

Consultation on Flexible Retirement & Pension Provision

A DWP document

A response by

The National Association of Pension Funds

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Introduction

1. The NAPF is the leading voice of workplace pensions in the UK, with over 1300 members, between them providing pensions to over 10 million working people. NAPF Member schemes hold assets of some £800bn.
2. The NAPF welcomes the opportunity to respond to the consultation by DWP. We set out our general views and some answers to the consultation's specific questions below.

General Comments

3. The consultation asked 20 specific questions, not all of which elicited a response to the NAPF from our member schemes. We have included responses below to only those 9 questions which our members did comment on.
4. The NAPF believes that pension provision is inherently "discriminatory" in that pension schemes have traditionally been designed to replace income when individuals retire. By their very nature, they discriminate in favour of older people. Under the law, they are required to.
5. We believe that legislation is essential in dealing with some aspects of discrimination and we support measures designed to counter age discrimination in the field of employment. However, measures which serve to prevent carefully planned benefit design from being put into practice should be examined closely, and the DWP's concept of "targeted exemptions" is we feel, entirely appropriate. Overall, we strongly urge the DWP to recall that good company pension schemes are offered on a voluntary basis and that if the rules imposed upon them become too rigid, employers will simply choose to provide remuneration and reward in other ways.

Answers to selected specific questions

Age discrimination in relation to flexible retirement:

Q1. We would welcome your views on what you believe might constitute direct or indirect age discrimination in relation to flexible retirement.

If the decision to continue working while drawing a company pension is made by anything other than employee election, then issues of age discrimination would seem to be inevitable.

If flexible retirement is not available in the pension plan rules (and not a plan benefit in any circumstances), this should not be seen to be discriminatory.

Q2. It would also be helpful if you could indicate practices which you believe should be exempt or which could be easily objectively justified under any new provision.

More employers might be encouraged to permit flexible retirement if they were allowed to set a minimum age for its operation, along with maximum duration or annual review. For example, where a pension scheme offers undiscounted pension at age 60, the employer might find this an acceptable age at which to offer reduced working hours to its employees.

The NPA may be lower than the DRA or NRA:

The NAPF has no comment on questions 3, 4 and 5.

We are aware that in some cases drawing benefits and continuing to work is not an option.

Q6. What do you think are the reasons for this?

Flexible retirement is inextricably linked to part-time working flexibility, which makes it an issue of staffing and resource planning. Operational requirements (particularly shift-working) can make part-time working difficult to accommodate.

Introducing more part-time workers is likely to increase total employment costs.

Flexibility may not yet be seen as a need in companies where employees traditionally have long careers/pensionable service and can usually afford to fully retire at the anticipated time.

Q7. How common a practice do you think this is?

Anecdotally, we believe it is widespread.

If the employee has achieved maximum pensionable service and the scheme is closed to new entrants:

The NAPF has no comment on questions 8 to 13.

Unable to take pension unless an employee leaves employment:

Q14. What are your views on this? Is there a concern that this may continue to promote an early exit from the labour market – and why?

If flexible retirement is not available, only those who can afford to retire are likely to do so voluntarily. It could be argued that those with limited pensions should not be encouraged/tempted to draw them early due to the detriment of their income in old age.

If capability is the determinant of work hours causing reduced income, then this may justify/necessitate continued working and drawing of pension.

Not providing benefits after NPA:

Q15. What are your views on not providing benefits after NPA?

The NAPF believes that an employee should get the value of the benefit usually associated with the work being done, which could take the form of alternate compensation. Some employers might welcome the flexibility that the ability to offer an alternative could provide.

Drawing part benefits:

Q16. Is there any evidence that if this option (allowing part benefits etc) were to be pursued further it would have a detrimental effect on the scheme provision?

Yes, forcing flexibility in scheme design (and reducing employer choice in favour of employee choice) may cause more employers to consider closing DB pension provision. The NAPF recently surveyed its open DB schemes and asked what is the one thing the Government could do to sustain DB provision. The majority, over 60%, replied that deregulation – and, by implication, more flexibility – is needed above all else. Enabling flexibility allows the employer to choose whether to adopt a policy (and perhaps suffer in the labour market if a wrong decision is made).

The NAPF has no comment on questions 17.

Preservation legislation to be met by additions to regulations which list alternatives to short service benefits within the Pension Schemes Act 1993:

Q18. Do you agree that this would be the simplest solution?

With no plans to change primary legislation, we agree that this would be the most straightforward solution.

The NAPF has no comment on question 19.

Provision of death benefits beyond a certain age:

Q20. What are your views on this? Do you believe there are any occasions where it may be justifiable to not provide death benefits to employees after NPA? And why?

Although cost in isolation is generally not considered a good enough reason to justify discrimination, in this case it becomes increasingly burdensome with the age of the employee. Given that such benefits are offered on a voluntary basis, if they prove to be too expensive to provide for all employees post NPA, employers may simply cease to offer them to any staff.

Alan Chart,
Policy Adviser: Regulation
Alan.chart@napf.co.uk

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