduct
- The employee's attendance record
- Whether there is a need to finish a specific piece of work
- Whether there is a need to cover staff shortages
- If you refuse the request whether there may be equalities issues.

Arrange a meeting with the employee to discuss in detail the request. See appendix 1 for standard letter. The employee has the right to be accompanied by a trade union representative or a work colleague.

### **The meeting**

The Employee should put their case for continuing to work beyond the intended retirement date.

The Manager should listen to the case and may put forward suggestions for an alternative arrangement e.g. a different retirement date or an alternative working pattern. It is acceptable for the manager to put forward alternatives there is no obligation on the employee to accept them. If the manager is happy for the employee to continue to work beyond the age of 65 but there is no obvious cut off point then the default extension period will be one year.

The Trade union representative or work colleague can confer with the employee and address the meeting but not answer questions on behalf of the employee.

### **The decision**

The Manager will put the decision in writing (see appendix 2 for standard letter) and send it to the employee within 10 working days of the meeting. The letter will include the right of appeal if the request is refused. A copy of the letter will be sent to POD.

If accepted:

The manager will inform POD of the new intended retirement date and, if applicable, any new working pattern agreed. POD will confirm the changes in writing to the employee.

If refused:

The manager will inform POD, who will confirm the intended retirement date.

Please note there is no requirement for a manager to explain their reasons for

refusing the request. If the decision to refuse is related to minor capability or conduct issues then this must have been discussed with the employee prior to this meeting.

### **Right to appeal**

An appeal must be made in writing to the Line Manager within 10 working days of the date of the letter informing the employee of the decision. The Appeal will be heard by the Service Unit Head or Policy Director if the SUH made the original decision. In normal circumstances the appeal will be heard within 15 working days of the appeal being made. If delayed, the employee will be informed of the reasons for the delay.

At the appeal meeting the employee will have a further opportunity to put forward case.

The Service Unit Head/Policy Director will make a decision and inform the employee.

The decision will be confirmed in writing and sent it to the employee as soon as possible after the meeting. **The Service Unit Head/Policy Director's decision is final and there is no further right of appeal.**



## Appendix 2

Dear

### **Your Retirement**

Further to our meeting held on (date) at (time) I am writing to confirm that

either

- it was decided that you will retire on your 65<sup>th</sup> birthday on (date). Please accept this letter as official notification of this.

or

- it was agreed that you will continue to work beyond your 65<sup>th</sup> birthday under your current working arrangements/under the following arrangements (give details of any changes hours per week, working days, duties etc)\* \*delete as appropriate. These arrangements will be for one year when your retirement will be reconsidered.

You have the right to appeal against my decision. If you wish to do so please write to me with the details of your appeal within ten working days of the date of this letter (insert date). I will arrange for your appeal to be heard by (name of SUH or Policy Director if SUH made original decision).

Yours sincerely

Line Manager

cc     POD