

**SUMMARY OF SUBMISSIONS FROM
STAKEHOLDERS AND INTERESTED
INDIVIDUALS**

Default Retirement Age

July 2010

Introduction

1. This report summarises evidence submitted to the Review of the Default Retirement Age (DRA) by external stakeholder organisations, individual businesses, employer associations and private individuals. This evidence is complementary to the wider research commissioned by the Department for Business Innovation and Skills (BIS) and the Department of Work and Pensions (DWP).

Response to the call

2. By the closing date of 1 February 2010, 198 submissions had been received from stakeholders and interested individuals. They have been immensely valuable to the review process, and have helped shape our policy proposals. Significant effort was put into a number of stakeholder submissions, including work commissioned expressly for the review. In recognition of this, 23 submissions were selected for independent analysis. This analysis, summarising the key evidence received, has been published as a separate report alongside the findings of the other research commissioned by BIS and DWP.

Material submitted

3. The majority of submissions are anecdotal, based largely on the practical experience of both businesses and individuals, and not supported by robust evidence. Information was received through: formal submissions; letters; reports; and surveys.

Method used to process submissions

4. Evidence was categorised under the following headings:
 - Overall position on the DRA – keep with possible modifications, remove, neutral or not explicit
 - Position supported by evidence or practical/personal experience
 - Impact of the removal of the DRA – positive and negative views
 - The DRA in practice – positive and negative views
 - Comments

Overall views on the DRA

5. To following tables summarise the overall position on the DRA of the 198 submissions received from stakeholders and interested individuals.

Keep the DRA (with possible modifications especially raising the age)	82
Remove the DRA	101
Neutral or not explicit in their response	15

Views of individual businesses and employer associations

Keep the DRA (with possible modifications especially raising the age)	58
Remove the DRA	7
Neutral or not explicit in their response	4

Views of private individuals/employees

Keep the DRA (with possible modifications especially raising the age)	24
Remove the DRA	94
Neutral or not explicit in their response	11

Arguments in favour of and against the DRA

6. The following bullet points summarise the key arguments made by stakeholders in support of, and against the DRA. These, along with the quotations, have been taken directly from stakeholder submissions, and should not be considered as the official views or opinions of BIS.

Arguments in favour of the DRA

7. Arguments for retaining the DRA were made mostly by individual businesses and employer associations'. Private individuals and employees who supported the retention of the DRA cited two main reasons: concern for opportunities for younger workers; and that the DRA should rise in line with planned increases to the state pension.
- **Employers rely on the DRA for Business Planning.** "A default retirement age enables employees to plan a controlled exit from their working life, assists employers in workforce planning and supports career development and succession planning for all workers".
 - **Withdrawal/reduction of employer group insurance benefits due to increased costs for providing cover for older workers.** "Several benefits such as private health cover, death in service and presumably defined benefit schemes have a cost that is directly linked to age. Our experience is that the cost of these benefits rises significantly when an employee passes the normal retirement age. They become a significant burden on employing someone past the normal retirement age and often form a disproportionate cost relative to the salary of the individual".
 - **Other means of "managing" older workers out of the workforce would have to rise.** The DRA was felt to provide a dignified exit for valued employees. "Performance management can be a very difficult and long winded process for the employee and employer and we would prefer to avoid going down this route and allow people to leave with dignity and on good terms rather than on bad terms if they were dismissed".

- **The DRA provides “opportunities for younger employees”.** “It is often forgotten that age discrimination law covers young people as well as those at or above retirement age. To remove the DRA is to discriminate against young people who will have less job opportunities as a result of less people retiring.
- **Current system working well.** “Believe that the right to request works well and provides sufficient support to employees who wish to carry on working and making an economic contribution. Employers are able to assess individual’s capacity to work”.
- **The DRA protects businesses against problems associated with the reduction in capacity and decline in physical performance of older workers.** “In many roles, by the time an individual is 65, they no longer have the same capacity to do the job in the same way as a younger person, particularly where it concerns manual labour, eye sight is going in areas where it is needed, and hands are becoming arthritic, and no longer have the dexterity to do the work”.
- **If the DRA is retained, it should be increased in-line with the state pension age.** By raising the Default Retirement Age to 68 the aspirations of older workers can be better met, while preserving the central features of a retirement system which is well understood and valued by employers.

Arguments against the DRA

8. Stakeholders who were against having a DRA raised a variety of arguments based on points of principle (e.g. discrimination) and on alternative economic and business arguments to those already outlined. The main points made were as follows:
 - **The DRA is discriminatory.** Workers should be assessed on ability not age. “The DRA is blatant discrimination and should be scrapped. There is nothing more discriminatory than telling someone today that they are a wonderful employee and the next day having reached a certain age that they are no longer required”.
 - **The DRA should not be used as an alternative to proper performance management.** “Companies can use the existing legal framework for medical retirement and/or performance management if an individual won’t face up to genuine health issues which are affecting their ability to do the job”
 - **Retain valuable skills and experience.** People should be assessed on ability and not age. Some people have experience, knowledge, interest and energy which will be wasted [if forced to retire].
 - **People living longer, therefore need to work for longer.** “It is well established that most work is good for people’s health and social engagement as well as their incomes and that older people would like to work longer, albeit on a more flexible basis”.

- **Contribute to the economy, less pull on state resources.** “Older people who work will continue to contribute to the tax base of the country rather than draw upon it as service users of health and social care support systems.
- **Promote flexible working towards phased retirement.** “Flexibility is important during the whole of people’s working lives, as well as at the point of retirement. Working flat-out and then suddenly retiring ('the cliff edge') is far from ideal. A proper work-life balance and flexibility for caring responsibilities, followed by a flexible approach to retirement should be available”.

Other issues

9. The call for evidence identified two specific legal issues that might be unintended consequences of removing the DRA: implications for Insured Benefits; and Employee Share Schemes.

Insured Benefits

10. A number of stakeholders highlighted the interrelation between insured benefits and age. Their primary concern is that the removal of the default retirement age could impact negatively on the current and future provision of group insured benefits: life assurance; medical cover; income protection schemes and critical illness cover.
11. With the introduction of the Age Regulations in 2006, employers had to address any benefits not provided equally to all ages. Historically, many employers have and continue to place age limits or age-related conditions on entitlement to insured benefit schemes. These are largely determined by providers’ requirements for medical underwriting beyond a particular age or through the charging of higher premiums to insure older workers.
12. Employers remain uncertain as to the extent that imposing such limits on benefits for their employees remains lawful. Although the Equality Act partly addresses these issues, it was suggested that thought be given to extending the exceptions within the Age Regulations to clarify when employers could stop cover, require medical underwriting or pass the cost on to the employee.
13. Additional concern was raised about income protection (or “permanent health insurance”) policies, as they create age-related issues in that they traditionally pay a proportion of salary until retirement. There is already a growing trend towards policies which pay out for a maximum period of time (e.g. 3 or 5 years). It was suggested this is a result of employers’ concerns that they may be breaking age laws. Adding the Age Regulation’s exemptions to cover this was deemed helpful.

Employee Share Schemes – Good and Bad Leavers

14. Many employees in the UK benefit from their participation in HMRC ‘approved’ or ‘tax-advantaged’ schemes that provide employees and employers with income tax and National Insurance advantages. Shares

acquired under these schemes are generally free from income tax and National Insurance contributions.

15. On leaving their employment, employees are classed as either a “Good Leaver” or a “Bad Leaver”. In general, Good Leavers are allowed to retain some or all of the options they have been granted but which have not yet vested and Bad Leavers lose unvested options. Good Leavers are typically employees who leave employment because of: ill health; death; redundancy; sale of the business or subsidiary for which they work; and retirement. However, employees who are dismissed or resign voluntarily (although not at “fault”) are typically treated as Bad Leavers and lose their unvested options.
16. Concerns have been raised that if the DRA is removed altogether, it will be more difficult to distinguish between employees who are retiring and those who are voluntary leavers.

