



**Submission to the Government's  
Consultation – "Phasing Out the  
Default Retirement Age"**

**- GMB Response -**

October 2010

**GMB  
22-24 Worples Road  
London  
SW19 4DD**

**General Secretary: Paul Kenny**

For further information  
please contact:

**Phil McEvoy  
Pensions Adviser  
020 8971 4265**

## **INTRODUCTION**

GMB is a growing Trade Union representing more than 610,000 members in the United Kingdom. Our members reflect a diverse range of society and hold jobs in both public and private sectors, based in locations from Aberdeen to Aberystwyth and from Derry to Dover. Furthermore our members reflect the range of different categories of social groups. We also have a thriving Retired Members Association.

As such we are in a unique position to provide evidence, comment and guidance on any proposals in relation to retirement, employment policy and the expectations of working people for work and retirement.

One thing is clear from our discussions with GMB members in respect of retirement – there is no one-size-fits-all approach to retirement planning. In terms of when our members plan to retire, there is often a diversity of views:

- some will want to retire before age 65 and will save accordingly. They will not be impacted by the Default Retirement Age
- some will want to retire before age 65 but come to realise that this is unaffordable (due to inadequate personal saving, inadequate occupational pension provision, the impact of the recession on their savings etc). As such they may be impacted by the application of a Default Retirement Age.
- some will want to work as long as possible and certainly beyond age 65, regardless of how much they have saved or how much pension income they could receive.

For the majority however, the age at which they decide to retire will come down to affordability and whether they will be able to live off their savings and state benefits. In many instances this coincides with the age at which they qualify for state pension payments.

What our members appreciate most is the flexibility to make their own decisions on their lifestyle plans, including when they retire. They would not wish their plans to be hampered by whether retirement is affordable or not. They would certainly not wish their plans to be affected by the retention of an arbitrary provision that allows employers to dismiss them on the grounds of their age.

## **REMOVING THE DEFAULT RETIREMENT AGE**

GMB wholeheartedly welcomes the proposal to remove the Default Retirement Age as an exempted item from Age Discrimination Regulations.

Flexibility in retirement includes flexibility on when they can draw on their own savings (within limits), flexibility on when they can draw on state benefits (again within limits) and flexibility on their working patterns, in agreement with a reasonable employer.

However removing the Default Retirement Age will not in itself provide the flexibility desired by the UK workforce. It will not act as a substitute for viable occupational pension provision, thereby removing the barrier of the affordability of retirement. It should not be used as a facility to allow employees to 'work until they drop', but rather should introduce some genuine flexibility and choice around retirement and lifestyle plans.

Removal of this provision is only one step, albeit an important one, in bringing in a change to the current views on employment of older people.

We note that the consultation suggests that retention of a retirement age by an employer is possible with an objective justification. This does mean that, as is the case at present, employers will retain the ability to dismiss employees before any state pension is payable. GMB's view is that such a provision remains perverse, especially where little or no occupational pension provision has been offered. This objective justification route needs to be the subject of significant clarification and guidance to ensure it is not subject to abuse by employers.

GMB would also welcome moves by the Government to promote measures that would encourage the employment of older people. Moves to instigate flexible working practices have already been introduced through the mechanism of flexible retirement, and through the proposed extension of the right to request flexible working to all employees. GMB would also welcome the implementation of this proposal by the Government as being positive both for the UK economy and society in general. However we believe that ultimately the right to request should put a real obligation on employers to enter into a meaningful discussion on allowing flexible working, and give reasons for refusing any requests.

It is very important for employees approaching retirement to be aware of the ability to decrease hours and draw on some or all of their pension as a way of leading into retirement rather than being faced with a cliff edged approach which sees them working one day and retired the next. Such an approach can be beneficial to employers as a means of sharing skills and experience with younger employees. GMB's experience is that whilst there have been many moves in the right direction towards making the workplace more appropriate for an ageing workforce (including this

proposal) more needs to be done to increase awareness of the rights and possibilities that exist to both employees and employers as well as the benefits of these. We would support an awareness campaign for employees, employers and pension schemes on the possibilities associated with a reinvigorated retirement process.

## **QUESTIONS RAISED IN THE CONSULTATION**

**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?**

Schedule 6 should be retained and remain applicable to instances where employers apply a retirement age that is objectively justified. In such cases, the requirement to give six months notice of retirement, and the requirement to consider a request to continued working past the retirement age provide an important juncture for employees to consider and adjust any lifestyle plans appropriately. As already noted, this latter requirement should be extended to provide for genuine discussion on later working.

**B. If Schedule 6 is removed, the laws on unfair dismissal and age discrimination will still apply. Do you have any concerns about how these laws would operate in the absence of Schedule 6?**

As noted above the relevant sections of Schedule 6 should be retained.

**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**

GMB believes that a statutory code of practice, including guidance, would be the most appropriate form of setting the boundaries and recommendations for retirement discussions. This could outline the rights of employees to reject any discussions or proposals for enforced retirement. It could also offer guidance on what practices may be objectively justified and how. Any practices that have been objectively

justified should still remain the subject of an individual right to request and this should be covered in the guidance.

**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?**

GMB would wish to see an immediate abolition of the Default Retirement Age so as not to deny any workers the ability to benefit from the increased flexibility that should result from its removal.

**E. Responses to an earlier call for evidence on the Default Retirement Age raised possible impacts on insured benefits and Employee Share Schemes if the DRA is removed. If relevant, please describe any concerns you have.**

**Is any action, such as additional guidance, needed to address either of these issues?**

GMB has no concerns in this regard – the facility remains to objectively justify any reasonable age discriminatory practice, and this could be employed to address any concerns any parties may have.