

Enforcement Consultation Responses
Government Equalities Office
Equality Law and Better Regulation Unit
Home Office
3rd Floor, Fry – North East Quarter
2 Marsham Street
London
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26 July 2012

Consultation on proposed changes to the Equality Act 2010 (published on 24 May 2012)

Dear Sir/Madam,

We welcome the opportunity to respond to the consultation on proposed changes to the Equality Act 2010 ("the Act"). Our response is limited to the proposal to remove employment tribunals' powers to make wider recommendations in discrimination cases, and we comment only on question 4. We have no comments on the proposal to remove the procedure for obtaining information.

Mercer is a leading global provider of consulting, outsourcing and investment services. Mercer works with clients to solve their most complex benefit and human capital issues, designing and helping manage health, retirement and other benefits. In the UK, our client base includes employers and trustees providing occupational pension schemes to employees in all sectors of industry including the public sector. We provide pensions advice and services to companies in the FTSE100, but we also have a large proportion of clients that are employers classed as "Small to Medium sized Enterprises", or trustees of pension schemes with sponsoring employers in this class. We also provide Outsourcing pensions administrative services to clients.

Question 4: Whatever your answer to Question 1, do you agree or disagree that the wider recommendations power should be repealed? Please explain your answer.

We are supportive of the proposal to remove the power currently provided to employment tribunals under section 124(3)(b) of the Act. The power currently allows tribunals to make wider recommendations, which would benefit persons other than the claimant. Although a wider recommendation cannot be enforced, an employer's failure to comply can be taken into account in any similar, future claims. In the context of an occupational pension scheme, trustees could, for example, be required to amend a scheme's terms so that other members, or potential members, do not suffer similar discrimination.

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We agree with the views expressed in the consultation that such a power is unnecessary and potentially increases the burden on employers and/or trustees. Our experience is consistent with that set out in the consultation, which is that even before the power came into effect as part of the Act, most employers and/or trustees of occupational pension schemes would normally have decided to change the scheme rules to avoid further, similar, non-discrimination claims in any case. We believe it seems more appropriate and effective to leave employers and/or trustees with some discretion as to how best to adjust their circumstances in order to avoid future claims.

We are happy to discuss the above further by telephone or meeting.

Yours faithfully,

Associate