

To: Members of the Special Sub-Group

Councillors Humphreys, Phillips, Smith, M Stanley and Sweet

For the information of the other Members of the Council

SPECIAL SUB-GROUP

21 JULY 2014

The Special Sub-Group will meet in the Committee Room, The Council House, South Street, Atherstone on Monday 21 July 2014 at **2.00pm**.

AGENDA

PART I - PUBLIC BUSINESS

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests**
- 4 Public Participation**

Up to twenty minutes will be set aside for members of the public to ask questions or to put their views to elected Members. Participants are restricted to five minutes each. If you wish to speak at the meeting please contact David Harris on 01827 719222 or email democraticservices@northwarks.gov.uk.

**PART A – ITEMS FOR DISCUSSION AND DECISION
(WHITE PAPERS)**

- 5 **Development of New Indoor Leisure Facilities in Coleshill** – Report of the Assistant Director (Leisure and Community Development)

Summary

This report updates the Sub-Group on progress in respect of the development of new indoor leisure facilities in Coleshill.

The Contact Officer for this report is Simon Powell (719352).

- 6 **Local Enterprise Partnership (LEP)** – Report of the Assistant Chief Executive and Solicitor to the Council

Summary

To receive a verbal update on the progress of the Local Enterprise Partnership

The Contact Officer for this report is Steve Maxey (719458).

- 7 **Updated Retirement Policy and Procedure** - Report of the Assistant Director (Finance and Human Resources)

Summary

This report advises Members of the changes to the Local Government pension scheme which has required the Council's Retirement Policy and Procedure to be updated and recommends the adoption of the policy for the Council.

The Contact Officer for this report is Janis McCulloch (719236).

- 8 **Updated Procedure on the Statutory Right to Apply for Flexible Working** - Report of the Assistant Director (Finance and Human Resources)

Summary

This report advises members of the changes to the statutory right to apply for flexible working. The procedure has been updated to meet the requirements of part 9 of the Children and Families Act 2014.

The Contact Officer for this report is Janis McCulloch (719236).

JERRY HUTCHINSON
Chief Executive

For general enquiries please contact David Harris, Democratic Services Manager, on 01827 719222 or via e-mail – davidharris@northwarks.gov.uk.

For enquiries about specific reports please contact the officer named in the report.

Agenda Item No 5

Special Sub-Group

21 July 2014

**Report of the
Assistant Director
(Leisure and Community Development)**

**Development of New
Indoor Leisure Facilities
in Coleshill**

1 Summary

- 1.1 This report updates the Sub-Group on progress in respect of the development of new indoor leisure facilities in Coleshill.

Recommendation to the Sub-Group

That the Sub-Group notes and comments upon the progress being made in respect of the development of new indoor leisure facilities at The Coleshill School.

2 Consultation

- 2.1 The Chairman, Vice-Chairman and Opposition Spokesperson for the Special Sub-Group, the Community and Environment and Resources Boards, the Safer Communities Sub-Committee, Members with responsibility for Health, Well-being and Leisure and Young People and Coleshill Ward Members have all had an opportunity to comment on the content of this report. Any comments received will be reported verbally to the Sub-Group.

3 Background

- 3.1 Further to previous meetings of the Sub-Group, Members are aware that the construction of replacement indoor leisure facilities commenced on site at The Coleshill School on 7 November 2013. The Sub-group is further aware that the capital funding available for the project is £4,301,366, including £2,815,000 from the Borough Council, with the balance being made up of valuable contributions from the Education Funding Agency and England Squash and Racketball.
- 3.2 Account needs to be taken of the need to fund £152,000 of fees attributable to the project, thereby leaving a sum of £4,149,366 available to support project delivery (including all contingencies and provision for fitness equipment and furniture and fittings, etc.).

4 Update on Progress – Construction Work

- 4.1 As reported to the Sub-group in June 2014, despite a slightly delayed commencement of on-site construction work, the building programme is now approximately two weeks ahead of schedule. The overall project completion date, however, currently remains as the end of October 2014, although this timetable may be affected, positively or negatively, as a consequence of the time taken to secure an electricity supply to the building. Recent progress has been encouraging. In addition to the work previously detailed to Members, superstructure block and brickwork, the installation of PV panels and insulation and membrane work are all completed. Detailed mechanical and electrical containment undertakings have commenced, as have internal duct work, render and screed, the installation of Kalwall, the installation of doors, flashings and louvres and internal decoration activity. Forthcoming progress will focus on the completion of mechanical and electrical work, including the installation of plant, rendering, screeding and painting.
- 4.2 As Members are aware, the Borough Council retains responsibility for the additional costs of all client risks identified within the Risk Register and also for any client changes to the agreed project design. It has been reported to the Sub-group that a number of the client risks on the Risk Register are potentially expensive if they occur.
- 4.3 The most significant risk that is currently facing the project concerns the provision of statutory services to the site, and in particular the need to secure and electricity supply to the building. The Sub-group is already aware that the contractor has been advised that the existing electricity sub-station does not have sufficient capacity to accommodate the needs of the new Leisure Centre. The required upgrade to the sub-station has been estimated to cost in the region of an additional £22,500. This cost is “non-contestable”. The risk is owned by the client and, therefore, will impact on the final Actual Cost of the project. Nevertheless, an alternative solution to this problem, which involves the construction of a new sub-station on the Leisure Centre site, is now being advanced. This undertaking will require planning consent, but initial cost projections suggest that it will be approximately £6,000 cheaper than up-grading the existing sub-station. The highest risk with this option, however, concerns the need to complete the required legal agreement with the electricity company by the middle of July 2014 if Wates Construction is to secure practical completion of the project by the end of October. A delay beyond this deadline would carry with it the additional risk of failing to meet an EFA funding milestone for practical completion of the project by this date, which could lead to a grant reclaim. Given the nature of its interest in the site, The School has had to assume responsibility for the completion of the agreement with the electricity company, which also necessitates the need to secure landlord (Warwickshire County Council) consent, as well as that of the Secretary of State. Landlord consent has already been received and it has been confirmed that a General Consent from the Secretary of State exists “where such land is required for the purposes of constructing, maintaining or servicing a highway, or for health and safety requirements or enabling the provision of gas, water or electricity”. With regard to the previously reported concern relating to the provision of a water supply to the site, the contractor has been working with its mechanical and electrical sub-contractor to develop

a scheme that will meet the demands of both the Borough Council and local schools. Based on likely demand patterns, a scheme has been developed that will meet predicted peak usage of the showers on all but the most unusual of occasions, thereby minimising the associated risk.

- 4.4 As previously reported, any client design changes will incur additional project cost. The Sub-group has previously been informed of the need for fibre links to support on-site IT provision, the need for larger than originally proposed viewing gallery windows into the sports hall, the need for mirrors within the fitness suite, a need to revise the specification of security gates, internal doors, power points within the fitness suite and sports hall, lighting within the dance studio and the provision of a water supply to the proposed vending machines. Further changes will be needed to floor finishes, the door entry and security system, the provision of power and data points within the dance studio (in order to accommodate the potential to use this space in the event of an emergency planning or business continuity need) and additional cabling to support the equipment to be provided within the fitness suite. The cost of these changes, however, are largely being offset by the omission of unrequired balustrading on a low level roof, the reconfiguration of a first floor store room and an alternative approach to the provision of CCTV within the Leisure Centre.

5 Update on Progress – Financial Position

- 5.1 Wates Construction is required to provide its Target Cost and Actual Cost forecasts on a monthly basis. The Project Manager, who is very carefully scrutinising all costs on behalf of the Borough Council, is required to produce a monthly Funding Position Statement a week thereafter. For the remainder of the contract, these forecasts and statements will be subject to bi-monthly meetings between the Authority, the Project Manager and Wates Construction. The next of these meetings will be held on 17 July 2014.

- ... 5.2 Attached at Appendix A is the latest Funding Position Statement produced by the Project Manager, on 09 July 2014, after Wates Construction's submission of its ninth project invoice. The Statement takes account of the contractor's "Forecast Final Target Cost" and its "Forecast Final Actual Cost", as stated in its Payment Application 9 (to the end of June 2014). It should be noted that the identified funding position "overspend" of £25,680 will be affected by future "Compensation Events", caused by the need to address risks and client variations. It will not be possible to establish a clear picture of Actual Cost versus Target Cost until later on in the contract, when the financial implications associated with all of the major works packages are known.

- 5.3 At the time of writing this report, approximately £2.4 million had been paid to the contractor. A further invoice from Wates Construction in the sum of £373,280, however, is currently being processed for payment. Invoices totalling just over £1 million have been issued to The Coleshill School in order to draw down the appropriate proportion of Education Funding Agency grant for the project.

6 Update on Progress – Other Matters

- 6.1 The Sub-group will recall that, at its meeting held in April 2014, it approved the content of the draft Joint Use Agreement between the Borough Council and The Coleshill School, through which the facility will be managed and used. Members will be aware, however, that in recent weeks there has been disquiet amongst users of the existing Leisure Centre about the extent of community access to the new sports hall. The question of daytime, term-time access to the new Leisure Centre has always been an acknowledged matter of significance within the local community and it remains so for the Borough Council. Indeed, it was the subject of a “Frequently Asked Question” on the Borough Council’s website as long ago as October 2012. The draft Joint Use Agreement affords an opportunity for daytime, term-time community access to the sports hall when it is not being used by local schools. The School furnished the Borough Council with sight of its timetable requirements slightly ahead of its 30 June deadline. These timetable requirements afford an opportunity for community access into the sports hall during the day, during school term-times, as a consequence of which both parties, the Borough Council and The School, have been able to honour their stated commitment to work together to meet the needs of school students and the local community.
- 6.2 Members will be aware that there has been a recent change of Head Teacher at The Coleshill School. Officers have met with the new Head of School and have been re-assured that the relationships and commitments that have been established over time will be maintained and that The School will continue to work with the Authority to ensure that the needs of both parties, and their respective and shared communities, are met. .
- 6.3 Wates Construction’s programme for engaging local schools and the community within the building process is on-going. In this regard, the contractor is proposing to organise a “walk around” for the local community at some point over the summer months. A site visit was held for the Special Sub-group, the Community and Environment Board and Ward Members on 02 July and further visits for Councillors and staff will be held prior to the opening of the new facility. In the meantime, it is pleasing to be able to report that Wates Construction has been awarded Considerate Constructor status for its specific work on the Coleshill Leisure Centre site.

7 Report Implications

7.1 Finance and Value for Money Implications

7.1.1 In addition to those previously reported to the Sub-Group, the headline financial implications associated with the construction of the new Coleshill Leisure Centre are detailed in section 5 above.

7.2 Safer Communities Implications

7.2.1 The provision of good quality leisure facilities and services has profound and positive implications for the development of safer communities and a reduction in the likelihood of criminal and / or anti-social behaviour.

7.3 Legal and Human Rights Implications

7.3.1 The future replacement of Coleshill Leisure Centre will have direct and positive implications for the Authority's ability to meet the requirements of Equalities and other legislation and on its determination to enhance access to good quality services for the local community.

7.4 Environment and Sustainability Implications

7.4.1 The proposed investment of resources is required if the Council is to maintain and enhance the quality, consistency and sustainability of its indoor leisure provision in Coleshill. The services provided through the new leisure facility will make a positive and lasting impact on individual and collective quality of life within North Warwickshire.

7.5 Health, Well-being and Leisure Implications

7.5.1 Leisure facilities have a positive impact on the health and well-being of individuals and communities through the provision of opportunities for formal and informal recreation and by contributing to an enhanced quality of life in the Borough. The project is also compliant with, and helps to deliver against, the priorities identified in the Warwickshire Health and Well-being Strategy and the supporting Joint Strategic Needs Assessment.

7.6 Human Resources Implications

7.6.1 There is no immediate human resource implication arising directly from this report.

7.7 Risk Management Implications

7.7.1 The condition and future replacement of Coleshill Leisure Centre have been the subject of a detailed risk assessment, a copy of which was presented to the Community and Environment Board in July 2012.

7.8 Equalities Implications

7.8.1 The scheme to replace Coleshill Leisure Centre has been designed to positively impact on the corporate priority to protect and provide access to Council services. An Equality and Impact Needs Assessment (EINA) has

been carried out and was presented to the Community and Environment Board at its meeting held in July 2012.

7.9 Links to Council's Priorities

7.9.1 The undertaking to replace Coleshill Leisure Centre has positive and direct links to the following corporate priorities:

- Public service
- Crime and disorder
- Access to services
- Consultation and communication
- Health and well-being

7.9.2 The future replacement of Coleshill Leisure Centre with a new development at The Coleshill School has positive implications for the Sustainable Community Strategy priorities to:

- Raise aspirations, educational attainment and skills
- Develop healthier communities
- Improve access to services

The Contact Officer for this report is Simon Powell (719352).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
1	Wates Construction	Client Meeting Report 2	January 2014
2	Coventry City Council	Clerk of Works Report 2	January 2014
3	Coventry City Council	Client Meeting Notes (16 January 2014)	January 2014
4	Coventry City Council	Client Meeting Notes (26 February 2014)	Feb 2014
5	Wates Construction	Client Meeting Report 4	March 2014
6	Wates Construction	Client Meeting Report 5	April 2014
7	Wates Construction	Client Meeting Report 6	May 2014
8	Wates Construction	Client Meeting Report 7	June 2014

NORTH WARWICKSHIRE BOROUGH COUNCIL
NEW LEISURE CENTRE AT THE COLESHILL SCHOOL

09 July 2014

OVERALL FUNDING POSITION

Available Funding	£	£	£
NWBC Capital Receipts	1,850,000.00		
NWBC Approved Prudential Borrowing	965,000.00		
Sport England	nil		
England Squash & Racketball	25,000.00		
EFA	1,461,366.00		4,301,366.00

LESS

NWBC- other costs	£		
Planning Fees (unchanged)	11,550.00		
Planning discharge fees / amendments	2,000.00	est	
Building Regulation Fees (unchanged)	1,810.00		
CDM-C Fee (as Osbornes quote)	5,250.00		
Clerk of Works Fee @ 1% of £3.5m	35,000.00		
PM Fees @ 2% of £3.5m	70,000.00	125,610.00	
The Coleshill School - other costs	£		
Legal fees	23,000.00		
Auditor fee	funded separately	23,000.00	
Reserve for client FF&E			
Fitness Equipment	160,000.00		
Loose FF&E	40,000.00	200,000.00	348,610.00

FUNDING BALANCE

3,952,756.00

Cost of Sports Centre

Wates Target Cost Option C	3,904,157.27		
Design Fees & Surveys	included		
Compensation Events (risks/variatioins)	65,630.93		
Wates Final Total Target Cost Forecast (TC)	3,969,788.20		
Wates Final Total Actual Cost Forecast (AC)	3,967,464.08		
Difference to Share (TC) - (AC)	2,324.12		
Contractors Share @ 50% (95% to 100% of TC)	1,162.06		
FINAL COST FORECAST (AC) + (Cntrs Share)	3,968,626.14		3,968,626.14

WATES CURRENT FUNDING POSITION - overspend

-15,870.14

Other costs (not incl with Wates AC or TC)

Compensation Events (adjustment)	9,809.75		
Change requests - as schedule	0.00		
Early Warnings - as schedule	0.00		
			9,809.75

CURRENT FORECAST FUNDING POSITION - overspend

-25,679.89

Exclusions

- 1) VAT
- 2) ICT and voice/data connection
- 3) CCTV installation
- 4) Variations & EWN's in abeyance and/or awaiting estimates
- 5) Other as listed within Wates TC Submission and Risk Register

Agenda Item No 7

Special Sub-Group

21 July 2014

**Report of the
Assistant Director
(Finance and Human Resources)**

**Updated Retirement Policy and
Procedure**

1 Summary

- 1.1 This report advises Members of the changes to the Local Government pension scheme which has required the Council's Retirement Policy and Procedure to be updated and recommends the adoption of the policy for the Council. The policy has been consulted on with Management Team and the trade unions.

Recommendation to the Sub-Group

To adopt the updated Retirement Policy and Procedure

2 Introduction

- 2.1 In response to The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011, which came into force on 6 April 2011, a retirement policy and procedure was written and adopted by the Council in 2011. The policy provided a framework for the Council to manage older workers and their exit from the Council when they chose to retire. It also addressed flexible retirement for members of the Local Government Pension Scheme.
- 2.2 The Local Government Pension Scheme Regulations changed on the 1 April 2014. There are a number of these that are either new or have changed in some way, for example the employer may now have discretion. Some of the regulations must have a written policy.
- 2.3 The Pension Services Manager at Warwickshire County Council has advised as to what should be included in the policy. Included are the regulations that are both useful information for the employees and the Council's decision where it has discretion. Management Team has considered the discretionary matters that must have a written policy and proposed the responses included in the updated policy, The Retirement Policy and Procedure. This is attached at Appendix A.
- ...

- 2.4 The changes are entirely due to new regulations. The regulations included in the policy are those that are both useful information for employees and provide the Council's decision where it has discretion. Regulations marked with an asterisk are matters that must have a written policy.

3 Local Government Pension Scheme Regulations 2014

- 3.1 The Local Government Pension Regulations 2013 (LGPS2014) introduce greater flexibility for the member to retire without the permission of their employer. An employee can now choose to retire at any time from having attained age 55 through to age 75. However, retirement before the employees normal retirement age will result in a reduction being applied to the benefits due whereas retirement beyond the employees normal retirement age will result in an enhancement to the benefits payable.
- 3.2 The precise amount of reduction very much depends on each individual's age and service and the protections afforded to members in respect of their accrued entitlement in the previous scheme.
- 3.3 One such protection is the rule of 85. A member of the scheme with full rule of 85 protection (age and pensionable service equal 85) could have retired without a reduction to the benefits accrued once they had attained the rule of 85 provided they had attained age 60. Where a member attained the rule of 85 before age 60 an application to retire was only valid with the approval of the employer and then there would be costs incurred by the employer for authorising the early release of the benefits. Those costs (known as the actuarial strain) would be similar to those incurred by the employer if say the benefits had been released on efficiency or redundancy.
- 3.4 The previous Scheme did not allow the member to suffer a reduction of benefits to offset the actuarial strain or for the member to reimburse the employer for the cost incurred. The rule of 85 protection was important as it fully protected a right afforded by previous regulations for those members who qualified for full protection by attaining age 60 and the rule of 85, by 31 March 2016 or partial protection by attaining age 60 and the rule of 85, before 31 March 2020. Effectively, with the rule of 85, retirement was ineffective for members who wanted to retire before age 60.
- 3.5 With the introduction of LGPS2014 and the emphasis on greater flexibility for the individual to plan and choose when they wanted to retire, all members are allowed to take a reduced benefit by retiring before their normal retirement age. However, government saw it as important that protections were in place in the new Scheme which did not reduce the rights prior to LGPS2014. Also, government ensured that members within ten years of retirement on 1 April 2012 could not be in a worse position by the introduction of LGPS2014.
- 3.6 The rule of 85, therefore presented a problem. Initially, the transitional regulations withdrew the protection afforded but government decided that protection meant protection and the rule of 85 should remain.

3.7 And so, we have the current situation that an employer can decide to switch on or off the rule of 85. If an employer allows the rule of 85, to remain in place (switched on) the protection remains but the employer can decide to switch off the rule of 85, to allow the member to retire and take a reduced benefit which would not have been an option previously available.

4 Report Implications

4.1 Human Resources Implications

4.1.1 As detailed in the report

4.2 Risk Management Implications

... 4.2.1 As attached at Appendix B

4.3 Equalities Implications

... 4.3.1 As attached at Appendix C

4.4 Links to Council's Priorities

4.4.1 The use of this policy will reduce the risk of inconsistencies. Proper management of employee issues through policies contributes to the Council's priority relating to the effective use of resources and will contribute to the Council's priority relating to the effective use of resources.

The Contact Officer for this report is Janis McCulloch (719236).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Equality Impact Assessment Summary Sheet

Please complete the following table summarised from the equality impact assessment form. This should be completed and attached to relevant Board reports.

Name of Policy Procedure/Service	Retirement Policy and Procedure
Officer Responsible for assessment	Janis McCulloch

Does this policy /procedure /service have any differential impact on the following equality groups /people

(a) Is there a positive impact on any of the equality target groups or contribute to promoting equal opportunities and improve relations or:

(b) could there be a negative impact on any of the equality target groups i.e. disadvantage them in any way

Equality Group	Positive impact	Negative impact	Reasons/Comments
Racial	No	No	
Gender	No	No	
Disabled people	No	No	
Gay, Lesbian and Bisexual people	No	No	
Older/Younger people	No	No	
Religion and Beliefs	No	No	
People having dependents caring responsibilities	No	No	
People having an offending past	No	No	
Transgender people	No	No	

If you have answered **No** to any of the above please give your reasons below

The policy will apply to all employees

Please indicate if you believe that this document

Should proceed to further Impact assessment **No**

Needs no further action **No**

Risk Management Form

**NORTH WARWICKSHIRE
BOROUGH COUNCIL**

Division

Cost Centre or Service

Ris k Ref	Risk: Title/Description	Consequence	Likeli hood (5 = high, 1 = low)	Impact (5 = high, 1 = low)	Gross Risk Rating	Responsible Officer	Existing Control Procedures	Likeli hood(5 = high, 1 = low)	Impact (5 = high, 1 = low)	Net Risk Rati ng
	To not adopt the updated policy	Would be in breach of the LG Pension Scheme Regs 2014	3	3	9	Janis McCulloch	New policy implemented	1	3	3
		Less clarity resulting in unequal application and employee grievances	3	3	9			1	3	3

Risk Ref	Options for additional / replacement control procedure	Cost Resources	Likelihood (5 = high, 1 = low)	Impact (5 = high, 1 = low)	Net Risk Rating

Completed By: Janis McCulloch

Date: 17 June 2014

Retirement Policy and Procedure

June 2014



North Warwickshire
Borough Council

CONTENTS

	Page
1. Introduction	3
2. Retirement Age	3
3. Retirement Procedure	3-4
4. Local Government pension Scheme Regulations 2014	4-6
5. Flexible Retirement for members of LG Pension Scheme	7-8
6. Workplace Discussions	8
7. Succession Planning	8-9
8. Monitoring and Review of Policy	9
9. Communication and Training	9
10. Law Relating to this Document	9

1. Introduction

1.1 The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011, which came into force on 6 April 2011, abolish the default retirement age of 65 as set out in the Employment Equality (Age) Regulations 2006 (SI 2006/1031). The notification procedures for retirement under the default retirement age and the statutory right to request to continue working beyond the default retirement age are also abolished.

1.2 The purpose of this policy is to set out the Council's approach to the retirement of employees. This policy takes effect from 1 April 2014.

2. Retirement Age

2.1 The Council does not operate a compulsory retirement age for its employees [from 6 April 2011].

2.2 The Council is committed to equal opportunities for all its employees. The Council recognises the contributions of a diverse workforce, including the skills and experience of older employees. It believes that employees should, wherever possible, be permitted to continue working for as long as they wish to do so. The Council operates a flexible retirement policy for members of the Local Government Pension scheme. This is detailed in 4 below. All employees may voluntarily retire at a time of their choosing by resigning from their post. Employees are advised to seek independent financial advice before making their decision to retire.

3. Retirement Procedure

3.1 To assist the Council with its succession planning, if an employee has decided that he/she wishes to retire, he/she should inform their line manager in writing as far in advance as possible and, in any event, in accordance with his/her notice period as set out in his/her contract of employment. This will include employees who meet the 85 year rule and wish to exercise their right to retire.

3.2 The Council will write to the employee acknowledging the employee's notice to retire.

3.3 The Council will arrange a meeting with the employee to discuss arrangements for retirement, including the intended retirement date, succession and handover plans, pension details and phased retirement, if applicable.

3.4 Phased retirement allows a change of working pattern so that an employee can reduce his/her hours gradually (for example, move to part-time working) prior to retirement. It may, for example, involve changes to the employee's responsibilities to help the Council with its succession

planning, and help the employee to adjust to, and prepare for, retirement. This can be in certain circumstances beneficial to the employee and the Council. Where this is agreed the employee will be paid relative to the reduction in hours and/or reduced responsibilities.

4. Local Government Pension Scheme Regulations 2014

4.1 The Local Government Pension Scheme Regulations changed on the 1 April 2014. There are a number of these that are either new or have changed in some way eg the employer has discretion. Some of the regulations must have a written policy. Regulations marked with an asterisk are matters that must have a written policy.

Regulation 9: Determination of the rate of employees' contributions.

This is done annually on the 1 April unless it is an employee new to the scheme, an employee who moves to another job or an employee who has had a significant change to their pay either up or down.

Regulation 16*: Contributions to a shared cost Additional Pension Contribution (APC) scheme.

- a) A scheme member can choose to buy extra annual pension up to a maximum of £6,500 using an APC. The employee can choose to make regular contributions or a one off payment. An employer can choose to fund the APC in whole or in part.
- b) To buy 'lost' pension for authorised leave of absence (including any period of unpaid additional maternity, paternity or adoption leave). Where an employee elects to pay an APC to purchase any or all of the amount of pension 'lost' during the period of absence and makes the election within 30 days of returning to work the employer shall pay 2/3rds of the cost of the APC (a shared cost APC).

The Council would not award additional pension to members of the pension scheme.

Regulation 17: Contributions to shared cost Additional Voluntary Contributions (AVC) arrangements entered into on or after 1 April 2014.

The Council does not share the cost of any AVCs.

Regulation 22(7)(b):

Extension of the 12 month option period for a member to elect that deferred benefits should not be aggregated with an ongoing concurrent employment.

Regulation 22(8)(b):

Extension of the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment.

Regulation 100(6)

Extension of the normal time limit for acceptance of a transfer value beyond twelve months from joining the LGPS.

In conjunction with the pension service the Council would if agreed that the circumstances are exceptional in that there has been an administrative error made a decision to exceed the 12 months.

Regulation 30(6)* and Transitional Regs 11(2):

Whether all or some benefits can be paid if an employee aged 55 or over reduces their hours or grade (flexible retirement).

In addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw) the Council will permit the member to choose to draw

- all, part or none of the pension benefits accrued after 31 March 2008 and before 1 April 2014 and / or all, part or none of the benefits accrued after 31 March 2014.

Regulation 30(8)*

To allow an employee to waive, in whole or in part, the actuarial reduction on benefits paid on flexible retirement.

To allow an employee to waive, in whole or in part, the actuarial reduction on benefits which a member voluntarily draws before normal pension age.

Trans Regs Sch2 para 2(2)*

Previously the 85 year rule was applied automatically, meaning that employees could retire without a reduction in benefits on attaining the age of 60 (provided that their age and pensionable service equalled 85).

LGPS 2014 allows a member protected by the rule of 85 to retire and suffer a reduction of benefits previously protected.

The Council can choose to retain the 85 year rule, which ensures that the protection previously afforded to the employee continues. Alternatively the council can now switch off the 85 year rule and allow the member to retire and take a reduced benefit.

The Council will consider “switching off” the protection if a member wishes to retire early and suffer the actuarial reduction to their benefit entitlement.”

LGPS2014 gives greater flexibility for all individuals, allowing them to take a reduction in benefits if they want to retire before their normal retirement age.

Trans Regs Sch2 para 2(3)*

The ability to waive on compassionate grounds, the actuarial reduction applied to benefits from pre 1 April 2014 membership where the employer has “switched on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.

The Council will give consideration to waive the actuarial reduction to the benefits where the member had to give up work to provide for a chronically ill spouse or partner.

Regulation 31*

The grant of additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 per annum)

The Council will not grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 per annum)

5. Flexible Retirement for Members of the LG Pension Scheme

5.1 The regulations 30(6) and Transitional Regs 11(2) state that a member aged 55 or over can flexibly retire if he or she reduces the hours that they work, or the grade in which they are employed. They need the employer’s consent, to reduce their hours or the grade in which they are employed.

5.2 There is no automatic right to flexible retirement and approval for flexible retirement will only be agreed where it is of benefit to the service or is of a sound economic benefit to the Council. This option is in line with our commitment to flexible employment options for staff.

5.3 If an employee wishes to make a request for flexible retirement in line with the regulations, he/she should inform their line manager in writing as far in advance as possible.

5.4 The Council will write to the employee acknowledging the employee’s request.

5.5 The line manager should discuss the options with HR and their Assistant Director and consider the following before making a decision whether to support in principal the request for flexible retirement or not:

- There is no detrimental effect on service delivery
- There is a sound economic benefit to the Council
- The arrangement is fair and equitable to other team members

If the Council can support in principal the request, HR should obtain a written estimate of the employee's pension.

5.6 The Council will arrange a meeting with the employee to discuss their request. This discussion could include phased retirement.

5.7 Following the meeting the Council will consider whether they can consent to the employee's request or not. The employee will be notified of the Council's decision within 28 days of the meeting.

5.8 If the Council agrees to the flexible retirement HR will facilitate this by liaising with the employee and the pension scheme.

5.9 If the request is not approved, the employee will have the right of appeal. This must be submitted in writing, clearly stating the grounds of appeal, within 10 working days of the original decision being received to the Deputy Chief Executive. An appeal meeting will be convened within 28 days of receipt of the appeal letter. The Deputy Chief Executive will hear the appeal and will be accompanied by a representative from HR. In the event of the Deputy Chief Executive not being available to hear the appeal within 28 days another member of the Management Team will hear the appeal.

5.10 The Assistant Director will present the management case ie. will explain why the request was not approved.

5.11 The employee will have the right to be accompanied at the meeting by a colleague or a Trade Union representative. The Deputy Chief Executive will announce the decision verbally as soon as is practicable following the appeal meeting and confirm this in writing, or in writing as may be determined, not more than five working days after the appeal meeting. The outcome is final.

6. Workplace Discussions

6.1 The Council will invite all employees to regular workplace discussions with their line managers. Ideally these will take place when performance appraisals are carried out. During those discussions, the relevant line manager will discuss the employee's performance, developmental or training needs and the Council's and employee's future plans and expectations in the short, medium and long-term. During those meetings, where appropriate, employees may discuss their future plans or proposals for retirement.

6.2 A record of each workplace discussion will be kept as part of the appraisal record and a copy given to the employee.

6.3 A discussion about possible retirement will not result in the Council making any assumptions about the employee's commitment to the Council. The Council seeks to retain the best talent, including older

employees. Workplace discussions are an informal opportunity for both the Council and employees to plan jointly for the future.

6.4 The Local Government Pension Scheme will come to the Council and run retirement planning sessions for staff of all ages. As part of their visit they will also do 1:1 meetings with staff who wish to discuss their particular case in private. If employees need this service they need to indicate this at their appraisal and the line manager will put this onto their training plan. HR will then arrange these events to meet the needs identified.

7. Succession Planning

7.1 An employee who is shortly to retire will often have considerable knowledge in relation to his/her role and responsibilities. The Council may require the employee's assistance and cooperation for succession planning.

7.2 Prior to retirement, employees should cooperate with the Council, if requested to do so, by:

- providing full written details of the status of work projects and future steps;
- assisting making an up to date job description and person specification available;
- ensuring a smooth handover of work; and
- assisting in training any successor.

8. Monitoring and Review of Policy

8.1 This policy will be reviewed in line with legislative changes and changes to the Local Government Pension Scheme

9. Communication and Training

9.1 The provisions of this policy and any updates will be communicated to all employees of the Council.

10. Law Relating to this Document

Leading statutory authority

Employment Rights Act 1996

Equality Act 2010

Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011

[Working without the default retirement age \(PDF format, 856K\)](#) (on the Acas website)

Agenda Item No 8

Special Sub-Group

21 July 2014

**Report of the
Assistant Director
(Finance and Human Resources)**

**Updated Procedure on the
Statutory Right to Apply for
Flexible Working**

1 Summary

- 1.1 This report advises members of the changes to the statutory right to apply for flexible working. The procedure has been updated to meet the requirements of part 9 of the Children and Families Act 2014. Management Team and the trade unions have been notified of the updated procedure. This is attached at Appendix A.
- ...

Recommendation to the Sub-Group

That the report be noted

2 Report

- 2.1 Under current legislation, there is a statutory right for parents and carers to request flexible working. The Children and Families Act 2014 received Royal Assent on the 13 March 2014. Part 9 states the change in the Right to Request Flexible Working. From the 30 June 2014 Flexible Working Regulations are amended in that the right to request flexible working is extended to cover all employees with 26 weeks service with the employer.
- 2.2 Currently, when dealing with a request for flexible working, there are timescales for each stage of the process, which must be adhered to. From the 30 June 2014 there are no set timescales for an employer to respond other than the whole process from application to appeal must be completed in 3 months. The current timescales are tried and tested at NWBC and if followed would ensure that the process would be completed in 3 months. Although no longer a legal requirement it has been decided that wherever possible they would be adhered to provide a structured process.
- 2.3 NWBC has had flexible working as part of its flexible working policy since 2009. It is therefore not envisaged that there will be much increase in the applications that it receives. The main difference is that it is now a statutory right to apply. The employer must consider every application.

2.4 If the employer refuses the application it must be on one or more of the following grounds:

- the burden of additional costs
- an inability to reorganise work amongst existing staff
- an inability to recruit additional staff
- a detrimental impact on quality
- a detrimental impact on performance
- detrimental effect on ability to meet customer demand
- insufficient work for the periods the employee proposes to work
- a planned structural change to the business

The employer has to justify the refusal in the same way as it had to for parents requesting flexible working.

4 Report Implications

4.1 Human Resources Implications

4.1.1 As detailed in the report

4.2 Risk Management Implications

... 4.2.1 As attached at Appendix B

4.3 Equalities Implications

... 4.3.1 As attached at Appendix C

4.4 Links to Council's Priorities

4.4.1 The use of this policy will reduce the risk of inconsistencies. Proper management of employee issues through policies contributes to the Council's priority relating to the effective use of resources and will contribute to the Council's priority relating to the effective use of resources.

The Contact Officer for this report is Janis McCulloch (719236).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Equality Impact Assessment Summary Sheet

Please complete the following table summarised from the equality impact assessment form. This should be completed and attached to relevant Board reports.

Name of Policy Procedure/Service	The Statutory Right to Apply for Flexible Working
Officer Responsible for assessment	Janis McCulloch

Does this policy /procedure /service have any differential impact on the following equality groups /people

- (a) Is there a positive impact on any of the equality target groups or contribute to promoting equal opportunities and improve relations or:
- (b) could there be a negative impact on any of the equality target groups i.e. disadvantage them in any way

Equality Group	Positive impact	Negative impact	Reasons/Comments
Racial	Yes	No	Did not have a statutory right to request flexible working before
Gender	Yes	No	Did not have a statutory right to request flexible working before
Disabled people	Yes	No	Did not have a statutory right to request flexible working before
Gay, Lesbian and Bisexual people	Yes	No	Did not have a statutory right to request flexible working before
Older/Younger people	Yes	No	Did not have a statutory right to request flexible working before
Religion and Beliefs	Yes	No	Did not have a statutory right to request flexible working before
People having dependents caring responsibilities	No	No	Always had the statutory right to request flexible working
People having an offending past	Yes	No	Did not have a statutory right to request flexible working before
Transgender people	Yes	No	Did not have a statutory right to request flexible working before

If you have answered **No** to any of the above please give your reasons below

The policy will apply to all employees

Please indicate if you believe that this document

Should proceed to further Impact assessment **No**

Needs no further action **No**

Appendix C

Risk Management Form

**NORTH WARWICKSHIRE
BOROUGH COUNCIL**

Division

Cost Centre or Service

Risk Ref	Risk: Title/Description	Consequence	Likelihood (5 = high, 1 = low)	Impact (5 = high, 1 = low)	Gross Risk Rating	Responsible Officer	Existing Control Procedures	Likelihood(5 = high, 1 = low)	Impact (5 = high, 1 = low)	Net Risk Rating
	To not adopt the updated procedure	Would be in breach of the Children and Families Act 2014 part 9.	3	4	12	Janis McCulloch	New policy implemented	1	3	3
		Less clarity and unequal application resulting in tribunal claims	3	4	12			1	3	3
Risk Ref	Options for additional / replacement control procedure						Cost Resources	Likelihood (5 = high, 1 = low)	Impact (5 = high, 1 = low)	Net Risk Rating

Completed By: Janis McCulloch

Date: 17 June 2014

The Statutory Right to Apply for Flexible Working

Reviewed June 2014



**North Warwickshire
Borough Council**

CONTENTS

	Page
1. The right to apply for flexible working	3
2. Meaning of "flexible working"	3
3. Eligibility	3
4. The application	3
5. The Council's response	4-5
6. Rejection of an application for flexible working	5
7. Withdrawal of an application for flexible working	6
8. Questions and answers	6-7

Right to make a statutory request for flexible working

1. The right to apply for flexible working

1.1 The Children and Families Act 2014 received Royal Assent on the 13 March 2014. Part 9 states the change in the Right to Request Flexible Working. From the 30 June 2014 Flexible Working Regulations are amended in that the right to request flexible working is extended to cover all employees with 26 weeks service with the employer.

2. Meaning of "flexible working"

2.1 An employee can request a change to:

- the hours that he or she is required to work;
- the times that he or she is required to work; and/or
- where, as between his or her home and the employer's place of business, he or she is required to work.

The request could, therefore, be for shorter working hours, a shorter working week, flexitime, a system of staggered or annualised hours, job sharing, part-time work, self-rostering or permission to work from home.

Any change(s) agreed will be a permanent change to the employee's terms and conditions of employment, unless a trial or temporary period is agreed.

3. Eligibility

3.1 The employee must have been continuously employed by the Council for at least 26 weeks at the time the application is made.

3.2 An employee is restricted to making only one application a year.

4. The application

4.1 An application for flexible working must be made in writing to the employee's Line Manager and must include the following information:

- The date of the employee's application, the change(s) to working conditions that they are seeking and when they would like the change(s) to come into effect.
- What effect, if any, the employee thinks the requested change(s) would have on the Council and how, in his/her opinion, any such effect might be dealt with.
- A statement that this is a statutory request and if and when he/she has made a previous application for flexible working.

5. The Council's response

5.1 Employers no longer have to follow a statutory procedure. The new provisions state:

- a) Shall deal with the application in a reasonable manner; and
- b) Shall notify the employee of the decision on the application within the decision period

5.2 The decision period applicable to an employee's application is:

- a) The period of three months beginning with the date on which the application is made (including any appeal),
or
- b) Such longer period as may be agreed by the employer and the employee.

The previous timescales are tried and tested and provide a framework that will ensure that most applications would be completed within the three months.

5.3 The Line Manager must consider the request and should consider the request carefully looking at the benefits of the requested changes in working conditions for the employee and the business and weighing these against any adverse business impact of implementing the change(s). See section 6 below. Employers are under no statutory obligation to grant a request to work flexibly if it cannot be accommodated by the business on the grounds listed at section 6 below. In considering the request the Council must not discriminate unlawfully against the employee.

5.3 Within 28 days of receiving an eligible employee's application for flexible working, the Line Manager should either accept or reject the application and notify the employee accordingly in writing. The Line Manager should arrange a meeting with him or her to discuss the application, with a representative from HR if required.

If the request is being accepted or with modifications the Line Manager should discuss with the employee how and when the change(s) might best be implemented.

There may be instances where the Line Manager is unsure whether the arrangements requested are sustainable in the business or about the possible impact on other employees' requests for flexible working and wants to agree flexible working arrangements for a temporary or trial period rather than reject the request.

The employee and the Line Manager can agree to extend the three month period for considering a request under the 'right to request' to trial the arrangement for an agreed period of time. This should be outlined in a letter to the employee with review dates to enable the employee and the Line Manager to jointly discuss how the new arrangements are working and make adjustments if necessary.

If the request is being rejected it must be for one of the business reasons as set out in legislation. These are stated at section 6 below.

5.4 When the meeting is held the employee has the right to be accompanied at it by a fellow worker also employed by NWBC. Where the chosen companion will not be available at the time proposed by the Council for the meeting, and the employee proposes an alternative time convenient for all three parties then the Council will postpone the meeting until that date.

5.5 Within 14 days of the meeting, the Line Manager should write to the employee detailing the outcome of the meeting. Where this is a rejection of the request the letter should also explain the employee's right of appeal if he or she is unhappy with the Line Manager's decision and the procedure for doing so. Any such appeal should be lodged in writing within the next 14 days to the Deputy Chief Executive.

5.6 Within 14 days of the notice of appeal being given, the Council should hold a meeting with the employee to discuss the appeal. The appeal must be heard by the Deputy Chief Executive and a representative of the HR Team. Again, the employee has the right to be accompanied at the hearing by a fellow worker. Within 14 days of the appeal hearing, the Deputy Chief Executive should convey the decision to the employee in writing.

- If the employee's appeal is upheld, the Council's letter must specify the contract variation agreed to and the date from which it is to take effect.
- If the employee's appeal is dismissed, the letter must set out the exact grounds for the decision and contain sufficient explanation as to why those grounds apply. Refusal must be based on one or more specific grounds as detailed in section 6 of this document. If the appeal is dismissed, the decision is final.

6. Rejection of an application for flexible working

6.1 Under s.80G (amended) of the Employment Rights Act 1996, the Council's refusal to accept an eligible employee's application for flexible working must be based on one or more specific grounds. These are:

- the burden of additional costs
- an inability to reorganise work amongst existing staff
- an inability to recruit additional staff
- a detrimental impact on quality
- a detrimental impact on performance
- detrimental effect on ability to meet customer demand
- insufficient work for the periods the employee proposes to work
- a planned structural change to the business

7. Withdrawal of an application for flexible working

7.1 The Council can consider an application for flexible working as having been withdrawn if:

- a) the employee without good reason has failed to attend both the first meeting arranged by the employer to discuss the application and the next meeting arranged for that purpose, or
- b) where the Council allows the employee to appeal a decision to reject an application or to make a further appeal, the employee without good reason has failed to attend both the first meeting arranged by the employer to discuss the appeal and the next meeting arranged for that purpose, and
- c) the employer has notified the employee that the employer has decided to treat that conduct of the employee as a withdrawal of the application

7.2 If the employee wishes to withdraw their application the employee should notify their line manager in writing that they are withdrawing their application.

8. Questions and answers

Q8.1: Do employees have the automatic right to change to a more flexible working pattern?

Eligible employees have the legal right to apply to their employer for a more flexible pattern of working hours or for more flexible working arrangements. The employer must consider any such application, and to give specific business reasons for doing so if it is unable to accommodate the employee's request for flexible working. Employees do not have the automatic right to change.

Q8.2: Which employees are eligible to request flexible working under the statutory right to request flexible working?

To be eligible to request flexible working an employee must have been continuously employed by the NWBC for 26 weeks.

Q8.3: How should an employer respond to a request for flexible working?

An employer must consider an application and complete the process including any appeals within 3 months. This timescale can be extended with the agreement of the employee and the employer. The employer should write to the employee either agreeing to the application and specifying the contract variation agreed and the start date on which it is to take effect, or refusing the application, stating which of the Right to Request Flexible Working June 2014

specified grounds for refusal it considers to be applicable and explaining why those grounds apply in relation to the application.

Q8.4: Is there any right of appeal where an employer rejects an application for flexible working?

There is no legal requirement to offer a right of appeal. However, it is good practice to allow the employee to appeal the decision and this is built into the Council's process

Q8.6: In what circumstances can an employer reject a request for flexible working?

An employer's refusal to accept an eligible employee's application for flexible working must be based on one or more specific grounds. These are the burden of additional costs, an inability to reorganise work amongst existing staff, an inability to recruit additional staff, a detrimental impact on quality, a detrimental impact on performance, detrimental effect on ability to meet customer demand, insufficient work for the periods the employee proposes to work, and planned structural change to the business.

For further information please contact the HR Team.