

## AGE DISCRIMINATION

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### Document Control

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## **AGE DISCRIMINATION POLICY**

### **1. INTRODUCTION**

- 1.1 Winchester City Council recognises that our people are our most valuable resource and that we need to make the best use of the potential available to us from amongst all the people we employ.
- 1.2 We recognise the need for younger people to be encouraged into our workforce and nurtured as the future of the Council. We also recognise that the labour market from which our workforce is found is changing. Older members of the population are seeking the financial and social advantages that being in work may bring and so may choose to extend their working lives beyond the age that was previously thought normal for retirement.
- 1.3 The Council intends to be above any criticism in its observance of the law against discrimination and to implement the obligations of the associated code of practice.

### **2. AIMS OF POLICY**

2.1 The aims of this policy are:

- Establish the Council's normal retirement age (as required by law).
- Prevent direct and indirect discrimination.
- Prevent harassment, victimisation and unfair treatment.
- Stimulate equity of treatment by the elimination of conditions, requirements, procedures and practices that are discriminatory and unjustified.
- All us to plan and to implement positive action where this is found to be required.

### **3. POLICY STATEMENT**

- 3.1 The Council approves of positive action intended to attract into its service younger people. It has regard to the age profile of its current staff and the under-representation of those aged under 28 among them.
- 3.2 It should be noted that selection for recruitment and promotion must be on merit irrespective of race or sex or disability or age. However the law does allow certain steps to be taken to redress the effects of previous inequality of opportunities. For example additional training opportunities and targeted advertising to supplement general advertising.
- 3.3 The normal retirement age from the Council's service is 65 years. In consequence, the Council's employment of any individual will end on his or her 65<sup>th</sup> birthday.

- 3.4 As a consequence of the Employment Equality (Age) Regulations 2006, the individual employee can, when his or her employment is to be ended in this way, request that the Council considers the possibility of continuing the employment. To facilitate this, the Council requires its managers to inform the employee six months before their 65<sup>th</sup> birthday of their position.
- 3.5 Where a member of staff requests that his or her employment continues beyond their 65<sup>th</sup> birthday, the Council will fairly and objectively consider this request, and where all other factors are equal and the interests of the Council's service to its customers is in no way diminished, will agree to the request. Such an extension will normally be for a period of one year with a repeated review at 12 month intervals.
- 3.6 Subject to the above, no employee or job applicant will receive less favourable treatment on the grounds of his or her age. All our human resource management procedures, and particularly those criteria used for selection and for training and development will ensure that individuals are selected, promoted and treated solely on the basis of their merits and abilities.

#### **4. LEGISLATION**

- 4.1 The provisions of this policy are subject to the Employment Equality (Age) Regulations 2006 which may be amended from time to time.

#### **5. RELATED POLICIES**

- 5.1 The provisions of this policy must be considered in the application of any other Council policy but in particular in relation to the following Council policies:
- Recruitment and Selection
  - Pension Policy
  - Training and Development Policy

#### **6. SCOPE**

- 6.1 The provisions of this policy apply to all employees of Winchester City Council, all contract or agency staff contracted to or undertaking work on behalf of Winchester City Council.

#### **7. CONSULTATION**

- 7.1 This policy will be reviewed regularly by the Director of Human Resources in consultation with UNISON to ensure continued compliance with legislation.

#### **8. RESPONSIBILITY**

- 8.1 The Council will provide the resources required for the implementation of this Policy. Breaches of this policy will be considered misconduct and will be treated as such under the Council's agreed Disciplinary Procedure.

- 8.2 The Chief Executive and all managers are responsible for the implementation of this policy within their areas of responsibility. Where breaches of the Policy occur, the Council requires action to be taken. Where such breaches are brought to a manager's attention, victimisation or the individual alerting the Council may be illegal and will be a breach of the Policy.
- 8.3 Those of the Council staff who recruit and select staff, select staff for training or administer training have a particular responsibility for implementing this Policy.
- 8.4 The Director of Human Resources has particular responsibilities identified in this Policy statement. However, implementation of this Policy is not solely a Human Resources responsibility as detailed in 8.2.
- 8.5 Individual employees of the Council should ensure that their actions conform to the requirements of this Policy and that, where any breaches of this policy come to their attention, they notify their managers.

### **13. REPRESENTATION**

- 9.1 Any employee requesting that they continue to be employed after their 65<sup>th</sup> birthday may be accompanied at any meetings to discuss this matter by their Trade Union representative or a work colleague.

### **14. GRIEVANCES**

- 10.1 An employee who considers that the Council has failed to implement this policy can pursue the matter through the Council's agreed Grievance Procedure.
- 10.2 An applicant for a post who considers that this Policy has not been observed and that they have been disadvantaged should contact the Director of Human Resources.
- 10.3 Any employee whose request for continued employment after age 65 is refused may appeal against the decision using the Council's agreed Grievance Procedure.

### **11. MONITORING**

- 11.1 The Council will not ask for the age of any individual on the usual recruitment application form, but will confine the question to 'Are you aged between 16 and 65?'
- 11.2 The Council will however monitor the age of those who apply for work through a more detailed supplementary monitoring system to be devised and implemented by the Director of Human Resources. The results will be reported annually to Members.

### **12. COMMUNICATION**

- 12.1 The Council will draw this Policy to the attention of all its staff.

- 12.2 A statement confirming the Council's retirement age will be included in employment contracts.
- 12.3 The Council will draw attention to this Policy and in information published about vacancies to potential applicants.
- 12.4 The implications of this Policy will be included in appropriate training courses as determined by the Director of Human Resources.

## Appendix 1

### IMMEDIATE GOALS

The Council will take action:

- To take positive action to attract to its vacancies applications from persons under age 28
- To eliminate questions identifying age from its Application Forms.
- To monitor the age of applicants, of those short listed and those appointed.
- To eliminate references to age or to periods of time in Person Specifications and to replace these with more focussed descriptions of skill, experience or competence sought.
- To examine why certain qualifications are a requirement on Person Specifications, challenging their age implications.
- To immediately begin the process whereby staff are informed six months before their 65<sup>th</sup> birthday of their 'planned retirement'.
- Where any employee requests an extension of their employment beyond their 65<sup>th</sup> birthday, to ensure that it is fairly and objectively considered by the managers responsible, advised by the Director of Human Resources.
- To audit terms and conditions and to eliminate any use of age related criteria which are unjustifiable in law.
- To audit its payment framework and plan to eliminate features giving advantage or disadvantage on the basis of age which is unjustifiable in law.
- To fairly and objectively consider any request from employees to extend employment beyond their 65<sup>th</sup> birthday and, where all other factors are equal and the interests of the Council's service to its customers is in no way diminished, agree to the request. Such an extension will normally be for a period of one year with a repeated review at 12 month intervals.

**Appendix 2**

**PROCEDURE FOR PLANNED RETIREMENT**

**1. INTRODUCTION**

1.1 Under the Employment Equality (Age) Regulations 2006, the Council is required to follow a process to notify employees of their coming retirement. This will achieve the 'planned retirement' which, in law, is fair reason for ending employment. It must be implemented when any employee is nearing the Council's Normal Retirement Age, which is fixed at 65 by the Council's agreed Retirement Policy.

1.2 The Human Resource Directorate will:

- Notify the employee in writing at least 6 months (but no more than 12 months) in advance of the intended retirement date, which should be the date of their 65<sup>th</sup> birthday. *NB. This will be necessary even if the employment contract already states the retirement date.*
- Tell the employee in the letter that they will have the 'right to request' to work beyond their normal retirement age.
- An employee who wishes to continue to work beyond their 65<sup>th</sup> birthday should respond by completing and returning the form attached to the letter.

**2. WORKING BEYOND RETIREMENT**

2.1 Any employee who wishes to continue working beyond age 65 may request that their employment continue indefinitely, for a stated period or until a stated date.

2.2 The employee's request to continue working must be made in writing no less than 3 months but not more than 6 months before their 65<sup>th</sup> birthday.

2.3 The manager responsible must arrange to meet the employee to discuss any such request. The meeting must be held within a reasonable period of the request being received. Both manager and employee must take all reasonable steps to attend the meeting.

2.4 The employee may be accompanied at the meeting by a Trade Union representative or work colleague. The Trade Union representative or work colleague may put the employee's case and confer with the employee during the meeting, however they may not answer questions that are put to the employee.

2.5 Although the employee can seek to continue work for an indefinite period, the decision on the length of the period rests with the manager. The Council's policy is that the period should be for one year with a review at 12 months and the possibility of further one year periods thereafter.

2.6 Following the meeting, the manager must inform the employee in writing and within a reasonable timeframe of the decision. The manager must send a copy of this notification, along with either a Termination Form or Change Request Form where appropriate to the Human Resources Directorate.

- 2.7 If it is agreed that the employee continues in work, he or she will be advised by the Human Resources Directorate of their new retirement date and amendment to their contract of employment.
- 2.8 If the manager decides that the employee will not continue working beyond age 65 then the letter from the manager informing the employee of the decision must confirm that retirement will take place on the employee's 65<sup>th</sup> birthday.
- 2.9 The employee must be informed that they have the right to appeal against the decision using the Council's Grievance Procedure.
- 2.10 An employee may only make one request to continue working. However, if the request is granted and a new retirement date is established, further requests to carry on working beyond that new retirement date can then be made according to the timetable set out above.
- 2.11 Managers should note that whilst the Regulations do not require that reason for refusing the employees request be set out for the employee, it is good practice to do so. Any reason would need to be identified in any appeal.

### **3. FURTHER EXTENSIONS**

- 3.1 The above 'duty to consider' procedure must be followed every time an employee is nearing a planned date of retirement. Therefore, if it is agreed that the employee can continue to work and a new intended date of retirement give, the procedure set out above must again be followed.

### **4. PENSION IMPLICATIONS**

- 4.1 For further details on the implications to the Pension Scheme, the employee should contact either the Human Resources Directorate or Pensions Services at Hampshire County Council