

# Retirement policy

## Reviewed

August 2006

## Policy Approval

Council x date

## Policy Statement

The Employment Equality Age Regulations 2006 cover employees, self employed people, contract workers, office holders, members of trade organisations, anyone in vocational training and anyone receiving or holding a professional or trade qualification. In addition, the regulations will apply to job applicants.

The retirement age at East Devon District Council is 65.

## The Council's Commitments

The Council will ensure that you are aware of this policy and that Managers understand the principles contained in it and how it should operate to ensure that age discrimination does not occur (unless an objective justification exists).

The Council will ensure that:

- direct and indirect discrimination on the grounds of age does not occur unless it can be objectively justified. This means that the Council will be able to apply a justification defence to direct or indirect discrimination provided that it is for a legitimate aim and it is an appropriate and necessary means of achieving that aim
- written notification will be given to you if you have reached your retirement date. This notification will include the date on which the retirement is intended and your right to make a request to continue working after that date.

## Specific Policy Areas

### Retirement procedure

East Devon District Council will write to you between 6 and 12 months before the date of your 65<sup>th</sup> birthday. The Council will also provide such notification to you between 6 and 12 months before the extended retirement date where the intended retirement date has been extended for a period of more than 6 months. In any other case, the Council is not required to provide further notification to you.

If the Council fails to notify you about your intended retirement date, it will provide such notification to you 14 days before the retirement is due to take effect.

You have a right to request to work beyond your retirement date. If you would like to make such a request, it is important that this is:

- in writing
- a clear request to continue working after your intended retirement date under Schedule 6 paragraph 5 of the Age Regulations
- clear in terms of what you are proposing. For example, that you wish to continue working after your intended retirement date indefinitely, for a stated period or until a specified date

You may only make one request in relation to your intended retirement date and one request in relation to any extended retirement date where this has been extended for a period of more than 6 months.

The time limits for making a request to continue working after your retirement date are that the request must be made between 3 and 6 months before the intended retirement date. If the Council has not complied with its requirement to notify you within 6 to 12 months of the intended retirement date the request must be made no more than 6 months before the intended retirement date.

Your statutory right is to continue working under your existing terms and conditions. However, there is nothing to prevent you or the Council proposing that you work under a different pattern which might suit both parties more. Neither - you nor the Council will be obliged to accept proposals for change.

### **Duty of the Council to consider your request**

The Council must consider your request to continue working after your intended retirement date.

The legislation prescribes that consideration will take into account areas such as the following:

- an assessment of any additional costs
- detrimental effect on ability to meet customer demand
- inability to reorganise work among existing staff
- inability to recruit additional staff
- detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes
- other legal reason (for example not in line with the working time directive)

Your Line Manager will hold a meeting with you to discuss your request. This meeting will take place within a reasonable period after receiving the request. Written notes will be kept in relation to this meeting and a member of the Human Resources team should be present.

All parties must make reasonable steps to attend the meeting.

The Council will inform you of its decision as soon as is reasonably practicable after it has considered your request. This notice will be in writing and dated. The details of this will depend on whether or not the request has been agreed.

Where the Council decides to fully accept a request for you to continue working indefinitely, the decision will state that the request has been fully accepted and that you will continue to work indefinitely.

Where the Council has decided not to fully accept the request but decides that you will only work for a specific length of time, the decision will be communicated to you together with your right of appeal.

### **Right to appeal**

If your request has been wholly or partly refused, you have the right to appeal against this decision as soon as is reasonably practicable after the date on which you were notified of this decision.

Your appeal must be given in writing and addressed to the appropriate Head of Service. Your appeal must set out your grounds for appeal and be dated.

## **Appeal meeting**

The Council must hold an appeal meeting with you to discuss your appeal within a reasonable period after the date of the appeal notice. Notes of this meeting will be kept.

Both parties must take all reasonable steps to attend the meeting and a member of the Human Resources team must also be present.

The Council is not required to hold an appeal meeting if, before the end of a reasonable period, either:

- both parties agree that you will continue to work indefinitely and the Council gives you notice to this effect, or
- both parties agree that you will continue for an agreed period and the Council gives notice to you of the length of that period or of the date on which it will end.

## **Council decision after the appeal meeting**

The Council's decision on your appeal must be given to you as soon as is reasonably practicable after the date of the appeal meeting. The decision must be given in writing and dated.

Where the Council decides to fully accept the request to work indefinitely, the decision must state that the request has been accepted and the terms of the request.

Where the Council decides to refuse the appeal, the decision must confirm that the Council wishes to retire you and provide the date on which the retirement will take effect.

## **Right to be accompanied at the meeting and the appeal meeting**

You have the right to be accompanied at a meeting or an appeal meeting concerning your request to retire.

The person accompanying you must be a work colleague or trade union representative who works for the Council. Therefore, unlike your right to be accompanied at a disciplinary or grievance hearing, a trade union official who is not employed by the Council has no statutory right to accompany you at a retirement meeting. Your companion may confirm with you during the meeting and address the meeting but cannot answer questions on your behalf.

If your companion is not available at the time of the retirement meeting or an appeal meeting, you can select an alternative time that will be provided by the Council. This will usually be within 7 days of the original meeting.

## **Policy Consultation**

This policy has been agreed by the Strategic Management Team, Executive Board and Staff Joint Forum.

## **Policy Review**

The Head of Organisational Development will review this policy in the light of any legislation and in May 2008 to consider any changes required.

## **Related Policies and Strategies**

- Equality and Diversity Policy
- Grievance Policy