

Voting on Legislative Proposal: Statute XIV: Employment of Academic and Support Staff by the University

Explanatory Note

INTRODUCTION

The Employer-Justified Retirement Age (EJRA) was introduced, following extensive consultation, in 2011, after the abolition of the default retirement age. It requires all academic and academic-related staff to retire on 30 September preceding the 68th birthday, unless they have successfully made a case for extended employment.

The EJRA was introduced for a period of ten years, with the expectation that it would be reviewed in 2016 and 2021. The 2016 review has now been conducted by an independent Review Group ('the Group') comprising senior staff from each of the divisions and representatives from Congregation and the Conference of Colleges. The Group was asked to consider:

- i. the extent to which the EJRA is meeting the *Aims* identified when the policy was established, and thus can be justified in law;
- ii. whether the EJRA is appropriately set at the 30 September before an individual's 68th birthday; and
- iii. whether the policy is applied to the right staff groups.

The Group's report, which makes 11 recommendations, is published online at: www.ox.ac.uk/staff/consultations/ejra-review.

In summary, the Group recommends: that the EJRA be retained, with adjusted *Aims* and a reduced coverage; that the age for the EJRA be raised to 68 (with a recommendation that it is raised by a further year to 69 following the ten-year review in 2021, in line with anticipated increases in longevity of two years per decade); that the procedure be revised to better support all those involved; and that all these changes come into effect as soon as is practicable.

At its meeting on 6 February, Council received the Group's Report and agreed to publish it within the University and to consult on its recommendations. The consultation is published at www.ox.ac.uk/EJRA. The Vice-Chancellor sent an email to staff launching the consultation on 10 February, and held her Question Time on 7 March on the subject of 'Retirement at Oxford and you'. There was an online consultation, to which 71 responses were received. These have been published in full on the EJRA website save where respondents asked that their feedback be withheld from publication or that it be published anonymously. 135 staff attended the Vice-Chancellor's question and answer session, which was fully booked.

At its meeting on 13 March, Council considered the Report for a second time and the feedback from the consultation. Council is very grateful to the Group for its careful consideration of the issues, and to all those who contributed to the consultation, orally at the Question Time and online. The responses demonstrate the diverse range of views held on this in the University, and the strength of feeling this issue can generate. Council fully acknowledges that coming to a decision on the future of the EJRA is a difficult one for the University.

After giving careful consideration to the Report and to the feedback received, Council recommends the adoption of all the recommendations of the EJRA working group.

THE LEGISLATIVE PROPOSAL

The following legislative proposal is put forward by Council and seeks approval for amendments to the statutes and regulations which govern the coverage of the EJRA and the age at which it is set. If the legislative proposal is carried, the EJRA policy and exceptions procedure, related guidance and supporting documents will be reviewed and updated by Personnel Committee subject, in the case of the policy and procedures, to the approval of Council to give effect to the remainder of the Group's recommendations. In doing so, these bodies will in particular address recommendations 8–10 to

improve the processes involved in the implementation of the EJRA for all concerned, particularly for potential applicants under the policy to work beyond the EJRA.

THE GROUP'S REPORT

The Group operated entirely independently and took a consultative and evidence-based approach. It ran three open meetings for staff, took feedback through a dedicated inbox and consulted the UCU, divisional boards, and other relevant staff groups, including recently retired staff. It considered internal and external data and was briefed on pensions and legal matters.

The data on which the Group based its analysis, along with a description of the Group's reasoning, are contained within the Report and its annexes.

CONCLUSIONS

The Group considered each of the *Aims* in turn and decided that they remain important to the University's objective to sustain high standards in teaching, research and administration.

It assessed the evidence concerning the EJRA's contribution, in the first five years of its operation, to the achievement of the *Aims through the creation of vacancies*, and concluded that the evidence is showing, in the main, that the EJRA is contributing to: opportunities for career progression; refreshment; succession planning; the enhancement of diversity; and intergenerational fairness. They found that, although these objectives remain important, it cannot be shown that the EJRA is contributing substantially to the University's flexibility in the academic-related workforce or ability to maintain morale in the face of financial constraints.

The Group considered the coverage of the EJRA and decided that it should be adjusted to better reflect the staff groups where the data shows that the EJRA will continue to have the most substantial impact in meeting the *Aims*. They saw it as an additional benefit that this would align closely with eligibility for membership of Congregation¹, recognising the importance of consistency of treatment within that body.

In considering the age at which the EJRA should be set, the Group sought to balance the importance of sustaining progress against the *Aims* with their wish to take into account increased longevity, changes to pension provision, and proportionality, so as to ensure fairness to employees of all ages, including those beginning and those approaching the end of their careers.

The Group noted that there were a number of ways in which the process and supporting documentation for applying for extended employment beyond the EJRA could be improved, to better support individuals and their managers and to ensure that staff reaching the retirement age have clarity about their options, feel valued and have sufficient time to discuss their case. Better training for relevant line managers is required.

RECOMMENDATIONS

The Group's recommendations are as follows:

(a) Recommendations concerning the EJRA policy

Recommendation 1: The Group recommends that the *Aims* be recast in order to make clear that the first *Aim* is an overarching objective which relies on the achievement of the other *Aims*, and not a freestanding objective in itself.

NB: The first *Aim* reads: *Safeguarding the high standards of the University in teaching, research and professional services.*

¹ Eligibility for Congregation is slightly wider than those in grade 8 and above; it includes some faculty members, who are academic or research staff at lower grades. The intention, for the purposes of clarity and to focus the EJRA on the grades at which it is having the most impact, is to limit the coverage of the EJRA to those in grade 8 and above. Grade 8 and above includes academic, research and administrative and professional roles in grade 8 and above of the University payscale and those roles that are assessed as being equivalent.

Recommendation 2: The Group noted that they had not been able to draw conclusions about the impact of the EJRA on ethnicity and disability because the number of staff known to belong to these minority groups is smaller than the number for whom their status is unknown. It is recommended that steps be taken to address the high proportion of 'unknowns' if at all possible before the ten-year review of the EJRA in 2021, in order that a fuller analysis in relation to these minority groups can be undertaken.

Recommendation 3: The Group recommends that the sixth *Aim* be removed, on the basis that there is little evidence that the EJRA is contributing to it.

NB: The sixth Aim reads: Facilitating flexibility through turnover in the academic-related workforce, especially at a time of headcount restraint, to respond to the changing business needs of the University, whether in administration, IT, the libraries, or other professional areas.

Recommendation 4: The Group recommends that the seventh *Aim* be removed, on the basis that there is no evidence that the EJRA is contributing substantially to it, and that the University is currently using other means to achieve it.

NB: The seventh Aim reads: Minimising the impact on staff morale by using a predictable retirement date to manage any future financial cuts or constraints by retiring staff at the EJRA.

Recommendation 5: The Group recommends that the EJRA be retained, with the purpose of safeguarding the high standards of the University in teaching, research and professional services, through its contribution to the achievement of the revised set of *Aims*.

Recommendation 6: The Group recommends that the coverage of the EJRA be aligned with the group of staff who are eligible for membership of Congregation ie to academic staff, research, and administrative and professional staff in grades 8 and above.

Recommendation 7: The Group recommends that (with due notice) the EJRA be moved by one year to 30 September before the 69th birthday (ie an EJRA of 68) for all staff that it covers. It further recommends that the age of the EJRA be raised by another year to 69 in 2022, to mirror changes in longevity, provided that the ten-year data confirms the trends observed in this interim review.

(b) Recommendations concerning the exceptions process ('the procedure')

Recommendation 8: The process, and particularly the paperwork supporting it, should be reviewed to ensure that it protects the dignity of applicants, is relevant to each staff group, and emphasises the value that the University places on those who have been in its employ.

Recommendation 9: Further support, perhaps in the form of training and guidance, should be given to heads of department to ensure that they can carry out their role in the process effectively and supportively. This should include further information on the alternatives to extended employment.

Recommendation 10: Thought should be given to whether further guidance is necessary in relation to the funding of extensions, to assist those for whom less grant funding is accessible to identify other legitimate funding sources in support of applications for extensions.

Recommendation 11: The deadline for applications for extended employment for all staff should be moved to two years prior to the EJRA date.

IMPLEMENTATION

It is proposed that the change in the coverage of the EJRA and the change in the retirement date from 30 September preceding the 68th birthday to 30 September preceding the 69th birthday will come into effect from 1 October 2017 ie those who are due to retire at age 67 on 30 September 2017 will do so. All other staff will have a retirement date of 30 September preceding the 69th birthday, unless they have successfully applied to the EJRA Committee (or, before 1 October 2015, to the EJRA Panel) for an extension to their employment.

The change in deadline for applications for extensions (from one year prior to the EJRA date to two years prior to the EJRA date) will also come into effect on 1 October 2017.

If any individual has an EJRA date later than 30 September preceding their 69th birthday and that date falls before 30 September 2019, such that it will not be possible for them to apply for any subsequent application two years in advance, an individual timetable will be set, with the agreement of the Chair of the EJRA Committee.

A table setting out how this will affect those who are nearing the EJRA is available online at www.ox.ac.uk/EJRA.

WHEREAS it is expedient to amend Statute XIV concerning employment, THE UNIVERSITY ENACTS AS FOLLOWS.

1 In Statute XIV, concerning employment, amend section 15 as follows (new text underlined, deleted text struck through):

'15.

(1) Every employee of the University who holds a post on, or assessed as equivalent to, grade 8 or above ~~within section 3 (1) (a) or (b) of Statute XII~~, other than the holder of a professorship to which a canonry is annexed who is exempt from membership of the appropriate pension scheme referred to in section 12 of this statute, shall normally retire from employment not later than the 30th September immediately preceding his or her 69th birthday ~~shall retire not later than the date applicable to that employee as laid down by Council by regulation.~~

(2) Council may make arrangements to provide for the continued employment of employees, for a limited period and in special circumstances, as described in the EJRA policies and procedures (as amended from time to time by Council on the recommendation of Personnel Committee).'

2 This statute shall be effective from 1 October 2017.

Changes in Regulations to be made by Council if the Statutes are approved

1 In Council Regulations 3 of 2004, concerning employment, amend regulation 7 as follows (deleted text struck through):

'7.

~~(1) Every employee of the University specified in section 15 of Statute XIV shall normally retire from employment not later than the 30 September immediately preceding his or her 68th birthday.~~

~~(2) Any person may elect to retire to pension at, or at any time after, the minimum pension age stipulated in the rules of the pension scheme to which he or she belongs, as may be amended from time to time. Retirement benefits payable will be in accordance with the rules of the pension scheme.~~

~~(3) Council may make arrangements to provide for the continued employment in special cases of a person who wishes to remain in the employment of the University and whose services for the University it desires to retain.'~~

2 In Council Regulations 21 of 2002, concerning University officers, amend regulation 4 as follows (new text underlined, deleted text struck through):

'4. The Vice-Chancellor is subject to the provisions concerning retirement age as set out in ~~the Regulations for the Employment of University Staff~~ section 15 of Statute XIV.'

3 These regulations shall be effective from 1 October 2017.