

# REPORT OF THE EMPLOYER-JUSTIFIED RETIREMENT AGE WORKING GROUP

JANUARY 2017

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## 1. SUMMARY

### 1.1 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 68<sup>th</sup> 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:

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

### 1.2 Methodology

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.

### 1.3 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.

They 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, inter-generational 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 largely align the coverage of the EJRA with eligibility for membership of Congregation, 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 employers 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.

The Review Group therefore recommends: that the EJRA be retained; that the Aims be adjusted to better reflect the areas where the EJRA can be shown to be having the most substantial impact upon them; that the coverage be adjusted to those who are eligible for Congregation; that the age for the EJRA be raised to the 30 September preceding the 69<sup>th</sup> birthday; that the procedure be revised to better support all those involved; and, that all these changes come into effect as soon as is practicable.

The Group further recommends that the age of the EJRA be raised to 30 September before the 70<sup>th</sup> birthday in 2022, to mirror changes in longevity, provided that the 10-year data confirms the trends identified in this interim review. It will be open, of course, for the 10-year Review Group to review this recommendation in 2021.

## 2. INTRODUCTION

### 2.1. The history of retirement at the University of Oxford

The University's retirement age is set down in Regulation.<sup>1</sup> The staff groups to which it applies are specified in Statute.<sup>2</sup>

#### 2.1.1. Pre-2011

In 1985, the retirement age for all academic and academic-related staff was set at 30 September prior to the 66<sup>th</sup> birthday. Those who already held a contract of employment retained the right to retire at the previous retirement age of 67, which had been in place since at least 1970.

Those who wished to work beyond the retirement age could apply to the Personnel Committee for permission to do so. In 2006, the absolute prohibition on employment beyond age 70 was removed for all staff.

In 2006, it became unlawful to discriminate on the grounds of age, except if that discrimination can be justified in that it is a proportionate means of achieving a legitimate aim (Employment Equality (Age) Regulations 2006, now incorporated in the Equality Act 2010). This in principle includes discriminating against a person by mandatory retirement at a particular age, although initially the law created an exception to this by permitting a default retirement age.

#### 2.1.2. The introduction of the EJRA

The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 abolished the default retirement age nationally from 1 October 2011. The Regulations allowed for the maintenance of an employer-justified retirement age when an employing body sought to use retirement as a proportionate means to achieve a legitimate aim. However, if an individual employer wished to retain a retirement age, they had to justify it in accordance with the statutory requirements in order to avoid it being regarded as age discrimination. The *Aims* set out in the University's EJRA Policy (and at section 3 below) are specifically framed to meet the statutory requirements.

In 2011, when the new Regulations were announced, the Personnel Committee undertook two rounds of consultation with Congregation, the UCU, the Conference of Colleges and all University staff.<sup>3</sup>

Taking into account the feedback in those consultations, Council decided that an EJRA of 30 September preceding the 68<sup>th</sup> birthday should be established for all academic and academic-related staff (ie all those in grade 6 and above). The Aims of the policy were laid down: in broad terms, Council considered that an EJRA was necessary and proportionate to support the University's mission to sustain excellence in teaching, research and administration.

The policy was to be supported by a procedure under which individuals who wished to remain in employment beyond their EJRA date could apply to a Panel of current and former members of the Personnel Committee for an extension of employment. Those whose applications were

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<sup>1</sup> Regulation 7(1) of Council Regulations 3 of 2004

<sup>2</sup> Statute XIV, s. 15: <https://www.admin.ox.ac.uk/statutes/788-121.shtml>

<sup>3</sup> The first consultation, from 17 February 2011 to 18 March 2011, focussed on matters of principle: <http://www.ox.ac.uk/gazette/2010-2011/17february2011-no4944/>. The second consultation, from 9 June 2011 to 8 July 2011, made more specific recommendations: <http://www.ox.ac.uk/gazette/2010-2011/9june2011-no4956/notices/#49696>.

unsuccessful had the right of appeal to the University's internal Appeal Court under Statute XII, Part H.<sup>4</sup>

Council published the change to Regulations required to give effect to the retirement age in the *Gazette* in the normal way.<sup>5</sup> No amendments or objections were received and the policy and supporting procedure came into effect.

The policy was introduced for a period of ten years, with the intention to conduct an interim review after five years. The Personnel Committee has reviewed a report on the operation of the exceptions process each year.

### **2.1.3. The revised EJRA**

In 2014, in the course of an individual appeal against a decision not to allow an application for extended employment, the University's internal Appeal Court made observations about the justification for the EJRA and the operation of the exceptions procedure. The Personnel Committee had access to confidential and privileged legal advice. It set up a working group to consider whether any changes should be made to the EJRA's Aims or to the exceptions procedure, prior to the five-year review due in 2016-17.

That working group reviewed the observations of the internal Appeal Court and the annual reports on the operation of the exceptions procedure. They had access to specialist legal support. The working group contained several members of the EJRA Panel, who had direct experience of the exceptions procedure.

Following the review, the working group recommended to Personnel Committee some amendments to the Aims and to the exceptions procedure. The deadline for applications was moved to one year prior to the EJRA for all staff, the role of departments and divisions in the process was adjusted, and the EJRA Panel was replaced by a standing EJRA Committee, which would consider applications for extended employment in gathered fields every six months. Changes were made to the factors to be taken into consideration in assessing applications, partly to make clearer the expectation that individuals step out of their substantive posts in order that they can be refilled and that they identify funding to support their roles during their extension. The consideration relating to the applicant's academic prestige was removed, in order to avoid any appearance that the considerations include any degree of performance assessment.

These revised procedures came into effect on 30 September 2015.<sup>6</sup>

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<sup>4</sup> [http://www.admin.ox.ac.uk/statutes/353-051b.shtml#\\_Toc28074233](http://www.admin.ox.ac.uk/statutes/353-051b.shtml#_Toc28074233).

<sup>5</sup> The notice was published on 13 October 2011: <https://www1.ox.ac.uk/gazette/2011-2012/13october2011-no4965oxonly/councilandmaincommittees/#58004>

<sup>6</sup> Further detail relating to the changes can be viewed in the Gazette announcement at: <http://www.ox.ac.uk/gazette/2014-2015/4june2015-no5099/notices/#208402>. The full procedure can be viewed here: <https://www.admin.ox.ac.uk/personnel/end/retirement/revisedejra/revproc/>.

## 2.2. The EJRA Working Group

In July 2015 Council established a Working Group (the 'Group') to review the EJRA. It began work in Michaelmas term 2015 and was asked to report to the Personnel Committee and Council in 2016-17, once it had had the opportunity to review the data from the full five-year period of operation of the EJRA, which became available in October 2016.

The Group was asked by Council to consider the following issues, in the context of the latest case law and an evidence-based analysis of the policy's impact over a five-year period:<sup>7</sup>

- 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 is entirely independent and has received no instructions from Council, the Personnel Committee or any other individual or group as to how it should operate or what conclusions it should draw in relation to any area of the EJRA Policy or procedure.

### 2.2.1. Membership

The Group was established with a broad representative membership,<sup>8</sup> including a senior representative from each of the four academic divisions; a senior representative from GLAM and one from UAS; a member of Council elected to Council by Congregation; a member with specific responsibility for equality and diversity matters; and two representatives from the Conference of Colleges, one from the Senior Tutors' Committee and one from the Legal Panel.

In the summer of 2016, in response to a resolution to Congregation (and a meeting of that body) seeking, among other things, a suspension of the EJRA pending the outcome of this review,<sup>9</sup> although not being obliged to do so, Council asked three of its members who were elected by Congregation and from Congregation to join the Group. These members are marked in the list below with an asterisk.

The Group includes individuals with a spread of ages. To ensure a disinterested consideration of the EJRA, the Group does not include members of the original working party that devised the EJRA but does include three members who were part of the working party in 2014/2015 which revised the procedures.

The Human Resources Director serviced the Group and arranged for it to receive confidential and legally privileged specialist legal advice and other advice as required.

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<sup>7</sup> This was announced in the [Gazette of 4 June 2015](#).

<sup>8</sup> This was announced in the [Gazette of 2 July 2015](#).

<sup>9</sup> Details of the resolution, which was rejected in a vote in Congregation and in a subsequent postal vote, can be read here: <https://www.ox.ac.uk/gazette/2015-2016/5may2016-no5131/congregation/>

The members of the Group are:

Professor Irene Tracey, Medical Sciences Division (chair)  
Professor Lyndal Roper, Humanities Division  
Professor Gideon Henderson, Mathematical, Physical and Life Sciences (MPLS) Division  
Professor Sandra Fredman, Social Sciences Division  
Mr Richard Ovenden, Gardens, Libraries and Museums (GLAM)  
Dr Saira Shaikh, Divisional Secretary of MPLS (member of University Administration and Services (UAS))  
\*Dr Kate Blackmon, Council member elected by Congregation  
\*Professor Helen McShane, Council member elected by Congregation  
\*Professor Lionel Tarassenko, Council member elected by Congregation  
Dr Ian Watson, Council member elected by Congregation  
Dr Rebecca Surender, Pro-Vice-Chancellor and Advocate for Diversity  
Professor Jeremias Prassl, Conference of Colleges Legal Panel  
Dr Ali Rogers, Conference of Colleges Senior Tutors' Committee.

### **2.2.2. The Group's approach**

The Group was given a broad remit to consider all aspects of the EJRA Policy and its operation. It has met seven times over an 18-month period. It has sought throughout to:

- approach its task in an independent and open-minded manner;
- be consultative; and,
- ensure that its discussions and recommendations are data-driven, insofar as data has been available.

To this end it has requested and received from the appropriate officers oral and/or written briefings on the following subjects:

- approaches to retirement taken by Higher Education Institutions and other employers in the UK and abroad (Annexe A);
- the anticipated outlook for pension provision (oral briefing from the Head of Pensions);
- changing retirement ages among USS members (Annexe E); and,
- data relating to the staff profile, diversity and the exceptions process (provided in Annexes F-J).

### **2.2.3. Consultation**

The Group has run three open meetings to which all University staff were invited and set up an inbox to receive feedback and suggestions from anyone who wished to contribute their views. All comments received in advance of the meetings or to the inbox have been read by the Group and can be viewed on the website in anonymised form.<sup>10</sup> A record of the questions asked at the meetings can also be found here, again in anonymised form.

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<sup>10</sup> <http://www.ox.ac.uk/staff/consultations/ejra-review>

In addition, the Group or its representatives have:

- attended a meeting of a divisional board or equivalent body of each of the four academic divisions and of GLAM, giving a short presentation and listening to the views of Heads of Department and other senior members present (see annexe B);
- met with representatives of the Oxford branch of the Universities and Colleges Union (the UCU) and, separately, with members of the UCU's Early Career Network to discuss their views on the EJRA;
- surveyed 169 former members of staff who retired at ages 65-67 during 2012-2016 (annexe C);
- considered the results of the UCU's survey of its members concerning their views of the EJRA (annexe D);<sup>11</sup>
- reviewed data provided by the USS concerning retirement ages at Oxford and other HEIs since 2008 (annexe E);
- received confidential and privileged legal advice; and,
- reviewed data on changes in longevity.<sup>12</sup>

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<sup>11</sup> The Group would like to record its thanks to the Oxford branch of the UCU for conducting this survey and for providing its results to the Group to inform their discussions, as well as to all those individual staff members who have taken the time to attend the open meetings or provide written feedback.

<sup>12</sup> <http://visual.ons.gov.uk/how-has-life-expectancy-changed-over-time/>



### 3. THE AIMS OF THE EJRA

Any EJRA must be a proportionate means of achieving a legitimate aim.

The Aims of the EJRA,<sup>13</sup> as revised in 2015, are:

*In the context of the University's particular structure and procedures, the EJRA is considered to be an appropriate and necessary means of creating sufficient vacancies to meet the Aims set out below:*

1. *safeguarding the high standards of the University in teaching, research and professional services;*
2. *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;*
3. *refreshing the academic, research and other professional workforce as a route to maintaining the University's position on the international stage;*
4. *facilitating succession planning by maintaining predictable retirement dates, especially in relation to the collegiate University's joint appointment system;*
5. *promoting equality and diversity, noting that recent recruits are more diverse than the composition of the existing workforce, especially amongst the older age groups of the existing workforce;*
6. *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; and,*
7. *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.*<sup>14</sup>

The Group considered whether these Aims remain legitimate for the University. In order to understand this, they asked two questions:

1. Do the *Aims* continue to be important and relevant?
2. Is the EJRA contributing to and necessary to the achievement of those *Aims*?

#### 3.1. The importance of the *Aims*

The Group agreed that it remains important and relevant for the University to create sufficient vacancies so that: opportunities for career progression are provided; refreshment of the workforce is sustained; succession planning is possible; diversity is enhanced; inter-generational fairness is promoted; and, flexibility through turnover among the academic-workforce is facilitated. This will help to safeguard the University's high standards in teaching, research and professional services.

It was also considered important that the impact of financial constraints on staff morale be minimised.

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<sup>13</sup> The *Aims* are available on-line at <https://www.admin.ox.ac.uk/personnel/end/retirement/revisedejra/revaim/>

<sup>14</sup> The numbering has been added for ease of reference within this report.

### **3.2. Is the EJRA necessary to the achievement of the *Aims*?**

To justify the continued use of an EJRA, the Group decided that it must be satisfied not only that the *Aims* remain important and relevant, but also that the data demonstrates that the EJRA is making a substantial contribution to their achievement, and that the same effect could not be achieved through other means. Further, the Group considered carefully whether the EJRA was a proportionate means of meeting these *Aims*. They considered each *Aim* in detail, in the context of the available data and this issue of proportionality.

#### **3.2.1. Safeguarding the high standards of the University in teaching, research and professional services**

The University continues to perform well in global rankings.<sup>15</sup>

Some senior staff have attested that the existence of the EJRA has discouraged high-performing recruits from joining the University<sup>16</sup> and two instances were identified in which individuals, offered posts at Oxford, turned them down in order to avoid joining an organisation in which their employment beyond age 67 could not be guaranteed. Others noted that the loss of high-performing staff before or at 67, when they are still making an outstanding contribution to the University's high standards, will have an impact on our ability to achieve this objective.<sup>17</sup>

In contrast, others considered that the EJRA makes a positive contribution to the University's high standards by allowing it to recruit and retain high-performing individuals in their early and mid-careers, who benefit from improved career progression opportunities because of the turnover in senior posts maintained by the EJRA. The overriding view of the divisions (Annexe B) was that the EJRA makes a positive and important contribution in this regard.

The Group took the view that the EJRA contributes to the University's success in this overarching objective through its contribution to the achievement of the rest of the *Aims*.

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.

#### **3.2.2. 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;**

The Group took a broad view of this *Aim*, deciding that it encompassed both the need to have career opportunities available for staff at every stage of their career, but also the requirement to ensure fairness to those of every age, taking into account:

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<sup>15</sup> <http://www.ox.ac.uk/news/2016-09-21-oxford-ranked-first-among-global-universities>

<sup>16</sup> See Annexe B and feedback from individuals at the open meetings and to the EJRA inbox at: <http://www.ox.ac.uk/staff/consultations/ejra-review>: items 11 and 27 in particular refer to this issue

<sup>17</sup> <http://www.ox.ac.uk/staff/consultations/ejra-review>. In particular, items 11 and 27 refer to this issue.

- the high cost of living and buying property in Oxford;<sup>18</sup>
- recent and potential changes to pension schemes, which are likely to have a more substantial impact on those at earlier career stages; and,
- increasing longevity.<sup>19</sup>

Several instances of individual feedback at the open meetings and submitted to the EJRA inbox related to the current and future impact of the EJRA on individuals, noting the particular challenges associated with working and retiring in Oxford.<sup>20</sup>

The Group also considered the proportion of vacancies within each grade that are created as a result of retirement, as opposed to being created because someone has resigned to take up another role or left for some other reason. This is summarised in table 1, with more detail in Annexe F, pp.10-14.

*Table 1: The proportion of posts that are vacated by retirement*

<b>Staff Group</b>	<b>Year*</b>	<b>Total posts vacated</b>	<b>% of posts vacated through retirement</b>
Statutory professors	2012-13	12	58.3%
	2013-14	9	33.3%
	2014-15	24	79.2%
Associate Professors	2012-13	45	51.1%
	2013-14	38	42.1%
	2014-15	44	54.5%
RSIVs (most senior research grade)	2012-13	12	33.3%
	2013-14	16	56.3%
	2014-15	13	30.8%
Academic / research grade 8-10	2012-13	93	6.5%
	2013-14	117	5.8%
	2014-15	110	7.3%
Academic / research grade 6-7	2012-13	675	0.4%
	2013-14	667	1.0%
	2014-15	813	0.7%
Admin / professional grade 8-10	2012-13	98	13.3%
	2013-14	121	19.7%
	2014-15	141	11.6%
Admin / professional grade 6-7	2012-13	209	8.6%
	2013-14	207	6.5%
	2014-15	211	5.9%

\* Data not yet available for 2015-16

<sup>18</sup> See item 11 of the feedback provided by staff at <http://www.ox.ac.uk/staff/consultations/ejra-review> and <http://www.independent.co.uk/news/uk/home-news/oxford-the-least-affordable-city-in-the-uk-where-houses-cost-11-times-local-salaries-9180930.html>

<sup>19</sup> In broad terms, life expectancy is increasing by c.2 years per decade. See <http://visual.ons.gov.uk/how-has-life-expectancy-changed-over-time/>

<sup>20</sup> See the EJRA Review website for a summary of the issues raised at the open meetings and for the collated feedback to the EJRA inbox: <http://www.ox.ac.uk/staff/consultations/ejra-review>. For example, items 11, 15 and 26 in the feedback from staff are relevant to this issue.

This data was considered in the context of the growth of different grades in the University (see Annexe F, p. 19, 'totals' column). The proportions of vacancies in academic posts (Statutory Chairs and Associate Professorships) created by retirement are much more significant because very few posts are created in these grades. For example, since 2011, the Statutory Professor grade has grown from 243 to 248 (this data refers to people in posts, not to the number of posts in existence). In addition, the EJRA further contributes to the creation of vacancies in these posts because many of those academic staff who successfully apply for employment beyond the EJRA step out of their substantive post into specially-created fixed-term posts in order that their previous posts can be refilled (Annexes G and H). In contrast, the relatively small number of research posts in grades 6-7 vacated by reason of retirement are dwarfed both by the number of staff in those grades (Annexe I) and by the number of research posts which have been created in recent years when new grant-funded research projects have been established.

It was noted that approximately 25% of those who have retired in the last four years and who responded to a postal survey relating to the EJRA stated that they would have wished to stay in employment beyond the EJRA if the retirement policy had allowed it (Annexe C).

Data on retirement ages across the sector provided by USS shows that the proportion of staff choosing to retire at age 68 or above has risen steadily since 2011, although it should be noted that the numbers subject to analysis are small (Annexe E).

With reference to ensuring inter-generational fairness for those approaching or beyond the retirement age, the Group also considered the data relating to the proportion of those reaching the retirement age who have applied for an extension to their employment (c. 38%, see Annexe G). In some senior grades, more than half of those who reach retirement age have applied to continue in employment and the success rate across all applications for extensions has been high (Annexes G and H). In addition, many of those who retire make use of non-employment options that allow them to stay involved in the work of their department or to progress research projects, such as honorary research agreements.

The revised procedure ensures that the impact of extensions upon the *Aims* is minimised by encouraging those who apply to stay in employment to vacate posts and to cover their own costs, in order that their substantive posts can be refilled.<sup>21</sup>

The Group concluded that:

- the EJRA is achieving its *Aim* of creating opportunities for career progression, with reference to academic posts and more senior research and professional posts;
- the EJRA is making a smaller contribution to the creation of opportunities for career progression into lower graded research and administrative and professional posts (see Annexe G, paragraph 6 and section 4 of this paper, concerning the future coverage of the EJRA policy); and,
- the exceptions procedure provides balance between the needs of individuals approaching retirement and of the *Aims* of the policy (see further discussion on the need for fairness for older employees in section 5, concerning the age at which the EJRA is set).

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<sup>21</sup> Paragraph 36 of: <https://www.admin.ox.ac.uk/personnel/end/retirement/revisedejra/revproc/>

### **3.2.3. Refreshing the academic, research and other professional workforce as a route to maintaining the University's position on the international stage;**

Turnover among the EJRA population ie the proportion of staff who leave posts each year, is low. Excluding those on fixed-term contracts, turnover in 2016 was 5.4%.<sup>22</sup>

The Group noted the feedback from divisional boards that the EJRA, by dint of its contribution to turnover, is a vital means to refresh the academic workforce and to allow departments to pursue new fields of research (see Annexe B). The lack of performance review and the high percentage of staff applying to remain in employment beyond 67 produces challenges to the University of Oxford that are different to many other HEIs. That said, the Group does not consider that longstanding or older colleagues cannot or do not produce fresh ideas and conduct research of the highest quality, but they believe that ongoing employment of older workers must be balanced by the maintenance of a broadly predictable turnover (noting that turnover among academic staff in particular is low) in order that new employees will bring their own new approaches. Thus a vibrant community will be sustained.

Table 1 above indicates the contribution that the EJRA makes to the creation of vacancies within existing posts, and thus to refreshment, by grade. This should be considered in the context of grade growth.

The Group considered whether turnover could be achieved through alternative means, such as the retirement incentives used in HEIs in the United States (see Annexe A and the feedback from staff)<sup>23</sup> or by the creation of more posts (as suggested at item 6 in the feedback from staff) but considered that these options would not be affordable for Oxford now or in the foreseeable future.

The Group concluded that the EJRA plays a substantial role in enabling refreshment, although its efficacy varies by grade, with a greater impact in academic and more senior posts.

### **3.2.4. Facilitating succession planning by maintaining predictable retirement dates, especially in relation to the collegiate University's joint appointment system;**

It was confirmed by the divisions (Annexe B) that the EJRA plays an important role in enabling them to plan succession and manage the manpower and staffing budgets in their departments, particularly for academic posts, where a recruitment process can take up to two years. This was particularly important in the context of the focus on budgets and headcount, the planning review and the increasing emphasis (given financial and resource constraints) on strategic planning at departmental and divisional levels and the detailed articulation of those plans.

The Group considered a suggestion made through the consultation: that instead of operating an EJRA, the University could impose in contracts a longer notice period for retirement (and possibly also for other types of resignation), perhaps only for those holding academic posts. It was suggested that, in the context of the extended timescales involved in recruiting to academic posts, this measure would achieve the same objective as the EJRA, in facilitating manpower and succession planning (although it would not contribute to the achievement of the other *Aims*). It was noted that the current notice periods (generally three months, to include one whole term, for academic staff) are consistent with those in use throughout the sector, and that

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<sup>22</sup> UCEA's Higher Education Workforce Survey for 2015 quotes a turnover rate (excluding redundancy) for full-time professional staff of 9.7%. The median for all sectors is 9.8%, according to XpertHR (p.14). For full-time academic staff, turnover varies from 5.5% for the professoriate to 6.0% to 8.1% for different levels of lecturer (p.22). Rates for part-time staff average 3% higher across all role types (p.14 and 22).

<sup>23</sup> Item 26 at <http://www.ox.ac.uk/staff/consultations/ejra-review>

a two-year notice period for retirement might not be perceived to be reasonable by current or prospective staff, and might be difficult to enforce. As a result, it was decided that a longer notice period for retirement would not give departments the certainty about when staff will vacate their posts that they need in order to be able to plan effectively.

Indeed, the current arrangements under which applications for extended employment are made up to a year prior to an individual's EJRA date was seen by some to be insufficient to enable departments to refill posts in a timely manner (see paragraph 6.2 for further discussion of this point).

### **3.2.5. Promoting equality and diversity, noting that recent recruits are more diverse than the composition of the existing workforce, especially amongst the older age groups of the existing workforce;**

The Group were aware that many factors and schemes contribute to changes in the diversity of the workforce and that the causal effects of the EJRA, or any of our schemes, will always be difficult to prove statistically. However, the Group was very clear that no matter how effective the University is in improving its recruitment procedures and its ability to retain female staff and those from minority groups, if it is to improve diversity, it must create vacancies in order to be able to recruit and promote a more diverse workforce. The extent to which the EJRA contributes to the creation of vacancies varies by grade is substantial in many grades, and is discussed in paragraph 3.2.2 above.

Data relating to changes in the diversity of the workforce over the last ten years is attached at Annexe F.

In 2011, an equality impact analysis concluded that younger age groups, who will on average have been recruited more recently to the University, are more diverse. Broadly speaking, this remains the case; the number of female RSIVs and Statutory Professors are too small to allow analysis (Annexe J, p.1-2), but the larger proportion of female staff in the younger age group is striking in the Associate Professor grade and among staff in grades 9-10 (Annexe J, p.3-4).

#### *Statutory professors - gender*

Among statutory professors, improvements in the gender balance have been slow but steady, averaging one percentage point per year for the last three years. As a result, the proportion of women in the population improved from 11.6% to 13.7% between 2012 and 2015 (p.2 of Annexe F).<sup>24</sup> It is anticipated that the percentage of female statutory professors will reach 15% this year. Turnover is low, which limits the pace of change, but over the last three years, the percentage of new statutory professors appointed that were female was 37.5% (24 out of 64 appointments).

Given that very few chairs are created<sup>25</sup> and about half of the vacancies created in the grade result from retirement (see table 1 above), the Group concluded that the EJRA is making a substantial contribution to improvements in gender diversity at this key senior grade.

The data on the exceptions process demonstrates that a high proportion of statutory professors apply for an extension beyond the EJRA (Annexe G, paragraph 6). The impact of this on the availability of posts for recruitment is mitigated by the clear expectation in the revised procedures that those in substantive academic posts vacate those posts and obtain funding to support a new specially-created, fixed-term post, in order that their substantive post is available for refilling (paragraph 36 of the revised procedure).

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<sup>24</sup> The University's objective under the Public Sector Equality Duty is that 20% of statutory professors will be female by 2020. See <http://www.admin.ox.ac.uk/eop/policy/equalityobjectives/>.

<sup>25</sup> The grade has only grown from 243 to 248 professors since 2011 (p.2 of Annexe F).

### *Associate professors - gender*

The rate of improvement in the gender balance of associate professors is low, totalling 1.2%, an increase from 26.6% to 27.8%, since the introduction of the EJRA (p.3 of Annexe F). This is another grade in which few posts are created and turnover is low, and in which a substantial proportion of vacancies (c.40%, see table 1 above) are created by retirement. Given that younger staff, who will tend to have been recruited more recently, are more diverse than the existing workforce (Annexe J, p.3),<sup>26</sup> the Group concluded that turnover created by the EJRA must be contributing to the improvement in gender diversity in this grade, albeit that the improvement is disappointingly slow.

The Group noted that various projects are underway, or planned within the next academic year, which are expected to have a positive impact upon the recruitment and retention of female staff, and considered it important that these efforts are supported by the continued contribution of the EJRA to the creation of vacancies in key grades.

### *Research and administrative and professional staff - gender*

Overall, there is already a good gender balance among research and administrative and professional staff, particularly at the lower grades (see p.3 of Annexe F and p.5 of Annexe J). It can be seen that the gender gap has narrowed over the last decade, such that the number of male and female staff in grades 6-8 in 2015 was roughly equal (Annexe J, p.5). At grades 9-10, there is still a gender gap, but it is narrowing over time (Annexe J, p.4).

The most senior research grade, RSIV, continues to show a gender imbalance, with only one quarter of staff in this grade being female (see p.2 of Annexe F, p.2 of Annexe J). This is the only grade in which the proportion of female staff is not growing over time.

### *Other minority groups*

The number of staff who are subject to the EJRA who are known to be black and minority ethnic (BME) or to have a disability is smaller than those who are unknown (ie who have declined to declare their ethnicity or disability status) so it is difficult to draw definitive conclusions from the data, but it was noted that there has been slow but steady growth in the proportion of staff who have declared as BME over the last ten years, and that the proportion of staff who have declared themselves to have a disability has remained steady (Annexe F, pp.19-24).

Analysis by grade has not been possible due to the small numbers and the high proportion of unknowns.

### *Conclusions relating to the diversity Aim*

Overall, the Group consider that the EJRA is contributing to the maintenance of improvements to gender diversity, making a greater contribution in academic and other more senior grades. The EJRA creates vacancies and those recruited to those vacancies are more diverse than those who retire. In addition, other policies and projects also contribute to improvements in diversity, particularly in senior grades, and they would not succeed without a steady, continued flow of new vacancies. The EJRA contributes substantially to this flow.

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<sup>26</sup> The Group were disappointed that the HR Information System was not able to provide them with data on the proportion of women among those appointed to post in the five years that the EJRA has been in operation, and asked that this shortcoming in the reporting capabilities of the system be considered in the scoping of any future upgrades.

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.

**3.2.6. 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;**

The Group considered the data on applications for extensions to employment, noting that only 2.6% of applications in the period 2012-15 came from UAS, although this division comprises 13% of the population subject to the EJRA. Only 2% of applications were from GLAM, although they comprise 9% of the population. In 2014-15, out of 49 applications, only 5 (10%) were from staff in the administrative and professional category (annexe G), which comprised 31% of the total population. Of the 35 applications received since the introduction of the revised procedures in 2015, only 3 have been from these staff groups (annexe H).

Retirement data suggests that these staff generally choose to retire earlier than their colleagues in academic and research posts, particularly those in grades 6-8 (Annexe F, pp.15-18). 16 (18%) of the 89 staff in employment beyond the EJRA as at 31 July 2015 were from the administrative and professional staff group.

The survey of retired staff (results given in full at Annexe C) did not suggest that there would be a marked increase in the number of administrative and professional staff choosing to stay in employment beyond the EJRA if the policy were no longer in place: only 11% of administrative and professional staff who responded to the survey said that they would have stayed in employment by choice in the absence of an EJRA.

Although the University remains in a period of headcount restraint, as evidenced by the current headcount control measures, the EJRA does not appear to be contributing to flexibility in the academic-related workforce.

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.

**3.2.7. 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.**

The Group recognised that the financial environment in which the University operates remains uncertain, particularly in light of Brexit, and that protecting staff morale is very important. However, they took the view that the EJRA has not operated such as to reduce the need for other measures: headcount control mechanisms are currently in place and a voluntary severance scheme<sup>27</sup> has recently been launched, with the purpose of facilitating reductions in headcount and associated costs.

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.

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<sup>27</sup> <https://www.admin.ox.ac.uk/personnel/vrs/>



### **3.3. The Group's conclusions regarding the *Aims***

The Group concluded that the *Aims* of the EJRA remain highly important and relevant and that the EJRA remains necessary to safeguard the high standards of the University in teaching, research and professional services, achieving this by contributing to inter-generational fairness, refreshment of the workforce, succession planning, and the promotion of equality and diversity through the creation of vacancies.

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*.

## 4. THE COVERAGE OF THE EJRA

### 4.1. Assessing the current coverage of the EJRA

As at July 2016, the EJRA covered 9,878 academic and academic-related staff in academic, research and professional and administrative roles in grades 6 and above.<sup>28</sup> The number of staff covered by the EJRA by grade is summarised at Annexe I.

The Group considered whether there are grounds to adjust the coverage of the EJRA, either with reference to the types of role or to the grades that it covers. In so doing, they noted that:

- the need to make improvements in diversity is clearest among academic grades and the more senior research, administrative and professional grades (see section 3.2.5);
- recruitment to more senior posts, and particularly to academic ones, tends to take longer, meaning that the role of the EJRA in facilitating succession planning is more important for the more senior grades;
- the EJRA is having less of an impact in those areas where staff tend to wish to retire at or before the EJRA, as indicated by -
  - the data on retirement ages (Annexe F, pp. 15-18, which shows that staff in grades 6-7 retire earlier on average than their higher graded colleagues);
  - the small proportion of administrative and professional staff who apply for extended employment eg only 3 out of 35 applications under the new procedures have been from administrative and professional staff in these grades (see Annexe H);
  - the small proportion of administrative and professional staff who declared in the survey of retired staff that they would have stayed in employment in the absence of an EJRA policy (11%, see Annexe C); and,
- the creation of vacancies in more senior grades will have a greater impact on the availability of career opportunities for lower-graded staff.

As a result, the Group decided that the coverage of the EJRA should be reduced, with some lower graded staff being removed, in order that the EJRA will be applicable to those grades at which it can be shown to be having the most impact.

### 4.2. The future coverage of the EJRA

In considering where the 'boundary' for coverage of the EJRA should lie in future, the Group were mindful that:

- to ensure that the policy is proportionate and reasonable, it should not be applied to those grades in which it is not clearly contributing substantially to the achievement of the *Aims*;
- approximately half of the staff currently covered by the EJRA are in the lowest two grades (5144 out of 9878; see Annexe I), where there is less evidence that the EJRA is having an effect on the achievement of the *Aims* (see 3.2.2 and 3.2.5 above in particular);
- it was clear in the course of the debates in Congregation relating to Statute XII that Congregation wishes as far as possible to retain consistency of treatment among its membership; and,
- definitions such as academic and academic-related are perceived by some to be blurred among the higher grades in some areas: a clear boundary between those who are covered by the EJRA policy and those who are not is important to provide staff with clarity and ensure consistent application of the policy.

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<sup>28</sup> There is no EJRA for support staff ie those in grades 1-5, who may retire at any time.

The Group also considered the feedback given in the consultation process on this issue.<sup>29</sup>

There are clear and well-defined boundaries between the pay grades and the boundary between grade 7 and 8 aligns closely to eligibility for membership of Congregation.<sup>30</sup> Given that it was deemed desirable to maintain consistency of terms and conditions within this body, the Group decided that this would provide a fair, practical and justifiable boundary for coverage of the EJRA.

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.<sup>31</sup>

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<sup>29</sup> See the EJRA Review website for a summary of the issues raised at the open meetings and for the collated feedback to the EJRA inbox: <http://www.ox.ac.uk/staff/consultations/ejra-review>. See especially comment 3 within the 'Anonymised, collated, feedback to the EJRA' document.

<sup>30</sup> Statute IV, s.3: <https://www.admin.ox.ac.uk/statutes/781-121.shtml>. Congregation Regulations 1 of 2002: <https://www.admin.ox.ac.uk/statutes/regulations/1083-120.shtml>.

<sup>31</sup> 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.

## **5. THE AGE AT WHICH THE EJRA IS SET**

### **5.1. The current EJRA of 67**

The EJRA has been set at the 30 September before the 68<sup>th</sup> birthday since 1 October 2011. For most staff members, this meant that the EJRA was set two years later than their previous contractual retirement age; a small number of staff had reserved rights to retire at 67 prior to the introduction of the EJRA.

The age of 67 had broad support on introduction; it was seen as an opportunity to achieve consistency for all academic and related staff, while 'levelling up', so that no staff had a reduction in their retirement age and most staff benefitted from the option of a further two years of employment. It was considered vital to set the EJRA higher than the pension age, and desirable that it be higher than previously for most staff, to reflect increased longevity.

Although a higher age, such as 70, was considered in 2011, it was decided that it would be undesirable to adopt an age that would necessitate a very significant delay and reduced effectiveness in the achievement of the *Aims*.

Feedback to the Personnel Committee and in the UCU survey demonstrated that only a minority of staff supported an EJRA set above 67.

### **5.2. The age at which the EJRA should be set in future**

The Group considered a number of options for the future age of the EJRA, noting that each had advantages and disadvantages, as summarised in table 2 below.

Option	Benefits	Challenges
<p>1. The EJRA continues to be at 67</p>	<p>The EJRA would continue to support the <i>Aims</i>, as turnover created by retirements at the current level would support refreshment, inter-generational fairness and diversity</p> <p>It would be clear that the University considers its <i>Aims</i> to be of sufficient importance that a hiatus in achieving them is unacceptable</p> <p>This is the age at which there is data available to show that the EJRA is having an effect</p> <p>This would make a clear statement that the University considers the creation of career opportunities for those at early and mid-career stages to be a priority, thus assisting in the recruitment and retention of high-performing academic and research staff</p> <p>Would result in minimal confusion and additional bureaucracy</p> <p>Would maintain comparability with Cambridge</p> <p>Would leave all options open for the ten-year review</p> <p>44% of those surveyed by the UCU wanted the EJRA to remain at 67, with a further 12% who wished to see it lowered (Annexe D)</p>	<p>Would not achieve improved intergenerational fairness for those in the older generation, in the context of increased life expectancy, high living costs in Oxford, and decreased pensions</p> <p>Might be seen by some as failing to provide 'balance' between the needs of the University and of individuals</p> <p>Some might feel that the Group has not taken sufficient account of the views of those staff who advocated for a move eg to 70. The UCU survey indicates that c. 37% of staff would support such a move</p> <p>Would not allow for longer tenure of senior posts by women, who may achieve appointment to those posts later in their careers</p> <p>Would not in itself address the issues with recruitment and retention experienced by some departments among senior staff who want to work longer than the EJRA allows eg it might deter applicants for senior posts from outside Oxford, given that housing and living costs in Oxford are high and other HEIs do not operate an EJRA</p>

<p>2. The EJRA moves to 30 September before the 69<sup>th</sup> birthday as soon as practicable, with a further recommendation that it is raised to 30 September before the 70<sup>th</sup> birthday after the 10-year review in 2021 (unless the data gathered in support of that review does not support this further incremental rise)</p>	<p>This would demonstrably recognise the challenges faced by our employees due to changes in life expectancy and pensions provision, and the cost of living in Oxford, and respond to the views of those who favour this route, albeit by only a modest rise</p> <p>Arguably, would support staff affected by changes in pension provision, which will only have an appreciable effect for those who are some years from retirement</p> <p>It might be seen to better 'balance' the needs of individuals and the University, by a small movement to reduce the impact of the EJRA on individuals (improving inter-generational fairness for the older age groups) yet avoiding a substantial and immediate impact on the <i>Aims</i></p> <p>The 2021 review will have six years' worth of data on the operation of the EJRA at 67 and four years' worth of data on the operation of the EJRA at 68. The small step change after six years will only introduce minimal pollution of the statistical analysis of the 10-year data</p> <p>A change to 30 September before the 69<sup>th</sup> birthday now would take into account longevity data (which supports a one-year increase every five years) but does not affect unduly the 10-year data collection and analysis exercise. A further one-year change to 30 September before the 70<sup>th</sup> birthday after the 2021 review would mirror exactly the changes in longevity recorded by the Office of National Statistics (a two-year increase in life expectancy per decade)</p> <p>May assist with some cases of recruitment and retention of senior research and academic staff who wish to remain in employment</p> <p>Would reduce to a small extent the number of staff who are required to retire before they would have wished to do so</p>	<p>May undermine the EJRA in a modest way by (a) appearing to show that we can tolerate a one-year delay in our achievement of the <i>Aims</i> (twice, if the 2021 review decides to implement the recommended second one-year step change) and (b) reducing by a small extent the impact of the EJRA in the longer term</p> <p>May reduce turnover for a year (twice, if the 2021 review decides to implement the recommended second one-year step change) and have a lesser effect in the longer term, reducing the opportunities for promotion and thus having an impact on recruitment and retention of high-performing mid-career research and academic staff</p> <p>There would continue to be a substantial minority of senior academic and research staff who wanted to work beyond the EJRA (45 staff were in employment beyond the age of 68 as at 31 July 2015)</p> <p>Only 37% of staff surveyed by the UCU wanted to see an EJRA set higher than 30 September before the 68<sup>th</sup> birthday (Annexe D).</p> <p>In the short-term, the EJRA would be set at an age for which we have no supporting data</p>
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<p>The EJRA moves to 30 September before the 71<sup>st</sup> birthday (ie 70) as soon as practicable</p>	<p>This would demonstrably recognise the challenges faced by our employees due to changes in life expectancy and pension provision, and the cost of living in Oxford, and support those members of staff who wish to work beyond the current EJRA</p> <p>The University would be seen to have responded to the feedback of those who wished to see the EJRA at a higher age, as well as to changes in longevity and the pension age</p> <p>This would align the retirement age with what was the long-standing retirement age for academics in the USA (where there is now no retirement age), and with that of another professional group in the UK, judges.</p> <p>Women who reach senior positions later in life would have longer in which to make an impact in those positions</p> <p>This might mitigate any lack of attractiveness to potential external recruits, given the high housing and living costs in Oxford and the fact that most HEIs do not operate an EJRA</p>	<p>There would be a delay of three years in the University's progress in achieving the <i>Aims</i>, with the resulting impact upon career progression, refreshment and diversity</p> <p>There would be an ongoing impact upon the achievement of the <i>Aims</i>, as the rate of retirement would slow for the future</p> <p>It would be perceived that the <i>Aims</i> are less necessary, if the University is seen to be prepared to sustain a three-year delay in their achievement: this may have a further impact upon recruitment and retention of high quality staff and undermine the policy</p> <p>There would be significant pollution of the data analysis in 2021: the 10-year review would have six years' worth of data on the operation of the EJRA at 67 and only one year's worth of data on its operation at 70</p> <p>c.40% of those who apply for an EJRA extension appear to wish to work beyond 70 (there were 22 staff in employment beyond the age of 70 as at 31 July 2015)</p> <p>Only 37% of respondents to the UCU survey (Annexe D) wanted to see an EJRA higher than 67</p>
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Table 2: Benefits and challenges associated with the options for the future age of the EJRA

The Group took the view that, having decided that the EJRA was supporting the *Aims* (with some amendments) and thus should be retained, they should take care to ensure that it was set at an age which would continue to contribute to their achievement. Although the move to 70 would reduce the number of employees who were prevented by the EJRA from working as long as they wished and thus reduce the discriminatory impact upon older employees, it was decided that a three-year hiatus in the University's achievement of the *Aims*, as well as an ongoing reduction in the rate of progress towards them, was an unacceptable outcome. Primarily for this reason, the Group decided against an immediate move to 70.

The Group was mindful that retaining an EJRA of 67 would continue to achieve some of the *Aims*, and that it would provide the 2021 review with 10 years' worth of data on the operation of the EJRA at a fixed age. However, they were also aware that it may not any longer necessarily be proportional, given the need for inter-generational fairness, which means that both older and younger members of staff need to be considered. The Group felt strongly that inter-generational fairness must take into account the needs both of those staff in their early careers and those nearing retirement. They considered the evidence that life expectancy is increasing (at a rate of two years per decade), at the same time that pension provision is reducing and the cost of living in Oxford continues to rise. They were aware that, although the retirement age at Oxford has moved between 65 and 67 over the last forty years, it has not been raised above 67 during that time, despite changes in longevity. Although the Group considered that the alternatives to extended employment which allow retired staff to retain a link to their department and can enable them to complete research projects, such as honorary research agreements, are valuable in themselves, they do not form an acceptable alternative to employment in all cases.

Despite its reluctance to see any delay in the achievement of some of the *Aims*, the Group wished to ensure that the age set was proportional and necessary to achieve the *Aims*. Given the presumption that age discrimination is unlawful, it decided that these arguments carried sufficient strength to necessitate an increase in the age of the EJRA by one year to 30 September before the 69<sup>th</sup> birthday. The Group believed that the EJRA will better achieve its *Aims* at this age because it will continue to ensure sustained turnover in support of the *Aims*, while better supporting older employees.

The Group were mindful that a further review will take place in five years' time. The group that conduct that review will have the benefit of a bigger data set and better trend data. While they will be at liberty to make their own decisions, this Group recommends that the EJRA be raised by a further year at that point, provided that the 10-year data confirms the trends on which this recommendation is based, and that this is consistent with the institution's needs and the context in which it is operating at the time. The increase in the EJRA by two years in the course of a decade would mirror the increases in life expectancy seen over the last decades.<sup>32</sup>

**Recommendation 7:** The Group recommends that (with due notice) the EJRA be moved by one year to 30 September before the 69<sup>th</sup> 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 the 30 September before the 70<sup>th</sup> birthday (ie an EJRA of 69) in 2022, to mirror changes in longevity, provided that the 10-year data confirms the trends observed in this interim review.

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<sup>32</sup> <http://visual.ons.gov.uk/how-has-life-expectancy-changed-over-time/>



## 6. THE 'EXCEPTIONS PROCESS'

Under the provisions in place before 2011, those staff who wished to work beyond 65 (or 67, for those who had reserved rights), could apply to the Personnel Committee for a fixed-term extension to their employment. A few dozen such applications were made each year and most were considered on the Committee's behalf by the Chair and approved.

When the EJRA was introduced, it was considered important that a process be devised under which individuals who wished to stay in employment could make a case to do so for consideration against a set of criteria designed to minimise the impact upon the *Aims* by a panel of senior staff with governance experience.

This process operated for four years before being revised in 2015, in the light of observations made by the University's internal Appeal Court and the experience of those involved. The review group that formulated the revisions had access to confidential and privileged legal advice. The *Aims* were clarified, the deadline for applications was moved to one year prior to the EJRA for all staff, the role of departments and divisions in the process was adjusted, and the EJRA Panel was replaced by a standing EJRA Committee, which would consider applications for extended employment in gathered fields every six months. Greater emphasis was placed on the expectation that those who wished to remain in employment step out of their substantive posts in order that it can be refilled and identify funding to support their new, fixed-term post.<sup>33</sup>

### 6.1. Data on the exceptions process

The Group were provided with data on the exceptions process before and after the introduction of revised procedures in 2015. This is provided at Annexes G and H.

The Group noted in particular that:

- overall, there have been a large number of applications and the success rate is high;
- the Humanities and Social Sciences Divisions had a greater proportion of applications relative to their size than other divisions prior to 1 October 2015 (Annexe G, p.2, section 4): thereafter, and until January 2017, of the 35 applications received under the new procedures, zero have been from Humanities and four from Social Sciences (Annexe H, p.2);
- the highest proportion of applications relative to the number of staff in those groups are from academic and the most senior research grades. There have been few applications from UAS, GLAM or from administrative and professional staff generally;
- many applications, even prior to the revised processes in 2015, involved an individual moving out of their substantive post in order that it can be refilled, thus supporting the *Aims*. In addition, some approvals have been made contingent upon individuals moving out of substantive posts, moving to part-time work, or completing their projects sooner, in order better to serve the *Aims*.

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<sup>33</sup> The changes made and the rationale for them are given in greater detail here: <http://www.ox.ac.uk/gazette/2014-2015/4june2015-no5099/notices/#208402>

## 6.2. Feedback on the exceptions process

There was almost universal agreement among those who fed into the consultation process that the existence of an exceptions process is necessary and fair to all those involved, particularly in comparison to the alternative, which is an EJRA without any route to apply for an extension.

The Group were in full agreement with the divisional representatives (see Annexe B) and other individuals who provided feedback and who emphasised that the process must be objective, fair and dignified for all involved.<sup>34</sup> It must make clear the high value the University places on the dedicated service – often long and outstanding service – of those approaching the retirement age. It was noted that the current process, including the forms used as the basis of applications, do not feel relevant to all and can be perceived as hostile and combative in approach. There appears to be high variability in how retirement discussions with staff are handled by different departments (see Annexe C), and the Group were clear that improvements in how Heads of Department handle this important junction in their staff's career is needed.

Those who serve on the EJRA Committee, which has reviewed applications for extensions since the introduction of the revised procedures in 2015, consider that the revised process, and in particular the standing committee and gathered field exercises, are working more effectively, allowing for more consistent consideration of applications.

The survey of retired staff (see Annexe C) showed that only a minority of staff have a full discussion with their line manager or head of department about their options on reaching the retirement age. As a result, some were unaware of the EJRA or the existence of a process under which they could apply for extended employment. Some senior staff felt that they did not receive as much support and guidance as they would wish to enable them to understand the policy and process and implement them effectively. In particular, there was confusion about the non-employment options available to those who wished to retain a link with their department after retirement or to finish off a research or other project.

The Humanities Division and some individuals raised concerns about the expectation in the criteria for extensions that “in all but very rare cases, applications will only be approved where the individual has secured grant or other funding to cover their costs while in employment beyond the EJRA”,<sup>35</sup> noting that there is less availability of grant funding for those working in large areas of humanities and certain areas of other disciplines, and thus less opportunity to apply successfully for extended employment.

The EJRA Committee asked that the deadline for applications be reconsidered: experience had shown that the current one-year deadline did not allow sufficient time for more complex cases, including those in which the Committee's decision is appealed, to be completed in time for recruitment to the vacated post before the individual's EJRA date. This was particularly problematic in the case of academic posts, for which there is a longer lead time. This was detracting from the EJRA's contribution to succession planning.

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<sup>34</sup> <http://www.ox.ac.uk/staff/consultations/ejra-review>. Items 12 and 19 of the staff feedback refer to this issue.

<sup>35</sup> Section VI, paragraph 36(ii) of the full procedure:  
<https://www.admin.ox.ac.uk/personnel/end/retirement/revisedejra/revproc/>

### 6.3. Conclusions concerning the exceptions process

The Group considered that it is important to retain an exceptions process, because:

- very limited exceptions to the general rule of the EJRA help ameliorate the effect of the EJRA without undermining the *Aims* (e.g. granting a short, limited-time extension in a reduced role to enable a project to be completed, or to ensure that a member of staff who works on 3- or 5-year programme grants is able to remain optimally productive to the end of their career); and,
- it is the act of a reasonable employer to ensure that there is a process that allows for the consideration of unusual personal circumstances before the application of a general rule.

However, the Group were clear that such a process should only allow for continued employment where it was clear that:

- there is a need for the exception as defined by the exceptions policy;
- the individual and their department or faculty had discussed the purpose of the proposed extension and it had been agreed that no non-employment options provided a viable alternative to an extension;
- the impact of any extension upon the achievement of the *Aims* had been minimised as far as possible;
- the needs of the individual and University had been balanced against each other by the application of a fair and objective set of criteria designed to take all relevant factors into account; and,
- the case had been reviewed and approved by a central body constituted so as to ensure an objective assessment of the evidence.

Careful consideration was given to whether it was necessary to retain the expectation that, except for those in exceptional circumstances, individuals self-fund any extension in the light of concerns raised about fairness to those in areas where funding is less readily available. It was noted that, prior to the introduction of the revised procedures in 2015, extensions had been granted to members of the Humanities who had self-funded their extensions or for whom funding had been available from other sources. Since October 2015, no member of the Humanities had applied for extended employment. Given the small numbers involved, this could be due to chance but it was likely that individuals were being discouraged from applying by this criterion or finding it difficult to put together an application that would satisfy it.

The Group were mindful that the purpose of this criterion is to ensure that departments have the necessary resources available to recruit to permanent posts vacated by those who are applying for extended employment in a specially-created fixed-term post.

It was concluded that the criterion remains necessary since, without it, most departments will not be able to recruit to those vacated posts and thus minimise the impact of the extension upon the *Aims*. It was hoped that other ways could be found to support those working in areas of the Humanities or in other areas in which less grant funding is available, so that they can, when appropriate, identify a suitable source of funding and make a case for extended employment.

#### **6.4. Recommendations concerning the exceptions process**

The Group did not set out to devise detailed amendments to the process but makes the following recommendations for the consideration of Personnel Committee and asks that the process be revised with these recommendations in mind:

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.

## 7. EQUALITY IMPACT ASSESSMENT

The University is considered a “public authority” for the purposes of the Equality Act 2010 and must therefore have “due regard” to the Public Sector Equality Duty (PSED) when formulating policies. Accordingly, and with reference to the data available to it, the Group considered the potential impact of each of its recommendations, as follows:

Recommendations 1, 3 and 4: recasting the *Aims* and removing two for which there is less clear evidence that the EJRA is making a substantial contribution.

*The Group took the view that these recommendations would not have any impact on minority groups, since they relate to the justification for the EJRA, not to its continued application or otherwise.*

Recommendation 2: regarding data collection in advance of the ten-year review in 2021

*This recommendation will not have any impact on diversity, but will enable a more accurate assessment of the impact of the policy on diversity in 2021.*

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*.

*This recommendation is based on an assessment of the contribution of the EJRA to the achievement of the Aims, one of which is the promotion of equality and diversity. The group considered that the maintenance of the EJRA will continue to make a positive contribution to sustained and improved diversity across the University, with the evidence clearest for those in academic and senior positions.*

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.

*The Group considered the relative proportions of staff who are women (Annexe F, p.3), BME (p.20) and disabled (p.23) among the grades that it proposed to remove from the coverage of the EJRA. It was noted that there is a greater proportion of women and BME staff among grades 6 and 7, who will have greater flexibility to choose their retirement date if the Group’s recommendations are implemented. Should some of those from minority groups choose to extend their employment beyond the EJRA, this will result in increased representation of that group in the workforce.*

*The proportion of disabled staff among those proposed for removal from the EJRA is roughly the same as among the population currently subject to it.*

*It was concluded that this recommendation will have an overall positive effect on diversity.*

Recommendation 7: The Group recommends that the EJRA be moved by one year to 30 September before the 69<sup>th</sup> 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 the 30 September before the 70<sup>th</sup> birthday in 2022, to mirror changes in longevity, provided that the 10-year data confirms the trends observed in this interim review.

*The Group noted that the impact of this recommendation on diversity in general and minority groups in particular will be complex. One of the primary reasons for the existence of the EJRA is to promote increased diversity and the Group were satisfied that it contributes*

*substantially to that by its role in sustaining the creation of vacancies in key grades (see section 3.2.5 above). For that reason, the Group did not want to recommend a large increase in the age at which the EJRA is set: the resulting extended hiatus in the achievement of the Aims, including the diversity Aim, was deemed unacceptable.*

*However, the Group were also anxious to balance this gain against the need to be fair to another group – those in their late careers. For this reason, and recognising changes in longevity and pension provision in particular, the Group recommends an increase in the EJRA of one year (with a further recommendation that the 2021 group increase the EJRA by a further year). This will provide additional flexibility for those older staff to choose their retirement date.*

*There is some evidence, both anecdotal and in the data (Annexe J, p.1-2) that women may benefit from longer to establish their careers and reach the most senior grades and then, having reached those grades at a greater age than their male counterparts, need to work longer in order to be able to make an impact in them. Some individuals have suggested that a proportion of women need to work for longer to compensate for time spent on childcare, both in career terms and to build their pensions.*

*Conversely, women do not appear to wish to work beyond the EJRA as often as men: women comprise 43% of the population currently subject to the EJRA, but only 23% of the applications for extensions (their success rate when they do so is similar to that of men). This may in part reflect a reluctance by women to make the case for an extension but it seems unlikely that this would wholly explain such a marked differential.*

*Overall, the Group concluded that the recommendation to raise the EJRA to 68 for the next five years will have a short-term impact on the University's success in improving diversity in terms of gender and ethnicity but that the impact in the long-term will be minimal and will be compensated for by the benefit to older staff.*

Recommendations 8-11 the Group recommended that the Personnel Committee review the exceptions procedure, to provide further clarity and support for the parties, and to move the deadline for applications for extensions to two years prior to the EJRA date.

*The group took the view that these measures, if implemented as intended, will benefit all staff but that they were unlikely to have a greater or lesser impact on any minority groups. They anticipated that the Personnel Committee would conduct a further equality impact assessment in the course of developing the revisions.*

The Group decided that the consultation it had conducted in the course of the review was sufficient to make it fully aware of the views of the potentially affected groups on the current and potential impact of the policy.