



meeting

PENSIONS ADMIN SUB COMMITTEE

date

12th SEPTEMBER 2005

agenda item number

REPORT OF THE DIRECTOR OF RESOURCES

AGE DISCRIMINATION RULES CONSULTATION

1. Purpose

- 1.1 To inform the Pensions Administration Sub-Committee of the proposed Age Discrimination Rules.

2. Background

- 2.1 The Government launched consultation on draft regulations to outlaw age discrimination in employment and vocational training on 14 July 2005. This the third consultation paper to address the implementation of the age discrimination strand of the European Employment Directive. The consultation will end 17 October 2005, and the legislation is intended to come into force from 1 October 2006.
- 2.2 The consultation document and draft Age Regulations proposes that employers and trustees are to be allowed to maintain certain age based rules and practices for occupational schemes. The Government's expectation is that occupational schemes will be able to operate largely as they do now.
- 2.3 The Directive does not cover state pension schemes and hence these will not be affected.

3. Proposals

- 3.1 The consultation document states that Age Regulations will make it unlawful for trustees or managers of an occupational pension scheme, when carrying out their functions to harass or discriminate against a member or prospective member of the scheme on the grounds of age. Every occupational pension scheme will be treated as including a non-discrimination rule and trustees and managers will be given power to alter scheme rules in order to comply with the non-discrimination rule.
- 3.2 It is proposed that Age Regulations will effectively exempt certain age-related rules or practices, including:

- closing pension schemes or parts of pension schemes to new members;
- providing different pension schemes to employees of different ages or with different lengths of service;
- the use of minimum and maximum ages for admission to pension schemes;
- setting different ages of admission to a pension scheme for different groups of employees;
- having a normal pension age in a pension scheme (i.e. the age at which a person normally becomes entitled to receive retirement benefits);
- both age-related and flat-rate contributions into pension schemes;
- the use of age criteria in actuarial calculations;
- setting the level of pension benefits by reference to years of service;
- adjustments to the level of pension benefits where there is a difference of more than a given number of years between the member and spouse; and
- age limit on payment of pension to dependant children.

3.3 Employers will no longer compulsory retire employees before age 65, unless they can objectively justify retirement ages below 65. Employers will have to consider any request from an employee to continue working beyond age 65. These changes to contractual retirement ages have no impact on the normal pension age in a pension scheme, which can continue to be set below 65. This is the default age at which pension benefits will usually commence, not the age at which the employee is to stop work.

3.4 We currently await guidance from the Local Government Pensions Committee in regard to the impact of the proposals on the Local Government Pensions Scheme. Following receipt of this guidance a further report will be brought to the Committee.

4. Recommendation

4.1 That the Pensions Administration Sub-Committee notes the content of this report.

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Personnel Implications

None.

Equal Opportunities Implications

The proposals will assist in eradicating age discrimination in employment and training.

Crime and Disorder Implications

None.