

1.

I have been looking at the “Questions etc” on the working group website

There are understandably gaps at present in your responses to these questions; one jumps out - which is the one about legal costs – not only in continuing the EJRA - *but the costs to-date*. I guess this is easily provided by the Registrar.

There also seems to be a difference, now, in the aims of your Cttee - I recall seeing reference to the lawfulness of the EJRA or whether the Oxford EJRA is itself justified in law. However, this seems to have gone missing in certain documents, but not others?

I guess I’m thinking of *“the extent to which the EJRA is meeting the Aims identified when the policy was established, and thus can be justified in law “*

I was assuming this means a complete statistical review of the impact of the EJRA on all the “Aims” which then would be part of the process in identifying whether this could be lawfully justified.

Finally, given there is now widespread access to Dame Janet Smith’s carefully argued University Appeal Court judgement, the other thing that still puzzles me -and many others- is the central issue that, apparently, issues she has raised in her judgement have led to the new regulations from 1 Oct 2015.

I for one cannot see anything in those 60+ pages that would lead one to the conclusion that she was proposing that EJRA applicants should, in all but very rare cases - need to have secured grants or the like to cover their full costs. Perhaps your working party has been presented with the exact reasons for this change – or maybe it’s outside your remit, but I’m sure you would have had similar thoughts?

2.

I have just seen your “EJRA Review” presentation and I note that under “History of the EJRA at Oxford” one sees the Commentary ..

- “Scheme reviewed and changed in 2015 to take account of comments by the University Appeal Court in 2014”

and it goes on to note

- “Reordered and revised criteria for considering applications for extensions”

I am assuming that you have therefore seen Dame Janet Smith’s full judgement “In the Appeal of Professor Denis Galligan”

2 QUESTIONS

I am particularly puzzled by two major issues and I ask the following questions:

1. What particular and specific comment(s) within Dame Janet Smith's ruling led to the revision of the EJRA scheme? – most notably the revised criterion ..

“8. It is also expected that..(ii) in all but very rare cases, the applicant will have secured grant or other funding to cover their full costs (ie including on-costs) while in employment beyond the EJRA“

2. Given that such changes took account of specific comments from Dame Janet Smith's rulings – and such comments were obviously accepted in making changes to the scheme – why, therefore, was no account taken of her leading ruling in that case,

Viz; **“..I do not think that the policy of imposing retirement at 67 can be objectively justified“(68)**

FEEDBACK

I note in your presentation your very detailed 7 points relating to the EJRA and the needs of the University **but** I don't see anywhere in your presentation the critical point that of course this is about the “balance” of the entire EJRA exercise

Again from Dame Janet Smith's judgement...(78)

“I note that there is no mention of a balancing exercise between the wishes of the individual and the needs of the University. Rather the weighting process would be to determine what outcome (extend or not) would be best for the University“

I feel sure that your Working Group will have wrestled with this pivotal statement but it is unfortunate that no such considerations appear –as far as I can see – in your presentation, and presumably in your ongoing workings of the Working Group.

As we are invited to input questions to the Group, I would of course welcome a response to the two important questions I have raised here.

3.

EJRA review: personal comments *(please note these comments do not represent my department or role; they are written from the perspective of an individual employee).*

One of the questions in the terms of reference of the EJRA working party is whether the policy is applied to the right staff groups. My personal view is that the policy should not be applied to the administrative staff group for the following reasons:

1. Consistency with staff on support grades: administrative staff, whether support or academic-related, carry out a range of similar functions at differing levels which can be grouped into cohesive 'job families'. Although academic-related administrative staff perform these functions at a higher level (often with managerial responsibilities), there is a continuum throughout the grades (as can be seen from HERA analysis). This calls into question the distinction between Grade 5 and 6 administrators, as one has to retire at 67 and the other does not, but they are in comparable and often very similar roles. Administrative staff on academic-related grades have more job commonality with administrative staff

on support grades than they do with academic or research staff, so there is a case for treating both groups consistently.

Section 8 of the Statute XII consultation paper put forward the argument that *'by contrast, [to academic staff] it is arguable that the other staff currently covered by the Statute, those whose role is to provide specialist support such as administrative staff, librarians, computing staff and other professional and technical specialists, should be treated on a par with all other non-academic staff'*. As both the EJRA and Statute XII concern arrangements for dismissals, the rationale for academic-related administrative staff being treated on a par with academic staff and differently from support staff under the EJRA is at odds with the argument that was put forward for them to be treated differently from academic staff and on a par with support staff in relation to Statute XII. This argument was that academic-related administrative staff should have the same employment rights as support staff - but not the same as academic staff, who, it was recognised, are a distinct group from administrative staff. Following this rationale, the administrative group *'should be treated on a par with all other non-academic staff'* and not be subject to the EJRA.

2. Gender equality: the original case for the EJRA included an assumption that those subject to it will retire on *'relatively generous pension benefits'*, therefore the EJRA would not create financial hardship. This is not necessarily the case for academic-related administrative staff. Administrative staff, being predominantly female (68% female in 2015), are more likely to have delayed, interrupted or taken up their careers at the University later in life or worked part-time, accumulating lower pension wealth than men. In contrast, academic staff, who are predominantly male (72% male in 2015), will have likely been able to accumulate higher pension wealth through uninterrupted careers and higher salaries. As women often catch up on their career goals later in life when their children have grown up, the EJRA may mean that they will have shorter careers than men and will have to live on smaller pensions for longer, given that women tend to live longer than men. Thus the application of the EJRA to a predominantly female staff group seems to run counter to the University's equality aims and to the EJRA Aim of *'promoting equality and diversity'*, as it disadvantages women more than men.

4.

I am writing in response to the opportunity for submitting comments that was provided in your email of September 22. Due to my travel schedule I was unable to attend any of the meetings, but I hope that my comments may still be useful.

I will begin by discussing the broader issue of fairness and then make some comments about my specific case. Since my own case is unusual I hope that it will be of some interest in helping you think about appropriate flexibility in crafting the rules.

Your email of Sept. 22 asks the question: "Whether the EJRA is appropriately set at the 30 September before an individual's 68th birthday?".

As I suspect you all know, the University web site <https://www.admin.ox.ac.uk/eop/policy/equality-policy/> lays out Oxford's policy on equality and diversity. To quote the key provision: "In exercising its policies, practices, procedures and other functions, the University will have due regard to its duties under the Equality Act 2010 and to the protected characteristics [1] specified within it". The protected characteristics are "age, disability, gender reassignment, marital or civil partnership status (in employment), pregnancy and maternity, race, religion or belief (including lack of belief), sex and sexual orientation".

The policy places age at the same level as considerations of race and gender. A university policy that said “in hiring decisions women will be held to a higher standard than men” would obviously be unacceptable. What is the difference here? Given the explicit statement that age discrimination is not compatible with university policy, and given its explicit prohibition under Equality Act 2010, how can any hard cut-off for employment, set at a specific age, be consistent with the university’s stated policy against age discrimination? It seems obvious that the policy needs to be changed.

That said, it is a physiological fact that in some cases mental acuity declines with age. If someone’s abilities decline to the point where she no longer does her job properly, her position needs to change. The university should institute a program of performance reviews. I know that this was put to congregation and rejected at an earlier point. However performance reviews are completely standard in the rest of the world. The university should implement a policy of performance reviews, with or without faculty approval, and eliminate its current policy of explicit age discrimination. I suggest that here the committee should look into how such issues are handled in leading American universities, where age discrimination is specifically prohibited but where there is nonetheless strong pressure to maintain quality.

A good policy should be flexible enough to allow room to accommodate unusual cases and evaluate them based on the greater good. My own case is perhaps relevant in this regard. I started my career in academia at Oxford at age 60. I came to Oxford because it provides me with the opportunity to accomplish something of value to society, that would be difficult to do elsewhere. I am 64 now, and will not have completed this work when I turn 68. I am at the peak of my abilities, publishing better papers at a higher rate than I have ever done in the past. I am supported by an outside grant. I am not teaching but I am advising quite a few graduate students and postdocs and I think I am doing a good job. My work is developing radically new approaches to [subject], and it is unique – there is no one else in the world doing something similar. As I spend more time here, the reputation of the program is growing, and every year I get applications from more and better students and postdocs. Delivering the results I want to deliver is going to take me at least a decade. It would be a loss to everyone if my ability to do my work were terminated due to an arbitrary criterion like my age.

At the very least, a good policy should be flexible enough to accommodate key needs in cases where individual cases have much to offer at no loss to the general welfare. For example, under the current policy it is no longer possible to advise graduate students and act as a principal investigator in grant proposals. What is the point in that? If someone is able to succeed in winning grants, and if she is in demand by students to act as an advisor, why should the ability to act in these roles be forcibly blocked? Success in these tasks is adequate demonstration of good performance, in and of itself. Why force a productive person to stop contributing?

To return to the issue of equality and fairness: I think the EJRA should be crafted so that anyone who is doing a good job, who would be competitive on the job market with a younger person if judged solely on output and contributions, should be allowed to remain in her post. Of course some compromises should be made to make places for younger people. But why curtail privileges and block someone’s ability to contribute to the university for arbitrary reasons? To do so is neither rational nor ethical.

5.

As I cannot make today's meeting, here is my question for the working party:

Given that the EJRA policy (and revised policy) states that it is justified on the basis of achieving broader goals such as refreshing the work force, etc., I would very much like to know more information as to whether the implementation of the EJRA has indeed achieved such aims. I would suggest that such information may be most useful in statistical form, and so that there is a clear sense of whether any shifts in the composition of the workforce are indeed a result of the EJRA and not just wider social shifts across the UK, that this be clearly compared with other UK institutions that do not have an EJRA. Without such data I find it hard to assess the EJRA and I also am not certain how others are assessing it.

6.

Background

In 1889, Bismark introduced the first explicit old age pension program for workers **70** or older who were incapable of continuing to work at the physically demanding jobs then common. This was at a time when the average age of death was often under **50** in even the wealthier countries, albeit affected by terrible infant mortality. Since then, the 'pension age' has fallen to around 65-67, and implicitly has become a retirement age—despite longevity increasing at about a weekend every week since around 1860, so now the average age of death in OECD countries is circa **80** with modal rates around 90.

In the past, Oxford University did not practice age discrimination. For example, James Joseph Sylvester (b 1814) was first appointed Savilian professor of Mathematics in 1883, at the age of nearly **70**, and proceeded to produce path-breaking research following a brilliant Inaugural Lecture.

Moreover, old age today is vastly healthier than in the past (70 is the new 60) so failing to retain research active faculty is an inefficient waste of intellectual resources, both at Oxford University and Nationally.

Understanding the present situation

The present age, race and gender composition of the University reflects four major historical events. These are the immediate post Second World War 'baby boom', the Robbins expansion of the university sector in the 1960s primarily attracting UK citizens, the discrimination up to that time against females in higher education (Cambridge only granted formal degrees to women after the War), followed by the severe dearth of new university recruitment during much of the Thatcher era.

Together these have ensured a high percentage of 'baby boom' British males in senior university posts in the UK. Oxford University must 'see through' the remnants of the Robbins expansion and the historical contingencies or risk losing key personnel at a dangerous time, when there are clear gaps in the age composition of faculty, and a hard 'Brexit' could greatly restrict immigration. Already the EJRA policy seriously reduces Oxford University's competitiveness against North America where there is no forced retirement age. I estimate (to be checked by HR) that about 5 years will see most of those 'baby boomers' initially appointed during Robbins expansion reaching ages where they will probably choose to retire rather than continue with full academic commitments.

If implemented, the proposed changes to the eligibility of research outputs in the next REF, namely losing the submissions of those ejected by the present EJRA policy but not gaining important research by new appointments or replacements published prior to their coming to Oxford (allowed in earlier rounds), would actually exacerbate the financial problems facing the University given the funding system of five years from HEFCE for every entry.

Oxford University

The University web site <https://www.admin.ox.ac.uk/eop/policy/equality-policy/> states "the University will have due regard to its duties under the Equality Act 2010 and to the protected characteristics..."footnoted as "age, disability, gender reassignment, marital or civil partnership status (in employment), pregnancy and maternity, race, religion or belief (including lack of belief), sex and sexual orientation". The present EJRA clearly contradicts that directly for age, and indirectly for sex and race due to the nature of the cohort affected.

The University has issued substantial contracts to new appointments for many years. If such contracts are enforceable, then the University does not need additional criteria for their fulfilment, including its extra age-related hurdle in the form of the EJRA. If such contracts are not enforceable, the University should change them.

How should Oxford University proceed?

The next 5 years should see the peak of the historical events noted above, so a relatively short-term solution is needed. During that interval, evidence will accrue on how well any system works, with adequate time for considered changes if required.

The lack of an explicit space charge in the RAM (despite my efforts to secure one at the time of its original design) has led to the wrong price of human capital (faculty) versus physical capital facing departments: space looks cheap, so ask for a new building. Looking at the massive investment Oxford University has made in construction this century suggests relatively excess building with a worrying maintenance bill in the future.

Consequently, I propose that the University markedly reduces expenditure on new building over the next quinquennium, increases the space charge, and uses those 'savings' to create a *transition fund* to finance 'new blood' appointments. These should include Proleptic positions against senior faculty likely to choose to retire over that period. This would avoid blocking promotions and facilitate new appointments, allowing an appropriate rebalancing of 'diversity', without losing a significant stock of mentoring skills, teaching knowledge and research activity. It should be possible to mitigate office space issues by incumbents retaining their college room where there is one, whereas any Proleptic incomers are allocated departmental space. Noting the current concern about financial issues facing the University, this proposal should be seen as an investment in future income, so both retained and new appointments should be 'REF ready'.

Extensions of appointments beyond the current EJRA age should also depend on meeting contractual obligations in full. A possible variant to any extensions that are not funded by bringing in research grants paying the required salary, would be to offer a 'phase out' period by reducing the time commitment by 20% pa from the date of eligibility of receipt of pension. The basis for this would be easily explained as 'seeing through the consequences of the Robbins expansion'.

Although USS pension costs are not under the control of Oxford University, nevertheless the University should argue powerfully for a change to the retirement age (i.e., the date for receipt of pension) of 70+ (preferable c75) as the present system creates an increasing burden on the next generation (already disadvantaged in many ways) by forcing them to make higher payments for smaller pensions later. By having older faculty paying in for longer and taking out for shorter, some improvements in inter-generational equity occurs

7.

Please find following two questions:

1. If the Oxford EJRA is objectively justified and applied across the board, any employee dismissed under the terms of the EJRA procedure will have been fairly dismissed.

However, if the Oxford EJRA scheme is not applied in the same way across the board, the scheme (even if in itself it is objectively justified) cannot then be a fair scheme. If Oxford University is applying its EJRA policy in a different way to different people (i.e. a selection process that allows some but not others to stay on) the reason for dismissal is therefore not retirement at the EJRA, but a dismissal under a selection process. That is, the dismissal is not causally connected to the EJRA policy.

Thus, my first question:

“How do those people who are allowed to work beyond the EJRA (i.e. 67) in their same positions (for both prospective and incoming employees as well as incumbent employees) therefore contribute to the avowed, objectively - justified aims of the EJRA scheme; for example; promoting inter-generational fairness; opportunities for progression for the younger generations; refreshing the academic workforce; facilitating succession planning; promoting equality and diversity?”

(I remind colleagues that of course these are the very aims on which Oxford University relies – presumably in law – to justify an EJRA of 67).

2. My second question centres on the first stage of the entire EJRA process which is clearly critically important if an applicant is to be kept on. This depends completely on a subjective assessment of the employee by the relevant head of department, usually in consultation with a departmental committee or management board and the relevant head of division. I believe that there is no guidance or training for these people other than they must bear in mind the aims and objectives of the EJRA. And where are the criteria and guidance published? In my own EJRA application, upon my enquiry, my head of department informed me *“I am not sure that there are any written [division] guidelines as such, and if there are, I haven't seen them. I don't believe anyone is in the process of writing them...”*

Surely the methodical use of an established, transparent process would enable EJRA evaluations to be carried out on a basis of parity both among panel members and among applicants, providing a uniform foundation for evaluations and making any eventual collective evaluation both explicable and defensible, so that if as may happen the law calls for reasons to be given, they exist and do not have to be called into being. Parenthetically, such a procedure also enables candidates, successful as well as unsuccessful, to be told why and in what areas they have done well or badly in the application procedure. Information which will be as important to them as the actual decision. Of course, the University's legal position may depend on its ability to account intelligibly for their EJRA

decision by explaining not simply how but why they have reached their decision. This is about open or “transparent” decision-making, being fundamental to any fair procedure ([1993] EWHC Admin 5)

I therefore pose my second question:

“What official training and /or official guidance was provided, and is being provided to heads of departments, their colleagues in the relevant committees or management boards, heads of division and indeed the EJRA panel itself in relation to the EJRA process so as to diminish or eliminate the risk of partiality? And where is this guidance and associated criteria published?”

8.

I would like to say that I, personally, see that two particular aims of the policy are particularly laudable:

- promoting inter-generational fairness and maintaining opportunities for career progression for those at particular stages of a career, given the importance of having available opportunities for progression across the generations;
- facilitating succession planning by maintaining predictable retirement dates, especially in relation to the collegiate University's joint appointment system;

I don't have “evidence” to support this, but would comment that if this policy do not apply, I would want to see the mechanisms that were available to promote greater inter-generational fairness and more effective succession planning. One attendee at the meeting referred to “dead wood” (or something similar). Having the EJRA is a means of giving predictability and certainty. It ends employment for all in a way that is fair and simple (ie related to age), rather than having other means such as assessing effectiveness, capability and performance – dividing the workforce into dead wood or not dead wood.

I have experienced in another capacity the consequences of an older person not recognising that their ability had diminished and continuing to stay in a role, but not performing that role, until literally they died. The EJRA helps avoid similar undesirable scenarios.

9.

I will be attending the 1 Nov. EJRA review session, and would like to submit the following questions for consideration by the Review Committee, and discussion at the session:

(1) It is striking that Oxford finds it necessary to impose an EJRA when no other major university in the U.K apart from Cambridge has found it necessary or justifiable, and even the EJRA imposed by Cambridge is more narrowly applied than Oxford's. Of course, mandatory retirement has been illegal at U.S. universities for decades, and for decades before that the norm was retirement at 70; this does not seem to have adversely affected the intellectual vigor of such places as Caltech, MIT, Harvard, Stanford, Princeton or University of Chicago, among others.

The usual justification for Oxford being unique is that the “deal” Oxford academics get is so light on onerous responsibilities that nobody would retire unless it were required. The evidence for Oxford

academic responsibilities being notably lighter than peer institutions in the UK and worldwide is scant, and in my experience it is simply not the case that Oxford responsibilities are less “work” than those of peer institutions. For example, in the [department] we are essentially required to fund 100% of our research effort time (fully loaded) by the grants we bring in. We get paid even if we are short of the mark, but pressure to meet the target is intense. It means that when we do get a grant, a big chunk of it goes into salary and overheads, with only a trickle left for actual research expenses, the implication being that we have to work even harder to raise grant money. Apart from summer salary (largely viewed as optional), this is far more onerous than the expectations of any major North American university I have ever worked at (which includes [universities]). On the teaching and administrative side, APTF’s in [department] generally do approximately 120 hours per year of tutorial, and are expected to put on the order of 80 hours of administrative and lecture time in on top of that. Even statutory chairs have a similar level of expected contribution outside research, though somewhat more flexibility as to how to meet the expectations. This is no different from the teaching and administrative load of peer departments in North America, and indeed of many in the U.K.

So, I am asking what the quantitative basis is for judging that the work environment at Oxford is so very different from other institutions as to justify an EJRA? It could be argued that in the U.S. many institutions are richer, but that is offset by higher salaries and in any event does not apply to U.K. universities, few of which have the financial resources of Oxford.

(2) Except for a brief period where the retirement age was lowered to 65, the mandatory retirement age imposed at Oxford has historically been at age 67, which is the age it was restored to at the time of the imposition of the EJRA. Between 1990 and 2014, the life expectancy at Age 65 (the closest relevant age for which statistics are compiled) has increased by 5.4 years for males and 4 years for females. That means that in order to have adequate income in retirement, a retiree must now save enough for 4-5.4 additional years of retirement. This can only be done in one of two ways. Either pensions must become more generous. We know that has not happened. In fact the value of pensions has decreased drastically on account of reforms needed to keep USS solvent. The situation is exacerbated by the current low-yield environment. Hence, the only other option is for people to work longer before retiring, which shortens the time in retirement and increases the income available from which to save for retirement. Even if it were assumed that one needs to work only one additional year for each additional year in retirement, that would dictate an increase of the retirement age from 67 to 69.7 (for males). That by itself would justify increasing the retirement age to 70 (and there is no justification for using a different age for women, since they still live longer and have always had a harder time saving for retirement as a result). In reality, standard actuarial calculations suggest that one needs to work 2-3 years for each year in retirement, so a fair economic case would dictate a retirement age considerably in excess of 70.

In light of these stark economic facts, in what sense can an EJRA of 67 be considered fair? In imposing the current EJRA, is the University not solving its perceived problems of renewal by forcing an undue burden of costs onto retiring faculty? Will this not make it difficult for the University to recruit mid-career academics, especially from the U.S. where there is no mandatory retirement?

(3) The University argues that an EJRA is necessary for diversity and renewal, suggesting that it is needed in order to make room for new blood and younger researchers. However, for top academic posts such as statutory chairs, the University routinely recruits at the mid-or even advanced career level (mid to late 50’s), and when necessary offers an extension of the retirement age to 70, without imposing any of the onerous requirements imposed by the procedure for existing academics applying for an extension of their terms of employment. This constitutes an admission that older academics can have academic vigor that brings new ideas to the University, and undercuts the

argument that an EJRA is necessary for “renewal.” Since these hired-in academics found as a result of international search are depriving existing (and often younger) Oxford scholars of opportunity for promotion, it would seem the University would promote from within if it didn’t find older academics to have compensating value. The willingness to extend the retirement age for new hires when necessary also indicates that the University expects them to continue to be of high value through at least age 70. What is the justification for discriminating against existing employees who could be equally valuable through age 70, but who have to meet a much higher bar (e.g. proving ability to recover full salary) than hires from outside?

10.

Please find below a question I would like the panel to answer.

One of the topics before today’s meeting is *‘the extent to which the EJRA is meeting the Aims identified when the policy was established, and thus can be justified in law’*. In the judgement mentioned in the Update on Major issues_the Appeal Court said:

‘In my judgement rejection of an application under this procedure could never amount to a potentially fair reason for dismissal’ (Smith, para.100).

Could the panel explain why it is now felt that meeting the Aims would enable the University ‘fairly’ to dismiss an applicant wishing to continue? What has been changed to make the procedure lawful now?

11.

Discussions in my Faculty have made clear that some older members are seriously concerned about the EJRA, and likely to move elsewhere **well before retirement** because of it. A crucial point, often overlooked in this consultation, is that very many academics now in their late 50s and 60s did not get solid jobs until well into their 30s. In Oxford, their housing has been fantastically expensive, making it hard to save, and their pension pots are not large. (To be clear, this is not my own situation: I have been full-time in USS since the age of 26 and will have a full pension on retirement, but that is unusual amongst my contemporaries, and I am very concerned about them.)

Many such people will be attractive to other institutions, with a very strong reputation, and Oxford could lose out badly (with an ongoing, cumulative, and self-reinforcing effect) if they leave in significant numbers well before retirement, in anticipation of facing the EJRA.

Is it not possible for the University to adopt a more nuanced approach, for example guaranteeing continuing **research** employment beyond 67 (on a reduced salary proportion to reflect lack of teaching/admin) for those whose REF ability is such as to continue to bring income (and of course reputation) to the University? In many areas - and perhaps most - continuing to employ **researchers** (who are bringing in income either from REF or grants) does not negatively impact on our ability to bring young people in (or the attractiveness of the University to the best young people); quite the reverse.

So in a nutshell: clearing older people out to free up space for new *core teachers* and *administrators* might make plausible sense. But clearing out *researchers* is a completely different matter, at least when their research does not "get in the way" (e.g. by consuming significant amounts of office or lab space). Many older members might be very happy to continue as part-time researchers, bringing continued productivity and status to the University, and preserving or supplementing their modest pensions.

12.

On a related point, I will retire on 30 September 2016, and would like to suggest for consideration that the person retiring could have the option of a further 3 months in which they could finish off their various projects (obviously unpaid).

On the day of my retirement, I must return all of data that I have been involved with. In an ideal world, we would be all be extremely organised and everything would be completed by date of retirement but I am afraid this is not always the case. This policy makes me feel that my employers just cannot wait to get rid of me. This does not make me feel good especially as have been working for the university for 30 years.

13.

I am one of those being forced to retire in two days time as I am sixty-seven. In three days my official position relative to the University of Oxford will change from a member of staff of [department] to an "Outside Contractor". I am luckier than many because very little will change in terms of the project I am working on, my salary, or my status among my peers. But my very specific type of employment, a Visiting Fellow independently funded by an endowment, should have been exempt from Oxford's terms of employment that discriminates against the elderly. I was awarded a one-year Fellowship (with the possibility of an extension) in April this year when I was already sixty-seven years old. At the interview I brought up the fact that the University would force me to leave before my project could be completed but was assured that a way would be found to continue until my job was finished. The awarding of my Fellowship has no affect upon the job prospects of anyone else working for the University of Oxford or the [department]. Why, therefore, are Visiting Fellowships included in the rule of forced retirement?

The intention of that rule was to make it easier for junior staff to gain promotion as the top positions in the hierarchy became available more regularly. The unspoken assumption being that some older staff members might have become less active or even senile but were reluctant to leave and this was the easiest method of ridding the University of those senior members of staff. Of course, one also removed some of the most active, most outstanding, and internationally recognised experts in their fields who in many cases simply move to better jobs in other universities or countries without forced retirement, but that does not seem have unduly bothered those who attempt to defend the rule. It is illogical. Even if the rule is not eventually declared illegal as it violates both European and U.K. employment law, the hiring of Visiting Fellows does not block the advancement of other members of staff. Therefore, in my opinion Visiting Fellows should be exempt from the rule of forced retirement at the age of 67.

14.

I was wondering how the freezing of positions and also Brexit impact on this all. We have lost 2 positions in [subject], meaning that far more teaching has to be done by current staff. I wonder if an agreement can be reached whereby it is understood that people staying beyond 67 will contribute to teaching to relieve younger staff and enable them to remain research competitive. That way, students benefit from experienced lecturers and younger faculty can focus more on research.

15.

As a new member of staff and of congregation, I am taking the opportunity to comment on the review. I will be unable to attend any of the three open meetings due to being away on a field trip for work, and so am commenting in writing.

Until 1st July this year I was professor at [college], that does not have compulsory retirement. In moving to Oxford this year, I am now subject to compulsory retirement as part of my new Oxford contract. I am 43; my personal experiences are based on the recent retirement of colleagues and relatives.

I fully understand the rationale behind Oxford's policy, which is set out very clearly here:

www.admin.ox.ac.uk/personnel/end/retirement/reviseddejra/revaim

nonetheless I feel like this is the wrong answer to the right question.

The question addressed to be seems to me to be: in a growing world, with growing populations of academics and research funding, how do we ensure young people have fair opportunities for career progression?

The policy addresses this question. However, it does not address this other question: given increases in longevity and health, how do we ensure that older people have fair opportunities to keep on contributing to academic life that reflects their wishes and abilities? The current policy seems discriminatory, and in one instance, quite insulting: 'refreshing the academic, research and other professional workforce as a route to maintaining the University's position on the international stage'.

Based on other UK universities and universities in the US which have long grappled with this issue, I think that a way to address both questions above is not to force people to retire, but rather to break the assumption that salaries and responsibility be necessarily strictly increasing functions of age. If salaries and responsibilities were a peaked function of age, so that beyond a certain stage, individuals be allowed to respectfully taper their career, with salaries and responsibilities starting to decrease from a peak level. The end of final salary pensions makes this possible. Of course it would be a challenge to implement this whilst maintaining respect for age and past achievements, but not impossible. For example, it could be possible to have procedures that encourage individuals to step down from specific responsibilities such as head of department or head of college past a certain age, and that for salaries to be revised at that stage. Individuals would have the choice to, but not the obligation to retire at that stage.

A policy along these lines would keep a sense of turnover and continuing opportunities for the young, without depriving older individuals who still feel they have much to contribute to academic life from doing so.

Thanks for considering these comments as part of your consultation.

16.

I am responding to an invitation to comment on the University's retirement policy. I have been working extremely closely with ageing staff members in the past few years and have noticed a decline in short-term memory capacity, concentration levels, and difficulty with lists of any kind, and acceptance of new things (incl technology), from about 65. In addition, one of my colleagues (now almost 72) has extremely low technical ability on the computer and difficulty learning in that area. Our office is an extremely busy one, workload shifts around naturally/gradually and over the years stress levels rose with all, but in particular me, the younger staff. But also with our manager who didn't live to see his forced retirement this year, and I believe a large contributor to his death was stress, partly a result of lack of resources for younger and more capable support. A situation like I experienced (and am continuing to experience) can be sustained for a couple of years but not for the length of time I have had to. It seems that departmental administrators are not supported enough in dealing with such an issue, and monitoring a situation like ours is not allowed because it singles out the ageing staff.

One crucial development has not been taken into consideration when creating the different policies for staff on grades 1-5 and those at 6+: there is a growing technology generation gap which rapidly increases in size and speed now. In counter-motion to this we have the need of increased use of technology at ever lower level. The two things don't go together. We are running out of things to give to ageing workers at lower level: the traditional filing & photocopying job has almost completely disappeared.

Not being able to give ageing workers simple tasks because they are now electronic increases stress levels elsewhere. Yes, electronic systems also save time, but it is astonishing how many new requirements have been introduced recently (eVision) which are basic grade 3 tasks but require high-level UAB Administrator access.

Obviously, not everyone ages in the same way or at the same speed and it is difficult to generalise. Also, not every job is the same. Therefore it is important that retirement remains a decision made in each individual case, on all levels. And it is paramount that a strict procedure is followed, including consultation of line managers, when considering extensions, which was something that was overlooked in our office in 2011.

I feel strongly that the different treatment of retirement policies is not justified, as academic offices have to complete ever more complicated tasks and technology is overtaking those who are most comfortable with a pile of paper. Paper is not a question of choice anymore, partly because times move on, and partly because the slow nature of a paper-based office is no longer compatible with the low financial resources of the University to hire enough staff. These major technological changes are affecting almost all staff at the lower end. Colleagues of ageing workers in high-stress environments end up with ill health or are forced to resign, and in total it all results in a bad student experience.

17.

Please note that I am writing this as an individual member of congregation with management responsibilities, rather than on behalf of the [department] or any other body.

Context: I manage a team of approx. 12 programmers within [unit], part of the [department]. My staff are not “academics” in the usual sense, but they are highly IT skilled and experienced individuals. They do not generate “primary research”, but support clinical research as their primary role.

In recent years, we have found recruitment to be difficult; the role is generally Grade 7 and the pay-scale does not compare favourably to other similar commercial jobs, particularly given Oxford’s high living costs. The academic “cachet” that attracts researchers to roles within the University of Oxford does not apply to IT staff, and they also do not benefit from links to colleges, sabbatical periods or other similar academic perks. By way of example, we have made offers in each of the last two recruitment exercises we have run, but the candidates have turned us down, preferring other job offers.

Conversely, the EJRA mechanism is obliging two valuable members of staff to retire, even though they bring a wealth of experience to the department, and have no interest in retiring. As alluded to above, I have so far been unable to replace them.

To cover the questions explicitly:

- the extent to which the EJRA is achieving the Aims
I would argue that, for IT “academic related” staff, the EJRA fails in the sense that
 - It does not safeguard the high standards of the university; it actually acts in detriment, removing experienced staff.
 - It does not promote inter-generational fairness since there is not a long line of young IT professionals waiting for jobs with the University.
 - It does nothing for equality or diversity (my team is actually quite diverse).
 - It has not had a good impact on staff morale amongst staff who are being forced out and would rather be employed...
- whether the EJRA is appropriately set at the 30 September before an individual’s 68th birthday
I would agree that having a predictable, foreseeable date is useful for forward planning. I disagree that the strict adherence to the 68th birthday is appropriate.
- whether the policy covers the appropriate staff groups
Predictably, I would argue that applying this rule to academic related staff is unhelpful to the University’s long terms goal of research excellence.

In general, I would suggest that the EJRA should be a guideline, allowing individuals and departments to come to a mutual understanding, possibly subject to annual review, rather than the massive hurdle and presumption of retirement that it currently is.

18.

Under the EJRA I have to retire September 30, 2017.

My question is:

I have worked through the Grades starting on Grade 2 and now I am on Grade 6.

I feel I am being discriminated not only on my age but also my success in my role for Oxford University.

When I was on Grade 5 I was given the opportunity to be promoted to Grade 6 which I accepted. If I had refused the promotion and remained on Grade 5 I would not be in the position I am now – effectively being dismissed for my success.

Academics start on Grade 6 or above – the EJRA is affectively discriminating against employees who have worked hard to gain promotions.

19.

I wish to make a suggestion based on my experience.

I am 70, having retired from a ULNTF and titular professorship with 24 years' service to Oxford, in 2011, at age 65 (and replaced by two younger ULs plus half a DL). Since then, I have been constantly research active, bringing in outside funds to Oxford, also doing ad hoc teaching for free and supervising 4 Oxford DPhils.

In my latest research project, 2013-17, I was prevented from taking a part time salary through the university and employed 'flexibly' instead as a consultant because of my age. While academic colleagues are encouraging, the Oxford research administration has also prevented me from applying for follow-up funds for a successful research project on grounds of my age. Not only is it frustrating and a bit humiliating for me, it also prevents younger colleagues from working as Co-Is – affecting their livelihoods and in a very small way Oxford's revenue.

What I understand this to mean is not a comment by the university on the age-related quality of my research, but rather that the university administration finds making regular special cases for retired colleagues to be employed part-time very time-consuming and irksome.

My question for you to consider is whether this can be simplified – with perhaps one application to the university at the time of retirement moving to outside research funding, an application which doesn't need renewing if it is successful and if further outside contracts run seamlessly on one from the other. The very facts that the arrangement depends on outside funding and that outside funding agencies continue to consider a retired person worth funding must answer the counter-argument that retired researchers would otherwise stay in part-time status for ever and would be ever-increasingly burdensome.

As it is, on the advice of Oxford research administrators, for the next 3 years I will now be employed on a research project part-time by [university] and Oxford will have no overheads.

20.

My views, in short, are that the EJRA must stay, and also that for academic staff it should be at a younger age than currently implemented.

The comment I would like to make is that scientific breakthroughs, radical new ideas and innovations are made by the young. "Science advances one funeral at a time", a common paraphrasing of a quotation from Max Planck. There are many things that could be done to improve innovation in our scientific research, but lowering the average age of research group leaders is one that is within the power of the University to achieve.

21.

1. What "objectively justifies" a retiring age of 67, and how does it do so?

2. As policy now stands, if one is born on September 30 or earlier, one is unemployed for one's 67th year. If one is born on October 1 or later, one works that year. How is this "objectively justified"?

3. The plain intent of the Government legislation abolishing a statutory retirement age was that henceforward, the decision as to when to retire would rest with the employee. Exceptions were allowed when it could be shown that the policy properly balanced the interests of employee and employer. Current Oxford policy as currently implemented differs from policy before the abolition only by a legal figleaf: it is mandatory at 67 save for a handful of cases. How does a policy identical with one that existed before there were any considerations of balance succeed in balancing the interests of employee and employer?

22.

I would like to make a small comment with regard to the review of the EJRA.

I am in my late 40s, and my present expected State Pension Age is 67. It is entirely possible that fresh legislation in the near future will raise this to 68 -- above the present EJRA. Regardless of my personal situation, it is clear that there are some people in the University already appointed until the retiring age (or whatever today's contractual term is) who will not yet be eligible for a State Pension on the day that they reach the University's EJRA.

In that instance, I do not imagine the present EJRA will remain tenable. Since University employees may have a reasonable expectation of being able to plan for the future, it would seem highly desirable that the EJRA be defined with future changes in view, and the scheme should make its best prediction of the future EJRA for anyone already in the University's employment. A worthwhile guarantee to add to the scheme, for example, would be that the EJRA will never be lower for any individual than the State Pension Age. (There might be a matter of debate about whether it should default to being strictly higher than the State Pension Age: I don't have enough information to make the arguments about that.)

23.

I believe that the EJRA is currently NOT appropriately set at the 30 September before an individual's 68th birthday.

My birthday is on 3 Sept. This means I would have to retire at age 67 years and 27 days, whereas someone with a birthday on, for example, 3 Oct, would retire aged 67 and 362 days*. This is almost a year's difference and would therefore equate to almost a year's salary. A much fairer option would be to set the EJRA at a set number of months before an individual's birthday. This way everyone would have to retire at the same age. Is there any scope for changing and making the EJRA fairer for all?

24.

I would like to suggest that you consider a second aspect to the retirement issue. It is quite right that senior older academics do not block younger members of staff, but nearly all other UK universities allow post retirement age staff to continue working if they are bringing in research funds to cover their costs. This means that they have to win research projects with junior staff and be charged at the usual university rates (including overheads). This enables them to bring in prestigious projects with full funding into the University. As an example I won a £10 million research programme from [funding body] and have been the director of this programme. I have completely covered my salary and all costs plus bought in overheads for university for myself and a post doc. Now I cannot bid for additional [funding body] programmes because of the retirement rule.

I think this would be a sensible strategy for Oxford to preserve the fantastic expertise across the University whilst not blocking any promotion routes for younger staff.

25.

As an intermediate research fellow aspiring to move to a permanent academic post in due course, my comment is that the EJRA is key to ensuring the availability of jobs for the next generation of academics.

It would not be fair to our generation if our older colleagues were able to stay in post indefinitely.

I can however, see that it is very helpful to enable staff older than 68 to retain formal links to the departments, because they can still often contribute from their experience and networks. So I support increasing the visitor rights and access to facilities for emeritus staff who wish to remain active.

26.

The retirement age was set in the context of a pay and pension package that guaranteed a higher level of support than current academics are now receiving following the removal of the guaranteed link between final salary and pension.

At least one reason to reject the EJRA is that it undermines the self-determination of individuals to readjust their pension to the levels agreed when they started academia.

I have not really seen the debate about EJRA to include an acknowledgement that most academics have had an imposed reduction in pension. In a similar vein, I have not seen any proposal to enhance pension provision or offers of enhanced early retirement if 68 was the imposed age.

27.

Whilst this Department's Board can see the overall university strategic case for an EJRA, we consider there are certain aspects of the current procedure that are detrimental to our ability to attract and retain world class academic staff and researchers. Overall, we would ask that the process handle the personnel issues involved with greater care for the dignity of the individual and the psychological contract with the university.

1. Maintaining our leadership in educational research

The department was ranked first in the REF for the second time in the last exercise. At the census date, we had 19 Professors in the Department. Ten have now retired and six more will be affected by the EJRA in the coming years. Senior level appointments are important to the department in terms of driving research agendas and mentoring teams. In the field of [research area], typically academics reach the pinnacle of their careers later in life than in other comparable areas of the [division]. There are a number of reasons for this, one being that they often have had professional careers before embarking on academic research. Another is that it takes a long time to develop the breadth and depth of research skills and knowledge required to have an impact on the research field which is so close to real-world policy and practice. Many of our most eminent academic staff, both in post and retired, joined the department in their late fifties or early sixties.

The department's priority for investment is to ensure we are able to appoint senior posts to meet the challenges of senior staff retirements and to ensure we have the financial base on which to invest for the next REF. One of the department's strategic priorities is to strengthen senior staffing in key areas prior to the REF due to retirement/resignation of 10 Professors.

Whilst we understand the rationale for the EJRA, we consider that our field has particular needs due to the typical age profile of leaders in the field of [subject] being older than perhaps in other areas of research. We would hope that these needs are taken into account during deliberations on the future of the EJRA.

2. Continuation of self-funding posts beyond the EJRA

An EJRA extension application has recently been submitted by an eminent Professor in our department who is entirely self-funding and was appointed on a fixed-term contract to the end of the

current external funding. In discussions about this situation, we have concerns that the new procedure is potentially damaging to relationships with senior staff.

In addition, there is a risk to the University's reputation. The perception of academic staff at other UK universities where there is no EJRA is that Oxford is a less attractive employment option because of the EJRA.

We believe that the case for the EJRA and its benefits should also weigh up the detriments that it creates, in particular the perception from outside Oxford that the EJRA is off-putting for senior academics who may be considering working here, and the attraction of other UK universities and indeed internationally, where there is no EJRA.

3. REF 2021

For the 2014 REF we appointed four senior Professors on post-EJRA fixed-term contracts. Although the revised procedure indirectly refers to REF investments under Section 39 (c), we seek assurances that REF cases for seven post-retirement fixed-term contract investment posts (0.2 FTE each) will be approved. We consider that there would be a significant detriment to this department's ability to hold its leading position if we were not able to make similar appointments for the next REF due to the EJRA. Indeed, our competitors will be well-placed to offer such appointments.

4. Prospective appointments and the EJRA

We have recently had several instances where we have wanted to employ a senior academic named on a research grant, but have been unable to do so because of the removal of prospective applications from the EJRA procedures. In these cases it would not be possible to name a younger person on the grant. These are eminent academics with an international reputation who are leaders in their field, so it would not be appropriate to ask the funder to replace them with a more junior person because of the EJRA. These are fixed-term externally funded contracts at low FTE.

In one case this has risked reputational damage, as our inability to employ the academic was contrasted with other universities in the UK without an EJRA. It is also embarrassing for our staff to have to explain to both the PI and researcher that we cannot employ them on an externally funded research grant because of their age. In some cases it is not possible to contract them as a consultant, as some funders (such as the EU) would not accept consultancies on research grant applications. Our experience to date is that the option of undertaking any work post-EJRA on an honorary research contract is not acceptable to academic staff, both current and prospective.