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POLICY AND PROCEDURES FOR DEALING WITH RETIREMENT

1. INTRODUCTION

This policy and procedure will outline the procedures to be followed for age retirement and for retirement on other grounds (e.g. redundancy, ill health and efficiency of the service.)

- i. All employees of Luton Borough Council will be required to retire on the day before their 65th birthday (unless their contract of employment states otherwise or one of the circumstances outlined in paragraphs 3 to 8 applies). Employees who wish to continue their employment beyond this age will be able to make a formal request to their departmental HR department. The request to continue working can only be agreed by the Corporate Director or their nominated representative. For further details of the process to be followed please refer to paragraph 9 of this document.
- ii. The skills and experience of employees are valued highly by Luton Borough Council and the Council is aware of the importance of avoiding dismissals for reasons of redundancy, ill health, disability or early retirement wherever possible. The Council will endeavour to minimise, through careful employee planning, individual organisational upheavals that create fluctuations in employee requirements. The Council will take steps to avoid retirements through redundancy occurring and only after all other alternatives, such as alternative employment or job redesign, have been considered will retirements through redundancy be made. These redundancies will be handled in the most sympathetic manner possible and in accordance with the practice outlined in the Council's "Policy for Dealing With Dismissals Arising From Redundancy and Guidelines on Redeployment".

2. SCOPE OF THE POLICY

This policy is applicable to all employees except employees of schools with delegated budgets , for whom there are alternative procedures.

3. EARLY RETIREMENT AND PENSION BENEFITS

The Council resolved (1988/1086) on 15th April 1998 not to exercise discretion to pay pension benefits to employees under 60. Retirement is only an option between the ages of 60 and 65 unless due to

- redundancy if aged 50 or over
- ill-health if strict criteria are met
- efficiency of the service where it would lead to improvement in the service if aged 50 plus

3.1 Training and support

The Council supports employees approaching standard retirement age by the provision of the pre-retirement course. There is a range of other support and welfare provision available, which may be accessed through HR Division or the relevant departmental HR Unit.

4. REDUNDANCY AND REDEPLOYMENT PROCEDURE

- 4.1 The Council does not wish to release employees where there are excessive termination costs. In any case where redundancy may be an end option for an employee aged 50 or over, managers are advised to contact the appropriate HR Unit to obtain estimated severance costs and to ensure budget availability is verified by a departmental Finance unit.
- 4.2 Managers must obtain approval from the Head of HR, the Head of Corporate Finance in conjunction with Head of Service, before taking any decision, which may ultimately lead to a redundancy. Severance costs will be met from the relevant Manager's budgets.
- 4.3 Where posts will be made redundant, the Council's "Policy for Dealing With Redundancy and Guidelines on Redeployment" will apply.
- 4.4 All reasonable attempts at Redeployment will continue up to and including the date that redundancy takes effect.
- 4.5 All vacancies will be scrutinised by the Redeployment Officer/Panel prior to advertisement. The Human Resource Division's Recruitment and Development Unit will not release for advertisement a vacancy which the

Redeployment Officer/Panel considers suitable for a potentially redundant redeployee until that redeployee(s) either: -

- i) expresses no interest in the vacancy (if the redeployee cannot give a satisfactory reason for not applying, then they will be warned that they face possible loss of their redundancy rights)
or
- ii) has been interviewed and found unsuitable for the job
or
- iii) the vacancy is causing severe operational problems and thus needs to be recruited to as quickly as possible.

- 4.6 Where an employee's original post has been deleted and the employee has been redeployed, their contract is extended to the end of the redeployment trial period by approval from Head of Human Resources. If the redeployment is unsuitable then the employee will be made redundant with effect from the date the original post was deleted. In such cases, where the employee is over 50, and has statutory pension rights they will be entitled to immediate pension benefits.

5 TERMINATION ON GROUNDS OF ILL HEALTH

- 5.1 The Council will consider all sickness cases in the spirit of the Disability Discrimination Act 1995. Where an employee has been certified permanently unfit to perform the normal duties of the post, consideration will first be given as to whether redesign, adjustment or amendment of the job while retaining its essential characteristics will enable the employee to continue in post. Where this is not possible every effort will be made to redeploy the employee into an alternative post within the Council, which will include redesign, adjustment or amendment of the redeployment job and other measures as described in the Sickness Absence and Monitoring Procedure. Only after such attempts are unsuccessful will steps be taken to terminate the employee's services on the grounds of ill health.
- 5.2 In cases including long term sickness where the employee could undertake other work for the Council given suitable job redesign, adjustment or amendment but is unwilling the employee will be dismissed for incapability due to sickness absence. Advice on any dismissal under this category should be sought from Occupational Health.
- 5.3 Employees will only be retired on ill-health grounds once all alternative options have been explored unsuccessfully. In this situation an independent Occupational Health Physician will need to support the medical view that the employee would be unfit to perform their job or any other job from the current time until normal retirement age.

Terminal Illness

- 5.4 Each case will be considered on its merits in light of the circumstances and wishes of the employee and the employee's next of kin and on advice from Occupational Health & the Council's Doctor.

6 RETIREMENT ON GROUNDS OF EFFICIENCY OF SERVICE

- 6.1 Employees will not be allowed to retire on grounds of efficiency of the service unless there are very exceptional circumstances where such action will lead to improvement of that service and the retirement can be demonstrated to provide value for money overall to the Council. Save as provided in paragraph 6.2 below costs of retirement (including any pension liability) must be met in the year of retirement by the department concerned and the department will be required to remain within budget overall. Any proposal to allow an employee to retire on grounds of efficiency of the service must be accompanied by a business case demonstrating value for money that has been signed off as robust by the departments Finance Manager and the Head of Corporate Finance and approved by the Administration Committee before the relevant Manager takes any decision which may ultimately lead to retirement by that employee on grounds of efficiency of service.
- 6.2 Should the department concerned be unable to remain within budget overall and the Council's corporate leadership management team is of the view that a retirement would be in the Council's interest, the Chief Executive may report to the Executive seeking approval of a retirement to meet the Cost. If the retirement is approved, that information will be provided to the Administration Committee as part of the report submitted with the business case referred to in paragraph 6.1 above.
- 6.3 In the interest of good governance, the Council's Audit and Governance Committee will be informed of any approval of a retirement on the grounds of efficiency of service, after it has been taken place to give them the opportunity to review and comment on the process undertaken.

7 STANDARD RETIREMENT 60 TO 65

Standard Retirement At 65

- 7.1 The Council's normal retirement age is 65 years with the last day of service being the day before the 65th birthday. For those employees who are members of the Local Government Pension Scheme retirement benefits will be payable.

Retirement Between 60 And 65

- 7.2 The Council will treat employees equally by allowing standard retirement after the age of 60. For those employees who are members of the Local Government Pension Scheme retirement benefits will be payable.
- 7.3 Where employees retire between the ages of 60 and 64 there may be an adjustment to the pension benefits. In such cases employees are advised to contact Exchequer Services to obtain estimated pension benefits.

8 TERMINATION ON CAPABILITY OR DISCIPLINARY GROUNDS

- 8.1 Where an employee is unable to perform the duties of their post satisfactorily an investigation should take place to determine whether or not this is a capability or a disciplinary matter.

Capability

- 8.2 Where an employee is unable to perform the duties of their post satisfactorily due to capability the Council's Capability Policy will apply.

Disciplinary

- 8.3 Where the employee is capable of but unwilling to perform the duties of their post satisfactorily this is a disciplinary matter and the disciplinary procedure will be followed.

9 PROCEDURE TO BE FOLLOWED FOR REQUESTS TO WORK BEYOND THE NORMAL RETIREMENT AGE OF 65.

9.1 Responsibilities

The departmental HR manager will write to every employee no earlier than one year and no later than 6 months before they are due to retire. This letter will advise the employee of the date of their retirement and remind them of their right to request continued employment beyond their retirement date. This letter will be copied to the line manager / Service Head.

9.2 Application to continue working

If the employee wishes to continue working beyond their retirement date they should make a request in writing to the HR manager, not earlier than 6 months or later than 3 months before the expected retirement date. Please see Appendix 1 for request form.

If for some reason the HR department has failed to comply with the duty to inform the employee, as at paragraph 8.1 above, the HR department will ensure that this matter is rectified no later than 2 weeks before the planned date of retirement. In these circumstances the 3-month deadline to request continued working will not apply and Luton Borough Council will still consider a request of working beyond the retirement age.

9.3 **Content of the request**

The request to continue beyond the retirement date must:

- Be in writing addressed to the departmental HR Manager
- State exactly what the employee wants i.e. that the employment continues indefinitely or that it continues until a stated date
- Give business reasons supporting their request

9.4 **Meeting to consider the request**

The line manager should arrange a meeting within a reasonable period after receiving the request in order to consider the request. Advice and guidance is available from the departmental HR unit. The employee will need to be prepared to present their request as fully as possible at the meeting, and may wish to prepare a written statement to enable them to do so.

9.5 **Decision following the meeting**

The decision of the line manager to either agree or refuse the request must be given to the employee in writing as soon as is reasonably practical after the date of the meeting.

Where a request is agreed the line manager must advise the HR department of the extension to the existing contract. Within 3 to 6 months of the cessation of the extended retirement date the employee will have the right to make a further request to extend the retirement date.

Where the decision is to refuse the request, the letter must confirm the employee's last day of service (normally the day before their 65th birthday) and notify the employee of their right to appeal.

The employee will continue to be employed until the line manager has informed the employee of the outcome of the meeting even if this is after the proposed retirement date.

9.6 **Appeal**

If the employee wishes to appeal against the decision of the line manager to refuse the request to work beyond the retirement age they must write to the Director of the employing department, setting out the grounds of the appeal within 10 working days of receipt of the line manager's decision. The Director of the employing department (or his representative), accompanied by a Senior HR Adviser / Principal HR Adviser / HR Manager will hold a meeting with the employee as soon as is reasonably practical to consider the appeal. This meeting may take place after the retirement date has taken effect. The focus of the appeal will be the viability of the employee's business case.

After the meeting the employee will be notified of the outcome of the appeal as soon as is reasonably practical.

If the employee is not able to attend a meeting to request continued working, or an appeal meeting, within 2 months of the date of request, Luton Borough Council will make a decision based upon the employee's written representations. The employee will be informed in writing of the outcome.

10 **APPROVED EXTENSIONS**

This procedure must be followed for any employee requesting to work beyond their contractual retirement age even where an extension beyond their 65th birthday has been agreed.

10.1 **Accompaniment**

An employee has the right to be accompanied at a meeting or appeal to consider their request to continue working by a work colleague only. If the work colleague is not available the employee may defer the meeting or appeal by up to five working days of the original date of the meeting. The work colleague must be an employee of Luton Borough Council.

In all correspondence the employee will be reminded of their right to accompaniment and the work colleague will be granted paid time off from their work to accompany the employee. The work colleague must inform their line manager in good time of their proposed attendance at the meeting or appeal.

Expression of interest to be considered for employment beyond the age of 65

Section 1 – To be completed by the employee and returned to your departmental HR Manager.

(Please tick ONE box below and complete the details requested before discussions with your line manager.)

☐ I wish to proceed with my intended retirement date at age 65

☐ I wish to request, under paragraph 5 of Schedule 6 of the Employment Equality (Age) Regulations 2006, that I continue to work beyond the age of 65

I wish to work on: (tick one box only)

☐ Indefinitely
☐ For a stated period (if you can please give details)
☐ Until a certain date (if you can please give details)

Name in block capitals _____

Employee signature _____

Section/Department _____

Date _____

The reason I wish to work beyond the age of 65 years is: (please give a business reason and explain in full how this will benefit Luton Borough Council)¹

¹ Please note benefit to your personal financial situation is not a business reason.

