



**Department for Business, Innovation and Skills: Consultation on
Phasing out the Default Retirement Age**

Submission from the Chartered Management Institute

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Phasing out the Default Retirement Age Consultation: CMI Response

Introduction

CMI is pleased to respond to the Government's consultation on the Default Retirement Age (DRA). We welcome the decision to phase out the DRA. When employers consistently report skills gaps in the labour market, it is right to tackle any barriers that prevent experienced and skilled employees from continuing to make a valuable contribution to the workforce. Fundamentally, we believe it is unfair and discriminatory for age to be used as a substitute for performance management and it is therefore right to phase out the DRA.

Concerns have been raised about the ability of employers to manage and plan their workforces as a result of losing the DRA. It is important that Government recognises these concerns and addresses them by providing clear guidance about how the new system will work, outlining the rights and responsibilities of each party. Representative professional bodies, such as the CMI and CIPD, can play a crucial role in assisting organisations to make these adjustments so that older workers can continue to play a valuable role in the economy.

About this response

CMI is responding to this consultation as the UK's only chartered professional body for management and leadership. With 88,000 members across all sectors of the economy, we represent managers from first line managers to the most senior levels of business and public sector organisations.

CMI has a long standing commitment to supporting fairer practices on age. We have been an Age Positive Champion for many years. CMI is also a member of the BIS DRA Stakeholder Group.

We responded to previous Government consultations prior to the introduction of the Employment Equality (Age) Regulations, such as the 2003 Equality Matters: Age Diversity consultation. In 2005 we published a joint report with CIPD, *Tackling age discrimination at work: creating a new age for all*, which examined managers' attitudes to age and experiences of age discrimination at work, helping to raise awareness of the issues among our members.

In September 2010, CMI published a new report, jointly with CIPD – called *Managing an Ageing Workforce: how employers are adapting to an older labour market*, based on a survey of over 1,000 CMI and CIPD members. This submission draws extensively on the findings of that survey.

How employers are adapting to an older labour market

CMI's recent member survey underpins our commitment to phasing out the retirement age. Our recent survey found that:

- 93 per cent of respondents agreed that the knowledge and skills of older workers are highly valuable. The main motivation for improving an organisation's approach towards older workers is knowledge retention.
- A majority disagree that older workers cost more to employ.
- Managers report that older workers want to work longer for a variety of reasons. Eighty-nine per cent report that they want to stay in work to continue funding their existing lifestyle, 72 per cent say it is to top-up their pensions. A significant proportion said that personal fulfilment in their work (68 per cent) and the social aspect of work (62 per cent) are key drivers for seeking to extend their working lives.
- However, only 14 per cent of managers consider their organisation very well prepared to cope with an ageing workforce. In this context that Government must take seriously

the need to provide clear guidance to employers and individuals about the implications of phasing out the DRA.

- While strongly welcoming the phasing out of the DRA, CMI does have some concerns about the short timescale. If Government cannot guarantee the provision of clear guidance – and the implementation of a communication plan so that businesses better understand the new system – within the timeframe which is currently proposed, then it should consider a six month delay. This would address employers' concerns and enable them to develop performance management systems where it is felt they would be necessary for managing performance and retirement.

A. The Government intends to remove the Default Retirement Age. Do you agree that Schedule 6 of the Age Regulations (which deals with notifications of retirement and the 'right to request' to work past retirement age) should also be removed?

CMI supports the removal of the DRA and the proposal to remove Schedule 6, which underpins much of the current operation of the DRA. It will end the arbitrary termination of employment on the basis of age and will help extend working lives. It will push employers towards better engagement of their older workers and act as a deterrent to using retirement as a proxy for performance management.

Fifty seven per cent of respondents to the CMI-CIPD *Managing an Ageing Workforce* survey findings report that they use the DRA. Asked what impact they felt the DRA has had, 27 per cent said that it resulted in an assumption that employees could not work beyond 65 – while 36 per cent said that more employees stay on beyond 65, this is hardly a ringing endorsement of its effectiveness in extending working life; especially when 47 per cent say that retirement has continued at the same rate as prior to its introduction. Sixteen per cent say that performance management of older employees has been neglected as a result.

Strikingly, our survey found that those organisations which currently operated without fixed retirement ages, while a minority, were more likely to agree with the statement "our retirement process works well for the organisation" *and* with the statement "our retirement process works well for the retiree". This suggests that the removal of fixed retirement ages works for both the employer and the employee. This should encourage employers who are currently wary of reform to the existing system.

The survey examined what levels of support exist for potential options for the future of the DRA. While the survey was conducted in April 2010, prior to the announcement of the Government's intentions, 42 per cent backed the removal of the DRA, compared to 35 per cent in favour of retaining the DRA. This suggests that Government and key stakeholders need to do more to raise awareness of the potential benefits of abolishing the DRA.

One crucial finding in the report is the great need to ensure more flexibility in retirement practices. This may mean the introduction of flexible working options to allow an older person to continue in work but at a pace which better suits them, perhaps to allow them to combine caring responsibilities. Some 51 per cent of survey respondents believed that adopting flexible working policies would enable them to keep hold of their older workers. Alongside the proposed regulatory changes, Government should encourage employers to use more flexible solutions – while removing the potential barriers, such as pension requirements.

C. Thinking about retirement discussions between an employer and an employee, do you think it would be useful to have:

1. Formal guidance on how to discuss retirement in a mutually beneficial way
2. A statutory code of practice, including guidance, which covers retirement discussions
3. None of the above
4. Something else

CMI strongly supports the provision by Government through its key stakeholders – such as ACAS, CMI, CIPD – of guidance on how to discuss retirement in a beneficial way. It is useful

to provide some structure for such discussions, and guidance allows for more flexibility than a statutory code of practice.

Our recent report found that many managers would welcome guidance on managing the retirement process (43 per cent) and their legal obligations to older workers (43 per cent). These numbers are very likely to have increased since the announcement of the new Government's policy and it is vital that Government meets this need.

Such guidance should help clarify the rights and responsibilities of each party, both the employer and the employee. It is important to make clear that open discussions about retirement plans and expectations should be the norm. The guidance should encourage open and mature conversations about retirement plans and ensure that there are no barriers to full discussion of the issues. It is good practice to have periodical conversations about future career plans with employees of any age, for example as part of an annual performance review: there is no reason not to have such conversations with older employees.

We would be happy to contribute to the creation and dissemination of such guidance to help ensure that it meets the needs of managers. Representative professional bodies such as the CMI have a strong role to play in promoting good practice and, critically, we are trusted by our members. Our survey found that 80 per cent of respondents would contact their professional body for advice on managing older workers – a particularly striking figure when compared to those who would turn to other sources such as ACAS (30 per cent) or central government (24 per cent).

D. Do the proposed transitional arrangements strike the right balance between the policy aim of quickly phasing out the Default Retirement Age (and realising the benefits of doing so) and respecting the position of employers who have already made plans based on its use?

As stated in our introduction, CMI strongly supports phasing out the DRA but has some concerns about the capacity of employers to react within the short-timescale. It is important to recognise that some employers may have made long-term plans with regards to retirement, just as individuals will have made long-term plans. It is critical that sufficient support is provided in adjusting to the timetable set out by the Government in the consultation and if Government cannot guarantee that full guidance will be published in keeping with the proposed timeframes, we would propose a six-month delay.

The Government's draft impact assessment examines costs for the introduction of a performance management system. While it is important to provide a realistic estimate of the costs, it is equally important to recognise the benefits to employers. In addition, the Government should avoid creating the impression that performance management is something that should only be applied to older workers; Government should not create the impression that declining performance is inevitable in old age, when the evidence does not support such a conclusion.

Conclusion

CMI welcomes the Government's commitment to removing an unfair barrier to the fullest participation of older workers in the labour market. However, we urge the Government to commit to providing full guidance for employers and individuals in good time ahead of the introduction of the new system. CMI would be pleased to assist in the development of such guidance and its dissemination to managers and we would welcome further dialogue with Government on this issue.