

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Committee/Panel:</b>	Employment in Hampshire County Council
<b>Date:</b>	16 March 2011
<b>Title:</b>	Removal of the Default Retirement Age
<b>Decision Reference:</b>	2665
<b>Report From:</b>	Director of Human Resources

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#### 1. Executive Summary

- 1.1 The purpose of this report is to inform on the Governments intent to abolish the default retirement age and the required actions in response to that.

The default retirement age is planned to be removed from 1 October 2011 and it is expected that no new notices of retirement can be issued from 6 April 2011. Legislation may provide for an employer justified retirement age.

Arrangements are in place within the County Council to ensure staff who can be, are retired in the normal way - by giving 6 months notice of the retirement date and considering staff requests to work beyond it. These changes will be communicated to both managers and employees.

Removal of the default retirement age could give rise to an increase in the use of redundancy, dismissal on grounds of capability, misconduct, or some other legally fair reason with associated cost.

#### 2. Removal of the Default Retirement Age

- 2.1 Employers can currently terminate employment for reasons of retirement at the age of 65 by following a specified procedure. However, the Government announced on 13 January 2011 that, subject to Parliamentary approval, it will phase out the default retirement age, and the statutory retirement processes, from 6 April 2011.

The default retirement age of 65 will be removed from 1 October 2011. From this date employers will not be able to rely on the default retirement age to dismiss employees.

This means that the last day employees can lawfully be given notice of retirement using the default retirement age is 30 March 2011. This will ensure that retirement takes place on 30 September 2011.

The change might have some effect on reducing turnover levels with the potential for some impact on the proposed savings to be achieved from the partial recruitment freeze. However, it is possible that employees may choose to retire at age 65 and therefore the impact could be negligible.

Whilst unconnected with removal of the default retirement age, it is understood that as a result of the review of public sector pensions and subsequent amendments to the Local Government Pension Scheme, consideration will be given to increasing the age at which the occupational pension can be accessed (currently 65). In so doing it is possible that account may be taken of the already announced change to age 66 for access to a state pension and/or of the intent to increase this at a later stage to 68.

### **3. Employer Justified Retirement Age (EJRA)**

- 3.1 The Government have confirmed that they will introduce a new method of compulsorily retiring older workers called the Employer Justified Retirement Age (EJRA) that will work by means of the age discrimination provisions in the Equality Act 2010.

So, in effect, if an employer can establish that it has sound grounds for setting a specified retirement age for a particular group/s of employees then it may be able to do so. Employers can objectively justify this difference of treatment on the grounds of age if they can prove that it is necessary to meet legitimate employment policy, labour market or vocational training objectives, and that a compulsory retirement is an appropriate and necessary means of achieving these objectives.

These changes therefore mean that in the future employees will have a choice to retire upon reaching state pension age or the age on which they can access their Local Government Pension, or to continue working.

- 3.2 Parliament are expected to approve legislation in the early part of 2011. Further guidelines and clarification is expected to then be available, particularly around the subject of an EJRA. At this point, the County Council will be able to determine whether it will be able to establish an EJRA.

### **4. Finance**

- 4.1 The Government considers that removing the default retirement age does not affect occupational pension schemes. The LGPS will therefore be unaffected by the abolition of the default retirement age.
- 4.2 Removing the default retirement age, together with a possible change within the

Local Government Pension Scheme to the age at which a pension could be accessed, may increase employers costs because without an EJRA it will only be possible to end an individual's employment by making them redundant, or, should the need arise, dismissing them for misconduct, incapability or some other legally fair reason. The impact of this, including any potential implication for the redundancy scheme, will however be kept under review.

## **5. Next steps**

- 5.1 Once the legislation has been approved and guidance published, the County Council will become clearer as to whether, and the extent to which, it may be possible to make use of the EJRA facility, and to consider whether any further actions are required, such as informing staff of their options when they reach an age which gives them access to their pension benefits if they wish to retire.

## **6 Recommendations**

EHCC are asked to note :

- the pending legislation to end the default retirement age
- that in line with current practice employees reaching 65 before 30 March 2011 will be given notice of retirement.
- that subject to approval of the legislation no new notices of retirement will be given after 6 April 2011
- that following approval of the legislation arrangements will be put in place to communicate the change to managers and relevant employees.
- that this committee will be further informed on the guidance arising from the final legislation and of any further proposed actions arising from it.

**CORPORATE OR LEGAL INFORMATION:**

**Links to the Corporate Strategy**

<b><i>Hampshire safer and more secure for all:</i></b>	No
Corporate Business plan link number (if appropriate):	
<b><i>Maximising well-being:</i></b>	No
Corporate Business plan link number (if appropriate):	
<b><i>Enhancing our quality of place:</i></b>	No

**Other Significant Links**

<b>Direct links to specific legislation or Government Directives</b>	
<u>Government legislation awaited.</u> <u>Phasing out the Default Retirement Age Government response to consultation was published January 2011.</u>	<u>TBC</u>

**Section 100 D - Local Government Act 1972 - background documents**

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

## **IMPACT ASSESSMENTS:**

### **1. Equalities Impact Assessment:**

- 1.1 This paper addresses and informs members on pending legislation and what is known to date from the Government response to consultation. No known impact at this stage.

### **2. Impact on Crime and Disorder:**

- 2.1 N/A

### **Climate Change:**

- a) How does what is being proposed impact on our carbon footprint / energy consumption? N/A
- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? N/A