

News Release

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An end to default retirement - the impact of longer working lives

- **Issues for companies and employees to address in light of Government's decision to carry out early review of default retirement age**

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In light of the Government's announcement that it is likely to remove the default retirement age, Mercer has highlighted the HR, pensions and benefits implications for employers.

An immediate direct consequence of removing the default retirement age is that employees will have more control over when they decide to retire. While many in the workforce today may have planned to retire at 60 or 65, the trend to replace defined benefit with defined contribution schemes with lower contributions and their continuing ability to work will probably encourage them to remain at work longer than originally planned.

For employers, the change will mean that the same grounds for dismissal will be needed for an older employee as for someone younger - generally redundancy or performance. Employers would be unable to use age as a basis of dismissal without risking a suit for age discrimination, which carries unlimited liability.

Chris Johnson, head of human capital at Mercer, commented: "The current position is clearly untenable, given increased longevity and the need to save longer for retirement. So change is to be welcomed.

"Early anecdotal indications from Mercer's clients who have recently removed retirement age are that around 2 percent of employees who would have retired are choosing to work beyond their planned retirement age. This is expected to be a growing trend."

According to Mercer, there are four questions that now arise around human resource policies and practices that employers will need to address if they are to manage this situation effectively, from both the business and employee perspectives.

How should you implement a redundancy programme and ensure staff performance?

Up to now, some employers have used age-based retirement as an alternative to performance management, and it has provided clarity around whether a job needs to exist or not. The ability of

employees to decide how long they stay in the workforce – subject to there being a job, and satisfactory performance – means that employers will need to refine their performance management processes and may become more likely to implement redundancy programmes.

How should you make best use of the most talented employees?

Older, longer-serving employees will affect the flow of talent through the workforce: the availability of senior roles (typically held by older employees) will be less predictable than now, and less frequent in the short to medium term as the workforce rebalances to reflect the shift in actual retirement ages.

Managing the changes in workforce flows and ensuring the best talent is used will demand more of a focus on talent management programmes and succession planning processes. Older workers will also need to be offered more flexible job/career solutions. These might involve part-time working, down-shifting and partial retirement.

According to Mr Johnson, “Interestingly, offering these programmes only to older employees could be discriminatory. The issue of job/career flexibility is an issue for the whole workforce, though certain exemptions apply to retirement plans.”

What is the best way of rewarding older employees?

In pay systems that involve forms of progression, older employees are typically paid more than younger employees by virtue of the time they have spent in their pay grade or band. If older employees are remaining in the workforce longer, two reward management issues need to be addressed, says Chris Johnson:

“Funding is a key issue. Predictable retirement of older and better paid employees is a source of reward funding that can be recycled into the wage bill. As employees get older, however, this source of funding will reduce. Equal pay is also an issue. Unless there is justification for it, there is a discrimination risk in pay systems where older employees are paid more than younger employees.”

As older employees are more often men, and younger workers are more often women, because of labour market characteristics, there is also a gender-based equal pay risk.

How can pension and benefits provision be best managed?

Changing demographics in the workforce could impact funding and liabilities in pension plans as well as drive changes in the design of both post- and pre-retirement benefits – including group life cover and health insurance and/or well-being plans. According to Mercer, changes in pension plan arrangements could also inform the development of broader benefit strategies and aid partial retirement. Employers will need to address the impact of longer working lives on the funding and liabilities of pension plans and benefit arrangements.

However, Mr Johnson raised a note of caution. “Not everyone is living that much longer, and healthy life expectancy is still something that is not well understood. Longer working lives may be better for those who have comfortable white collar jobs; less so for those with blue collar or more routine jobs. In addition, while large companies should find it easy to implement required performance management processes, it will not be as simple for smaller employers.”

“This begs the question,” he concluded, “should there be a higher default age - 70, for example? And should some employers be allowed to continue to retain a default?”

-Ends-

Notes for Editors

Currently, employers' retirement policies are generally defined by age. Although this could be regarded as age discriminatory under recent legislation (The Employment Equality (Age) Regulations 2006), the legislation has a "default retirement age of 65" provision that enables employers to require employees to retire at 65 without risking claims of unfair dismissal or age discrimination. The legislation actually provides a right for employees to request to work beyond 65, but the employer can decline such requests without needing to provide a reason.

There were concerns that a default retirement age may itself be considered discriminatory, and the Government committed in 2006 to review the provision in 2011. Since then the Government has made two significant announcements. First, for civil servants retirement policy will no longer be based on age. They can work to whatever ever age they choose subject to there being a job and acceptable performance. Secondly, the Government announced in 2009 a decision to bring forward to 2010 the review of the default retirement age provisions. In addition, the legality of the default retirement age has been tested in the courts. The case brought by Age Concern was lost, but the judge cited the impending review in his judgement.

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