

## Default retirement age – employer qualitative research

By Andrew Thomas and Juliet Pascall-Calitz

### Background

The Employment Equality (Age) Regulations 2006 introduced a default retirement age of no lower than 65 and made employer mandatory retirement ages below 65 unlawful unless an employer can justify a lower age. Employers can set a higher age if they wish, or they can choose not to have a retirement age at all.

Legal requirements under the regulations include a notice period for retiring employees. Where an employer has set a retirement age, current regulation allows the employee the right to request the opportunity to work beyond the employer's compulsory retirement age. For a retirement to be classed as fair, employers have to inform an employee, in writing, of their intended retirement age and of their right to make a request to work beyond retirement age at least six months in advance (but no more than 12 months before the intended date)<sup>1</sup>. If an employee does make such a request, the employer is obliged to consider it and must follow the correct procedure for dealing with this<sup>2</sup>.

Recently, the Default Retirement Age (DRA) was subject to a judicial review. While the outcome of the ruling established that the UK's

default retirement age is in line with European Union (EU) law, the Department for Business Innovation and Skills (BIS) indicated that 'We are monitoring the default retirement age and are committed to reviewing it in 2011. If the evidence shows it is no longer necessary then we will remove it.' The review was subsequently brought forward to 2010 and the present piece of qualitative research was commissioned to support this review of the DRA.

### Research aims and methodology

This research was designed to explore employer practices in terms of recruitment, retention and promotion of older workers; how employers manage the retirement process; implementation of and attitudes to the DRA; and how employers, both with and without a compulsory retirement age (CRA), handle the retirement process.

A wholly qualitative methodology was adopted for this research and the project was designed to include a wide range of employers in terms of size (less than five employees, five to 49 employees, 50-249 employees, 250-999 employees and 1,000 plus employees), industry (manufacturing, services, other) and retirement practices (CRA, statutory process, right to request). A total of 54 face-to-face depth interviews were conducted with individuals who were responsible for or involved in the retirement process (largely Human Resources (HR) managers and line managers) across 40 organisations between November 2009 and February 2010, all of whom, since 2006, had in their employment an employee(s) aged 64.5

<sup>1</sup> ACAS guide for employers: *Putting the Employment Equality (Age) Regulations 2006 into practice*. Available from:

[http://www.acas.org.uk/media/pdf/d/t/6683\\_Age\\_and\\_the\\_Workplace\\_AWK.pdf](http://www.acas.org.uk/media/pdf/d/t/6683_Age_and_the_Workplace_AWK.pdf)

<sup>2</sup> ACAS guide for employers: *Putting the Employment Equality (Age) Regulations 2006 into practice*. Available from:

[http://www.acas.org.uk/media/pdf/d/t/6683\\_Age\\_and\\_the\\_Workplace\\_AWK.pdf](http://www.acas.org.uk/media/pdf/d/t/6683_Age_and_the_Workplace_AWK.pdf)

years; they also all had experience of retiring an employee.

## Summary of key findings

### *Attitudes towards older workers*

Attitudes towards employing, or retaining, older workers tended to be polarized. On the one hand, employers could be very positive about older workers. Not only did they see them as very reliable and conscientious workers, but where they had skills and expertise that were valuable to the organisation, employers were keen to see them continue in employment, if the employee wished to do so. For some, this positive attitude was expressed as a form of equality, considering that the enforced retirement of an employee was discriminatory. This was a view that emanated largely from organisations that relied on intellectual ability and benefited from the cumulative experience held by older workers.

On the other hand, a few employers were less enthusiastic about employing older workers. These employers, particularly those in manufacturing industries or organisations that required their employees to be physically active, took the view that employees became less able and efficient as they got older and that it was not financially sensible to retain workers past their normal retirement age. In addition, there were also employers that considered that the working life is long enough and that employees should retire and enjoy the rest of their life away from work. Running throughout the conversations with employers was the issue of whether there was a sound business case to retain an older worker. Even the most highly skilled older worker would not be retained after their normal retirement age if there was not a matching business case.

Similar issues were raised about older workers in relation to their recruitment, training and promotion. In principle, most employers were not averse to recruiting and training older

workers, and indeed a number of the employers in the study had not only retained older workers in post, but had recruited employees who were over 65 and provided them with training. In each case, however, it was made clear that there had to be a business case in order to retrain or take on new staff. Conditions were sometimes in place regarding the repayment of training costs if the employee left earlier than expected. Perhaps the one area where employers thought older workers would miss out was on promotion; as older workers generally only remained in employment for a couple more years, they thought promotion was unlikely.

### *Employment policies and practices*

It is clear that there are variations in how employers deal with employment policies and practices. For the most part, the medium, large and very large employers have a number of written policies dealing with a variety of aspects of employment, which are revised frequently. In comparison, some of the smaller employers may have formal written policies or they may be like the micro-employers that do not have any written policies at all but rather develop procedures as the need arises. However, across all the employers in this study there was relatively little in terms of a formal policy about how they would deal with retirement, employees wanting to work longer than the normal retirement age, or flexible working options that may be available.

This lack of formal retirement policies should be set in the context that employers generally said that most employees have in their minds a retirement date, which is usually aligned with either the State Pension age or the maturation of an occupational pension. For the most part, employees that wanted to work past this age were said to be in the minority. When they did extend their employment, it was said to be rare for anyone to be working more than an extra two or three years, although there were exceptions.

## *Awareness of the DRA*

Differences in the extent to which organisations had formal HR policies and procedures in place as well as the presence or absence of a CRA impacted on employees' overall awareness of the DRA. Those with a CRA tended to be aware of the DRA while employers without a CRA were much more mixed in their awareness. None of the micro employers were aware of the DRA.

Employers with a CRA were more likely to have formal HR policies which were reviewed to align with legislation when the DRA was introduced. As most of these employers already had a CRA of 65 the impact of the DRA on the employer's retirement policy was limited. However, the DRA did, in some cases, change the procedures that employers used, notably an increase in the notice period and the introduction of a more formal 'right to request' process. In contrast, given their less formal approach to HR policies and procedures, employers without a CRA were less likely to have been affected by the introduction of the DRA.

## *Retirement practices*

Retirement practices across organisations differed, with organisations with a CRA generally being more structured and formal in their approach than those without. Organisations with a CRA may be more likely to adhere to the statutory process which included notifying an employee at least six months in advance of their retirement date and their 'right to request' to work beyond that. Organisations without a CRA tended to be less formal and had a conversation with the employee regarding their future plans. In other instances, the organisation would not have a retirement age at all and the employee was able to work for as long as they liked, subject to there being work available.

Decisions surrounding extended employment tended to be largely informed or made by the line manager, based on employee performance and business need. If the employee's request to continue working was accepted then their

contract would be revised, often to allow for short-term reviews. Employers that allowed their employees to work after their normal or CRA almost universally said that they would allow flexible working, with some using this as a means of retaining staff.

## *Attitudes towards the DRA*

Employer's attitudes to the DRA were mixed. Employers that did not have a CRA thought that the DRA was discriminatory in its conception, unnecessary and bureaucratic. By contrast, employers that had a CRA found it useful because it was seen as a focal point to discuss an employee's future and plan resources. Should an employee's work be less than satisfactory then the DRA was said to be an opportunity to retire an employee compassionately without going through an arduous and potentially bitter performance management process. A drawback of the DRA, noted by employers both with and without a CRA, was that employers were not obligated to give the employee a reason for turning down their request to work beyond the given retirement age.

While employers with a CRA used the DRA as a means of planning for the future, employers that did not have a CRA found that they were able to accomplish their planning just as satisfactorily. However, while the DRA established a formal process, employers that did not have a CRA expected most employees to retire anyway as they became entitled to the State Pension or their occupational pension or they had already established their employee's plans through regular conversation and knew whether they wanted to continue working or not.

Employers without a CRA dealt with any performance issues of older workers through an informal or formal performance management system, formality increasing with employer size. If they felt that an older worker was no longer capable of doing their job, or an alternative role, then retirement would be suggested on these grounds. By contrast, employers with a CRA, although indicating that performance

management and retirement were two separate issues, indicated that if an employee was nearing their normal retirement age and there were performance-related issues, they would retire the individual rather than use a performance management approach.

### *Extension or abolition of the DRA*

Considering the extension or abolition of the DRA, views were very dependent on whether the employer had a CRA or not. Those that did not were quite happy to see the DRA abolished. Those employers that did have a CRA were reluctant to see it abolished because they valued it as a focal point for planning and it could be used instead of performance management tools if an employee nearing retirement was becoming less efficient.

Regarding further extension of the DRA, there was some support for an increase in age, but this, it was considered, should be kept in line with the State Pension age.

The full report of these research findings is published by the Department for Work and Pensions (ISBN 978 1 84712 791 4. Research Report 672. July 2010).

You can download the full report free from:  
<http://research.dwp.gov.uk/asd/asd5/rrs-index.asp>

Other report summaries in the research series are also available from the website above and from:

Paul Noakes,  
Commercial Support and Knowledge  
Management Team,  
3rd Floor, Caxton House,  
Tothill Street, London SW1H 9NA.  
E-mail: [Paul.Noakes@dwp.gsi.gov.uk](mailto:Paul.Noakes@dwp.gsi.gov.uk)

If you would like to subscribe to our email list to receive future summaries and alerts as reports are published please contact Paul Noakes at the address above.