24
ELIMINATION OF MANDATORY RETIREMENT

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, April 4, 2006, from the Commissioner of Corporate Services, subject to deleting recommendation 3 and replacing it with the following:

3. The Commissioner of Corporate Services report to the Committee by October 5, 2006 on the implications of Long Term Disability (LTD) coverage ceasing at age 65.

1. RECOMMENDATIONS

It is recommended that:

1. York Region adhere to its current policy of mandatory retirement of staff at age 65 until Bill 211 becomes effective on December 12, 2006.

2. A new benefit plan, incorporating a defined contribution form of benefit, be created for post-65 workers.

3. Long term disability (LTD) coverage should cease at age 65.

2. PURPOSE

The purpose of this report is to identify the impact on York Region of Bill 211 which eliminates mandatory retirement at age 65, and the issues that York Region will need to address.

3. BACKGROUND

Bill 211 *Ending Mandatory Retirement Statute Law Amendment Act, 2005* received Royal Assent on December 12, 2005. A lead time of one year has been provided in the legislation to enable organizations to prepare for the change. Effective December 12, 2006 requiring staff to retire at age 65 will be unlawful. York Region does have a policy of mandatory retirement at age 65 for its staff. It will be necessary to change the current policy and procedures in order to conform with Bill 211.

Regional staff participated with the Regional and Large Municipalities Policy Group to identify issues that will result from the elimination of mandatory retirement and to investigate the impact the change in policy will have on our municipalities. This group also conducted research with municipalities in other jurisdictions in Canada (Alberta, Manitoba and the Federal Government) where mandatory retirement has not existed for many years, to gain insight from their experience with post-65 employees.

3.1 York Region Status

It is not anticipated that the change in legislation will result in a huge influx of workers remaining in the workforce after they reach age 65. Statistics Canada predicts that 6-20% of Ontario residents will choose to continue working beyond age 65. York Region does appear to be falling within that predicted rate. Of the eleven staff members turning 65 in 2006, two have made requests to continue working. Chart #1 below depicts the York Region staff who will turn 65 in 2006.

Chart #2 shows the Regional staff who are in the 60-64 age bracket, an important demographic to whom this legislation will be very significant.

4. ANALYSIS AND OPTIONS

Of the eleven Regional employees who will turn 65 in 2006, two have made application to stay, although their retirement date will occur prior to the effective date of the new legislation. Consideration has been given to the requests, however it is recommended that the Region adhere to the mandatory retirement policy until the effective date of the new legislation. The timeline was determined to give employers time to revise their policies and prepare for employment of older workers.

Both the ONA and CUPE Collective Agreements provide the ability for post-65 employees to be hired in a casual capacity. Therefore, it is possible for these two employees to return to work as casuals after an appropriate break in service.

4.1 Benefits for Post-65 Workers

The Region’s contracts for all of its employee benefit plans cease coverage at age 65. Bill 211 does not require that workers who choose to stay on the job beyond age 65 must be provided with benefits. There is however some speculation that it will only be a short time until this stipulation in the new Bill will be tested in a Human Rights challenge as discriminatory.

It would be prudent for the Region to take a pro-active stance in this regard and develop a benefit plan designed specifically for post-65 employees. A defined contribution plan incorporating a health care spending account (HSA) is recommended. The flat rate health care spending account would replace the extended health and dental plans provided for staff. Such a plan would be appropriate for employees who are over age 65 as they will be entitled to prescription drug coverage under the Ontario Drug Benefit plan. Prescription drugs constitute the major expenditure for benefits. With their drugs covered under the ODB program, the older workers could then use the HSA for any other medical expenditures they might incur. Typically the need for dental coverage declines for older people so the very comprehensive dental plan provided for our younger workers with dependant families would be less necessary. On the other hand, an older worker may have the need for vitamins, supplements, or any number of other health care aides that wouldn't normally be covered by the health plan. The Canadian Revenue Agency sets the guidelines for eligible expenses for a HSA, and the definition is very broad.

The precedent of a health care spending account for post-65 employees has already been established. York Regional Police provides this benefit for its retired staff when they reach age 65. The methodology and set-up has already been established and it would be a very simple process to expand this plan to active post-65 employees.

4.2 Life Insurance

Life insurance can be provided for post-65 staff; however, it is an industry standard for the life benefit to be reduced at age 65. The Region's group life policy is fully insured by our carrier, Sun Life, and it will be necessary to revise our policy to accommodate post-65 workers and to negotiate an appropriate plan in keeping with the industry standard.

4.3 Long Term Disability and Short Term Disability

Coverage for Long term disability (LTD) currently ends at age 65 for those employees who are on claim. This practice should continue not only for those on claim but also for post-65 workers who remain on the job. Although age 65 can no longer be a mandatory retirement age it should still be considered normal retirement age. At 65 an employee who is unable to work due to poor health has recourse to the OMERS pension, Canada Pension (CPP) and Old Age Security. Therefore the need for wage replacement through an insurance scheme is not necessary. Similarly, those who have had an ongoing LTD claim should still transition to their retirement income at age 65 as they always have.

A survey conducted with public employers in jurisdictions where mandatory retirement has already been eliminated indicated that this is the procedure followed by them with respect to LTD.

The Region's short term disability plan (STD) is designed to provide coverage for an employee who may become ill and find himself in need of long term coverage. It provides a maximum of six months of short term protection in order to protect an ill employee throughout the waiting period for LTD. It would be reasonable for a revised short term sick leave plan to be designed for post 65 employees, as they would not be dealing with the six month waiting period for LTD. The practical course of action with respect to short term sick protection would be to design a plan that would provide coverage for casual, occasional absence due to illness, without the extended entitlement that covers the waiting period for long term disability.

5. FINANCIAL IMPLICATIONS

There is a direct correlation between age and benefit usage, particularly for prescription drugs. Therefore, it is prudent to create a benefit plan designed specifically for the post-65 employee. Incorporating a health care spending account into this plan design will enable the Region to predict the cost of benefits for this age group, as it will be a fixed amount per employee per year.

Extra costs could possibly be incurred if performance is not managed appropriately and termination of a post-65 employee became necessary, or if accommodation of disability was necessary. However, if appropriate processes are in place there is no reason to expect that older workers will create additional costs for the organization. Where possible, compensation should be tied to performance regardless of age. If pay is a function of performance, reducing compensation of an older worker due to reduced performance will not likely be considered age discrimination.

The municipalities surveyed who no longer have mandatory retirement indicated that they did not experience higher costs, other than for prescription drug coverage. This same group indicated that less than 1% of employees continued to work beyond age 65.

6. LOCAL MUNICIPAL IMPACT

All employers, including the Local Municipalities, will be impacted by this legislation and will need to plan for it. Dialogue will continue between the Region and the Municipalities regarding plans and actions undertaken to meet the new legislation.

7. CONCLUSION

The Region must prepare for the abolition of mandatory retirement and have procedures and policies in place to accommodate the older worker. However, we must not be misled by myths and preconceived notions that older employees are less productive or more expensive. In most instances they will be productive, valuable employees and may provide knowledge and mentoring for younger workers.

Chart 1
York Region Staff – Age 65 in 2006

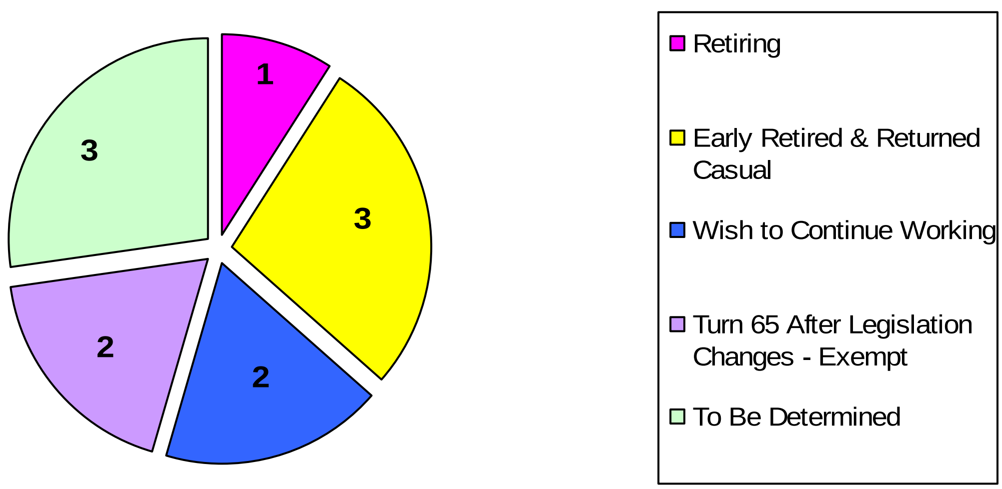
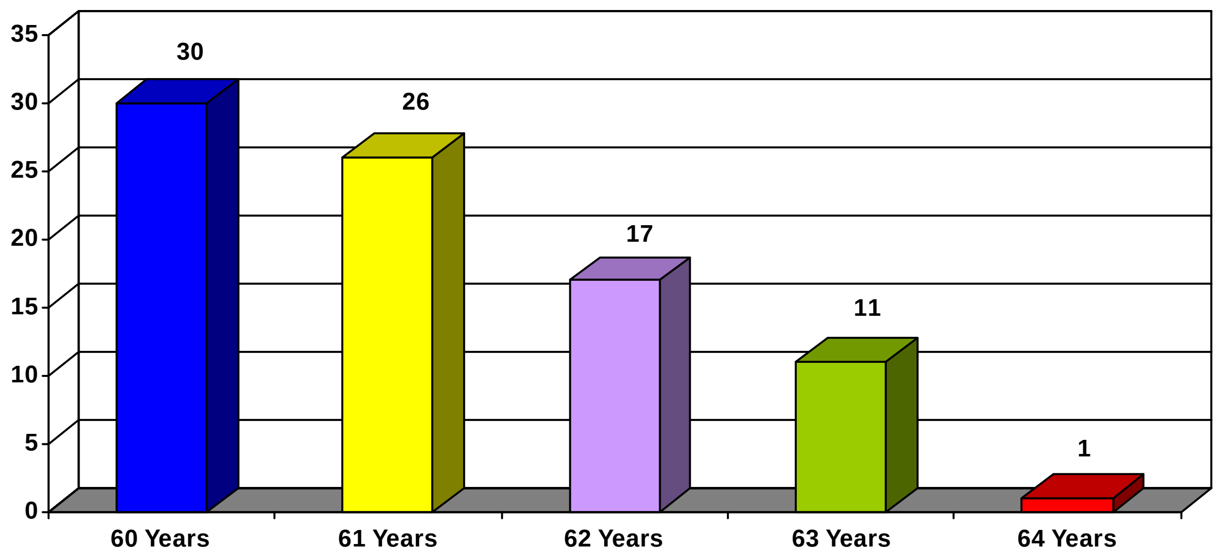


Chart 2
York Region Staff Age 60 & Above



The Senior Management Group has reviewed this report.