



**Tithe an
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An Comhchoiste um Dhlí agus Ceart, Cosaint agus Comhionannas

Tuarascáil maidir le héisteachtaí i ndáil leis an mBille um Chomhionannas
Fostaíochta (Aois Scoir Shainordaitheach a Chealú), 2014

Nollaig 2015

Houses of the Oireachtas

Joint Committee on Justice, Defence and Equality

Report on hearings in relation to the Employment Equality (Abolition of
Mandatory Retirement Age) Bill 2014

December 2015

31/JDAE/037



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Chairman's Preface

The Joint Committee on Justice, Defence and Equality has an enormous remit and covers a wide variety of areas which affect people in their daily lives.

As Chairman of the Committee, I have been present at over 130 Joint meetings and heard evidence from hundreds of witnesses.

All evidence given to the Committee is valuable and extremely important. However, at the hearings in relation to the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014, I was moved by the poignant nature of the personal testimony which was put forward by those who made a presentation.

It was obvious that these witnesses were citizens who simply wished to have the option of continuing to work in their job/profession beyond the current retirement age.

I wish to also pay tribute to my colleague, Anne Ferris TD, who is also Vice-Chairman of this Committee for her commitment to this matter.



A handwritten signature in black ink, which appears to read "D Stanton", written over a horizontal line.

David Stanton, T.D.
Chairman
December 2015

Vice-Chairman's Preface

As sponsor of the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014, I was delighted when the Bill was selected for debate in Dáil Éireann. I believe that this Bill is an important advance in employment and equality legislation and represents an opportunity for legislators to acknowledge the value of all of our citizens regardless of their age.

This legislation is an opportunity to acknowledge the past, present and future contribution to society of those electing to work later into life, be it through continuing to pay taxes, passing on to others the knowledge they have built up over their careers or the on-going action of contributing their valuable experience workplace and managerial decisions that ultimately lead to strong economic growth and job creation.

In addition, I believe that having young and older people working together will foster a deeper and more respectful relationship between the generations and a more balanced and productive working environment for all.

I wish to thank everyone who took the time to make a written or oral submission to the Committee and can assure you that all arguments made were considered. To those of you who presented at the public meeting, I recognise that this type of experience can be daunting, but I thank you all for your very honest and dignified contributions.

I wish to thank the Chairman and my colleagues on the Committee for supporting me with this Bill.

I hope that the Bill can now be progressed and enacted as soon as possible. From a personal perspective I see little difference between this proposal and the objectives of the Civil Service (Employment of Married Women) Act 1973 which lifted the bar against married women working in the public service. If that measure could be achieved through an Act of the Oireachtas then, in my view the achievement of equal access to the work place for older citizens is also possible.



Anne Ferris, T.D.
Vice-Chairman
December 2015

Introduction

The Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014 was introduced by Deputy Anne Ferris in April 2014.

Following its selection and debate in Dáil Éireann, the Bill was referred to the Joint Committee on Justice, Defence and Equality for consideration.

In advance of its formal consideration, the Committee decided to undertake a public consultation on the provisions of the Bill and invited written submissions from stakeholders.

In total, the Committee received 25 submissions. Some submissions contained personal information and therefore it was not appropriate to publish them, however the points raised in all of the submissions were taken into account by the Committee. The submissions which could be published are contained in Appendix 4.

To explore some of the points raised in the submissions, the Committee agreed to invite some of those groups/individuals to a meeting on 18th November 2015. The transcript of this meeting is contained in Appendix 3.

Those who attended the public hearings were:

Age Action Ireland:

Mr. Justin Moran	Head of Advocacy & Communications
Ms. Naomi Feely	Senior Policy Officer
Ms. Angela Gallagher	Member

The Law Society of Ireland:

Ms. Joanne Hyde	Chairperson, Employment & Equality Law Committee
Mr. Loughlin Deegan	Vice-Chair, Employment & Equality Law Committee
Ms. Deirdre Malone	Committee Member

Irish Senior Citizens Parliament:

Mr. John Walsh	President
Ms. Máiread Hayes	Chief Executive
Ms. Imelda Browne	Member, Executive Committee

Individuals:

Mr. Noel Conway

Mr. William Quinn

Ms. Kathleen O' Toole

Mr. Seán O Reilly

Mr. Patrick Meany

Dr. Enda Shanahan

Mr. Tony Kenny

Ms. Margaret Haughton

The Committee wishes to express its thanks to all those who participated in this process and valued the opportunity to engage with interested parties.

Observations

In almost every case, the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014 was welcomed.

The following are some of the main points raised in both the oral and written submissions:

Ageist and discriminatory

The Committee was told that the imposition of mandatory retirement was deeply ageist and has been permitted for so long that it is still publicly acceptable in Ireland. It is applied automatically and does not take into account the capabilities of the individual concerned. It was submitted to the Committee that the decision to retire is a very personal matter and the choice should be left to the employee, save in specified cases and for specified reasons.

Potential of Poverty/Financial uncertainty

In some cases, individuals are not financially in a position to retire and forcing a person into retirement can have devastating consequences. In some cases, individuals may have been late entering the workforce, possibly due to other commitments e.g. raising children, and their income is necessary to cover mortgage repayments, costs of medical care/insurance, college fees for their children and other basic needs.

The compulsory retirement of someone, who may be the main bread-winner, can place the individual at risk of losing their home and neglecting their health simply because their income has been dramatically reduced.

The Committee was told that compulsory retirement can increase the potential for poverty on the individual. However, it could also result in a child not completing their education due to the resulting financial difficulties.

It is widely accepted that a good education is a major factor in securing well-paid employment. Therefore, the potential for poverty on the parent could also increase the risk of poverty on the next generation.

Conflicting dates

The Committee was told that there can be conflicting dates with regard to a person's contract of employment and the "contract" or promise to pay them a pension. In some cases, the Deed establishing a Trust which manages an occupational scheme may have a pension payment date which differs from the retirement date.

Burden on Society

Many people, still capable of remaining in employment, are forced to retire. They are sometimes viewed as "invisible" or a "burden on society". It was put to the Committee, that the years of experience, knowledge and wisdom are being discarded in favour of someone younger. This, as one contributor said, would allow for them to "be replaced by someone on a lower wage and a Zero Hour Contract".

Lack of opportunities for younger people

One contribution said that the "abolition of a contractual retirement age will result in a bottleneck in the workforce with promotion and advancement for younger workers proving elusive."

This was not accepted by most of the contributors and the Committee was told that the "UK has recently changed its employment law to ensure that there must be appropriate and objective grounds for mandatory retirement,". This development may be seen as an acknowledgement that mandatory retirement should be reconsidered.

Health and Safety Concerns

It was submitted to the Committee that the "removal of a compulsory retirement age will result in increased health and safety concerns with older workers remaining on in the workforce". While the Committee accepts that in certain circumstances and professions age can be a factor, however, such a concern cannot be applied to all circumstances/professions. The Committee was told that in the medical profession, members can be rated as fit for purpose by the Medical Council.

Council Directive 2000/78/EC

It was submitted to the Committee that the Directive requires Member States to take necessary action for "the social and economic integration of elderly and disabled people".. [and] "to pay particular attention to support older workers in the workplace in order to increase their participation in the labour force".

The provisions of the Bill would bring Ireland into compliance with this Directive, it would also prevent an employer from setting a compulsory retirement age except in the case of specified emergency services.

In addition it would require an employer to objectively establish that an employee is no longer capable of doing a job before they can fairly compulsorily retire an employee at a particular age, with the costs associated in proving this.

And it would permit employers to fix voluntary retirement ages for all or some employees.

RECOMMENDATIONS

The Joint Committee recommends the following:

1. That the Minister for Justice and Equality (the Minister) acknowledges the strong contribution made to the Irish economy by workers of an age where they are now facing mandatory retirement.
2. That the high level of public support for the abolition of mandatory retirement ages be acknowledged by the Minister.
3. That the existence of a skills-gap in the Public Sector due to the voluntary early retirement of older experienced workers be acknowledged by the Minister, together with the fact that the on-going application of mandatory retirement ages only serves to worsen the situation.
4. That the Minister acknowledges the loss in corporate knowledge, and the subsequent damage to Government and the economy, resulting from the loss of older workers from the workplace.
5. That this Bill be considered in the same context as the Civil Service (Employment of Married Women) Act 1973, where the bar against married women working in the public service was removed by an Act of the Oireachtas, notwithstanding the loud arguments made at the time that women would displace other workers in the workplace and that the change would have adverse consequences for the Irish economy.
6. That the Minister acknowledges the value that the abolition of the marriage bar has added to the Irish Economy since 1973 and the similar value that can be gained by the abolition of mandatory retirement ages.
7. That the Minister recognises the dilemma faced by a growing cohort of the population facing a mandatory retirement age that predates the activation of their State Pension entitlements and the need to address this issue through the removal of mandatory retirement ages.
8. That the Minister supports the enactment of this Bill during the lifetime of this Government.

CONCLUSIONS

While the Committee accepts that it is the norm for people in many areas, particularly the Public Sector, to retire at a set date such as 65 years of age, this approach is outdated.

People are living longer, healthier lives and making decisions on a more long-term basis. Increasingly public figures in the Media, Arts, Universities, Politics amongst other walks of life are working well into their 70s and beyond, often on a freelance or self-employed basis. Their on-going contribution to Irish life is widely appreciated and acknowledged. This contrasts dramatically with the situation of workers who are saddled with a mandatory retirement age of 65 or younger.

Retirement is often viewed as "out with the old" and "in with the new". This is not a view appropriate to an all-inclusive society which values all of its citizens for the contributions they can make and is not in touch with the reality of a society where many people can and do work for all of their lives.

Yes, it is appropriate for some people to retire at age 65, or even earlier, in certain circumstances, but it is not a "one-size-fits-all". In most cases, retirement should be a decision made by the employee.

A growing cohort of the population is facing mandatory retirement at an age that predates the date of activation of their State Pension entitlements. With the abolition of retirement ages, this dilemma would be largely removed.

The Committee is of the view that the benefits of providing equal access to the workforce will significantly outweigh any perceived drawbacks.

The Committee is fully supportive of this Bill and hopes that consideration of the remaining stages can be progressed as quickly as possible.

APPENDIX 1

List of Members

Deputies: Niall Collins (FF)
Alan Farrell (FG)
Anne Ferris (LAB) [*Vice-Chairman*]
Seán Kenny (LAB)
Pádraig Mac Lochlainn (SF)
Gabrielle McFadden (FG)
Finian McGrath (IND)
Fergus O'Dowd (FG)
David Stanton (FG) [*Chairman*]

Senators: Ivana Bacik (LAB)
Martin Conway (FG)
Tony Mulcahy (FG)
Rónán Mullen (IND)
Denis O'Donovan (FF)
Katherine Zappone (IND)

APPENDIX 2

ORDERS OF REFERENCE

a. Functions of the Committee – derived from Standing Orders [DSO 82A; SSO 70A]

- (1) The Select Committee shall consider and report to the Dáil on—
 - (a) such aspects of the expenditure, administration and policy of the relevant Government Department or Departments and associated public bodies as the Committee may select, and
 - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee may be joined with a Select Committee appointed by Seanad Éireann to form a Joint Committee for the purposes of the functions set out below, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee shall consider, in respect of the relevant Department or Departments, such—
 - (a) Bills,
 - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 164,
 - (c) Estimates for Public Services, and
 - (d) other matters as shall be referred to the Select Committee by the Dáil, and
 - (e) Annual Output Statements, and
 - (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies, and report thereon to both Houses of the Oireachtas:
 - (a) matters of policy for which the Minister is officially responsible,
 - (b) public affairs administered by the Department,
 - (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
 - (d) Government policy in respect of bodies under the aegis of the Department,
 - (e) policy issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
 - (f) the general scheme or draft heads of any Bill published by the Minister,

- (g) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
 - (h) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
 - (i) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in paragraph (4)(d) and (e) and the overall operational results, statements of strategy and corporate plans of such bodies, and
 - (j) such other matters as may be referred to it by the Dáil and/or Seanad from time to time.
- (5) Without prejudice to the generality of paragraph (1), the Joint Committee shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 105, including the compliance of such acts with the principle of subsidiarity,
 - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
 - (c) non-legislative documents published by any EU institution in relation to EU policy matters, and
 - (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- * (6) A sub-Committee stands established in respect of each Department within the remit of the Select Committee to consider the matters outlined in paragraph (3), and the following arrangements apply to such sub-Committees:
- (a) the matters outlined in paragraph (3) which require referral to the Select Committee by the Dáil may be referred directly to such sub-Committees, and
 - (b) each such sub-Committee has the powers defined in Standing Order 83(1) and (2) and may report directly to the Dáil, including by way of Message under Standing Order 87.
- (7) The Chairman of the Joint Committee, who shall be a member of Dáil Éireann, shall also be the Chairman of the Select Committee and of any sub-Committee or Committees standing established in respect of the Select Committee.
- (8) The following may attend meetings of the Select or Joint Committee, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:

* By Order of the Dáil of 8th June 2011, paragraph (6) does not apply to the Committee on Justice, Defence and Equality.

- (a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
- (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
- (c) at the invitation of the Committee, other Members of the European Parliament.

b. Scope and Context of Activities of Committees (as derived from Standing Orders [DSO 82; SSO 70])

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders.
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 26. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.
- (4) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Dáil Standing Order 163 and/or the Comptroller and Auditor General (Amendment) Act 1993.
- (5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
 - (a) a member of the Government or a Minister of State, or
 - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.

APPENDIX 3

DÁIL ÉIREANN

AN COMHCHOISTE UM DHLÍ AGUS CEART, COSAINT AGUS COMHIONANNAS

JOINT COMMITTEE ON JUSTICE, DEFENCE AND EQUALITY

Dé Céadaoin, 18 Samhain 2015

Wednesday, 18 November 2015

The Joint Committee met at 9.30 a.m.

MEMBERS PRESENT:

Deputy Niall Collins,	Senator Martin Conway,
Deputy Alan Farrell,	Senator Tony Mulcahy,
Deputy Anne Ferris,	Senator Denis O'Donovan,
Deputy Seán Kenny,	Senator Katherine Zappone.
Deputy Pádraig Mac Lochlainn,	
Deputy Gabrielle McFadden,	
Deputy Finian McGrath,	

In attendance: Senators Mark Daly and Mary M. White.

DEPUTY DAVID STANTON IN THE CHAIR.

Rural Crime: Irish Farmers Association

Chairman: The purpose of this part of the meeting is to have an engagement with the Irish Farmers Association, IFA, on the issue of crime affecting rural communities and farmers. I warmly welcome its president, Mr. Eddie Downey, whom I will ask to introduce his colleagues. The format of the meeting is that I will invite him to make a brief opening statement lasting approximately five minutes, after which we will have a question and answer session with members. We find this to be a highly effective approach. I ask everyone present to switch off his or her mobile phone or set it to airplane mode or another in order that it will not interfere with the recording system.

By virtue of section 17(2)(I) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or an entity by name or in such a way as to make him, her or it identifiable. Members should be aware that under the salient rulings of the Chair, they should not comment on, criticise or make charges against a person outside the Houses or an official by name or in such a way as to make him or her identifiable.

I ask Mr. Downey to introduce his colleagues and make his opening statement.

Mr. Eddie Downey: I thank the Chairman for giving me the opportunity to address the joint committee on the very serious issue of rural crime. I know that members are well aware of the real anxiety among the farming community and rural communities generally about crime in the countryside. The theft of valuables from rural homes and livestock and machinery from farms is a major concern. It must be recognised that many farmers and other rural dwellers are living in real fear of their personal safety and that of their families. That is why it is so important that the issue be addressed as a matter of urgency.

I am joined by Mr. Jer Bergin, national treasurer, who has responsibility within the organisation for dealing with the issue of rural crime and Mr. Colin Connolly who has recently taken up the newly created staff position of rural crime prevention executive.

According to CSO figures, more than 2,500 farm crimes were reported in the first six months of 2014. They include 1,720 instances of farm machinery being reported as stolen and 218 cases of vehicle theft. There is also a serious problem with the theft of livestock, with 48 cases reported, including instances of cattle rustling. There were 280 burglaries or break-ins to farm houses. We do not have separate figures for burglaries at the homes and businesses of other rural dwellers. I stress that these are reported figures. We believe there is considerable under-reporting of rural crime, in particular, the theft of machinery, fuels and other items from farmyards and lesser break-ins to family homes.

The theft of agricultural equipment and livestock can be financially devastating for farmers who, like all rural dwellers, are very vulnerable when it comes to criminality. This vulnerability

is compounded by geographic and service isolation. It is the IFA's contention that rural dwellers and farmers are not guaranteed the same level of service and security provided in urban areas. Many areas have seen the effects of cutbacks and closures of local services, including post offices and other vital institutions, as well as Garda stations and the presence of Garda members.

In response to the concerns of its members, the IFA has taken a lead role in addressing these challenges and we are working with An Garda Síochána and other agencies to support rural crime prevention. The IFA has partnered An Garda Síochána in developing the TheftStop crime prevention initiative, a new, practical, simple and cost-effective theft prevention system now available nationwide. Following successful pilot schemes in counties Tipperary and Donegal last year, the initiative is being rolled out nationwide on a county by county basis. All rural dwellers are invited to join TheftStop by registering at

TheftStop.ie. It has been designed to deter criminals and recover stolen items by ensuring machinery and other equipment are clearly marked with a unique ID, with the details registered on TheftStop's nationwide database. I thank An Garda Síochána for its co-operation in this initiative and, in particular, assistant commissioner Jack Nolan for his continued commitment. I encourage all country dwellers, farmers in particular, to become part of the initiative by registering today.

The IFA has welcomed publication of the Sentencing Council Bill 2015 by the Minister for Justice and Equality, Deputy Frances Fitzgerald. It must lead to longer jail terms for burglars, in particular, for repeat offenders who continue to target family homes and businesses. The issue of bail also deserves close examination. There is clearly a serious problem with the level of crime being committed by people released on bail. Law abiding citizens deserve to be better protected.

The IFA has been campaigning for increased policing hours and the presence of mobile units in rural areas by An Garda Síochána to reduce crime and, in general, provide for a safer, more secure rural environment. I welcome the addition of 200 new vehicles to the Garda fleet and the commitment to continued Garda recruitment. Last August the IFA launched a policy charter for rural Ireland to support the 440,000 families and businesses in the countryside. It proposed the following measures to address members' concerns about rural security. The seniors alert scheme which provides financial support for the use of personal pendant alarms by elderly people should be extended to cover the installation of house alarms and there should be full enforcement by local authorities and An Garda Síochána of the legislation to curb metal theft. It was enacted in 2014 and requires all scrap metal dealers to keep proper records and seek proof of identity from those supplying such materials. A key element of Government support for rural areas is delivery on its commitment to provide a high-quality rural fibre broadband network across the country to support homes and businesses.

The IFA has taken a lead role in terms of action on rural crime and been proactive in identifying solutions to the problem. As a clear indication of its commitment we have appointed a rural crime prevention executive, Mr. Connolly, to assist the organisation in this task. We have established a reward fund of €10,000 with An Garda Síochána and Crimestoppers to combat livestock theft and developed a community-based text alert initiative in which IFA branch officers play a key role in crime prevention. Building on our community text service, we are exploring the development, with An Garda Síochána, of a full nationwide text alert service that would lead to safer and more secure rural communities. We are engaging with local communities on the issue of CCTV installation in local villages at locations where it would assist crime prevention and detection.

The IFA will continue to campaign for support from elected representatives and the Government to protect rural dwellers and businesses. Today I am looking for further engagement from the committee on the IFA's activities in rural crime prevention, together with its support for the IFA's initiatives in this regard. We look forward to a constructive discussion with it.

Chairman: I thank Mr. Downey for his comprehensive opening statement. The committee is looking for submissions on electronic tagging and curfews. If anybody who is listening has comments to make on these issues, he or she is welcome to send them in. There are different views on how effective electronic tagging is and we would need to have a good look at it before rushing to implement it. There has been some pilot scheme work done on it.

We had representatives of Muintir na Tíre before us recently in what was a very interesting engagement. What engagement has the IFA had with that organisation? I would also like to find out about farmwatch which is active in some parts of the United Kingdom and seems to be quite an interesting and effective approach.

Deputy Pádraig Mac Lochlainn: The joint committee is involved in an ongoing dialogue on the issue of rural crime. A few years ago the IFA carried out a survey in which one in three respondents said he or she had been the victim of crime in some way. There was an issue with the recording of crime and a sense that some crimes were not taken seriously. Other surveys produced similar findings for rural areas, but the official crime statistics gave a very different picture. What is Mr. Downey's view?

Chairman: Mr. Downey mentioned the under-reporting of crime.

Mr. Eddie Downey: It is a big issue for us. I have attended a number of meetings around the country at which crime officers from An Garda Síochána have spoken. One of them described a farm as a supermarket for thieves because the opportunities for thieves at a farm were endless. It is as if we invite thieves onto farms. We need to take action to prevent this from happening. It is very clear that some people think it is not necessary to report certain crimes and they do not see any value in reporting them. We have to get the need to report every crime into people's minds because, while a crime on one farm may seem trivial, in combination, they are all serious and reporting them might lead to the detection of a more serious crime later. While a crime committed on my farm might seem trivial, the combination and culmination of various crimes might lead to the detection of more serious crimes further on. I think we need to get that into place. We cannot expect the system to deal with all of these issues. People dwelling in rural Ireland need to be part and parcel of the solution. The IFA believes it has a role in that.

Mr. Jer Bergin: Mr. Downey is right when he says that a great deal of low-level crime is not reported. I refer to diesel theft and that kind of thing. I will explain why reporting has to be part of the IFA's Theft Stop initiative, which is being rolled out by my colleague, Mr. Connolly. There are two issues at stake here. The first is crime prevention and the second is that the Garda is unable to return much of the stolen equipment it recovers to its rightful owners. There is a need for reporting through official Garda channels, to be followed by uploading, identification and all the rest of it. This should result in being able to trace owners and return equipment to farmers. However, this is not something that always happens at present. I think that is a key issue as well.

Deputy Pádraig Mac Lochlainn: The impact of cross-Border crime on rural communities has been an issue in my constituency of Donegal North-East, which is a Border constituency, from time to time. The IFA has taken up some very good initiatives in the county. I refer to

the marking of farm machinery, etc. What level of co-operation exists between the IFA and the Ulster Farmers Union? Is a joint approach being taken? We have recently heard language suggesting that a joint task force of the PSNI and An Garda Síochána is tackling criminality in Border areas. The issues that need to be addressed include not only diesel laundering and cigarette smuggling but also cattle rustling and the theft of farm machinery. This type of crime is having an impact on the farming community. I want to get a sense of the level of all-Ireland co-operation to address crime.

Mr. Eddie Downey: My colleague, Mr. Connolly, might want to come in on this as well. We have a very good relationship with the Ulster Farmers Union. I recently spoke at a farm safety conference at which the union was represented. We are developing links with the union because there is commonality across the Border. When machinery is stolen from a farm, it is a unique thing. The number of customers for a piece of machinery might be quite limited. It is a question of finding out where these things are going, who is receiving them and who is moving them on from there. I think that is the key part of this. That is where the marking system that is part of the Theft Stop initiative comes in. A unique mark on each piece of equipment will make it more traceable. We are going to work with interested parties in the North. I have already had discussions with the president of the Ulster Farmers Union on the potential for the roll-out and use in the North of a similar system to our Theft Stop system. We are looking at how it could work on that basis.

Mr. Colin Connolly: The co-operation between the Garda and the PSNI is now obvious. Part of my function with the IFA is to liaise with the Garda in respect of these matters. Having worked in An Garda Síochána, I understand the way this needs to work. It says a lot that the Theft Stop initiative originated in County Donegal as a cross-Border initiative. At the moment, the Garda is fully engaged with this system and the PSNI is very aware of it. We can ensure the system works by transcending the Border, bringing it across and getting the North engaged in it.

Deputy Pádraig Mac Lochlainn: My final question relates to joint policing committees. I want to get a sense of the role played by community alerts and text alerts. A delegation from Muintir na Tíre, which is a fantastic and important initiative in rural areas, attended a recent meeting of the joint committee. With regard to joint policing committees, I have concerns about the ability of community organisations and public representatives to engage with senior members of An Garda Síochána on the concerns that exist in a given county. When the Garda Síochána (Policing Authority and Miscellaneous Provisions) Bill 2015 is passed, which should happen soon, the new policing authority will have an important role in policing the joint policing committees. I would like to get the thoughts of the witnesses on how we can improve those committees, particularly as they pertain to rural areas.

Mr. Eddie Downey: While the theft of machinery and various other items from farms is worrying, the particular danger associated with cattle rustling and cattle theft is that it has the potential to damage the system of full traceability on which we pride ourselves in this country. We have great confidence in this robust and good system, which is being well policed by the Department of Agriculture, Food and the Marine. Cattle rustling is creating a real worry for us, however. The co-operation that is being received North and South to try to stamp this out is an example of how various systems can work well together. I think we are making major progress in this whole area.

Mr. Jer Bergin: I think there is a strong role for the IFA in this area. We have almost 950 branches across the country. Like the GAA, we are in every parish in every county. Farmers have a unique role to play because they are present in rural areas at times of the day or night

when other people are at work or college. Their local knowledge and skills of observation are used as part of the text alert system, for example. Reference has been made to Muintir na Tíre. We are working with the Garda as part of that to get it running better and to spread it out. We intend that all our branch members will be able to be part of community text alert systems, which are used by people to make reports to the Garda when they see something wrong. Such reports go to local gardaí and nobody else. Those gardaí assess the vehicle or whatever it is and make decisions on that basis. It is a case of using local knowledge to help gardaí to do their jobs. Our role does not involve replacing gardaí or the resources that need to come to the Garda to police rural Ireland.

Deputy Gabrielle McFadden: I thank the witnesses for attending this meeting. Some of the issues I want to raise have already been discussed. A large theft of livestock in my constituency was devastating for the family involved. I would like to hear more from the witnesses about what we can do in that regard. What do they think Members of the Oireachtas should be doing to protect farmers from these crimes? I am interested in the Theft Stop initiative, which farmers often raise with me. I am aware that the IFA is encouraging the national roll-out of the initiative, which was rolled out on a pilot basis in counties Tipperary and Donegal. What was the uptake of the scheme in those counties? How much success did it achieve?

Chairman: We will come back to the Deputy. She has asked questions about livestock. Deputy Mac Lochlainn raised that issue as well. Do the witnesses have any idea where the stolen livestock ends up? Someone must be buying it at the other end.

Deputy Gabrielle McFadden: It must go somewhere.

Chairman: Deputy McFadden also asked for an overview of the Theft Stop initiative.

Mr. Eddie Downey: Obviously, the theft of livestock is very worrying for us. We need to look at where these animals are going, how they are being processed, how they are being brought through the system and who is the ultimate customer for them. It is hugely worrying for us. We have put up €10,000 as a reward to try to find out exactly what is going on here. Major progress is being made in that regard. The Garda is closing in on this situation. We would like to allow it to do its job on that basis. I think that is what we should do. What was the other issue raised by the Deputy?

Deputy Gabrielle McFadden: I asked about the Theft Stop initiative.

Mr. Eddie Downey: I will ask my colleague, Mr. Connolly, to respond to that question because he is rolling out the initiative.

Mr. Colin Connolly: Did the Deputy ask a general broad question about the Theft Stop initiative?

Deputy Gabrielle McFadden: I asked about the national uptake of the Theft Stop initiative following its success and the results it achieved in counties Tipperary and Donegal.

Mr. Colin Connolly: A pool of 3,450 farmers was used in the trial, which was carried out in counties Donegal and Tipperary and was welcomed by those involved in it. No item that has been marked as part of the Theft Stop initiative has been stolen since the start of the initiative. We can stand 100% over that figure. I think it is a very good figure. It suggests the strength of the system. At the moment, we have a county-by-county roll-out plan. While Theft Stop is available nationwide and any member of the public can log on and use it, we have decided to

launch it on a county-by-county basis through our IFA executive meetings. We carried out our first launch in County Laois the night before last. Although it is probably too early to quantify the figures for registration and sign-up, it is obvious from the expressions of interest and the national and local media coverage that Theft Stop will be put on a national footing. The cross-Border links with the PSNI will be invaluable as we try to close down the systems that are used to move machinery and cattle across the Border. The IFA is associated with tagging. Essentially, we are now tagging property with a serial number that makes it uniquely identifiable. When I was a member of the Garda Síochána, I encountered the problems that can arise with the repatriation of property. This is the first time this country will have a database of property that can be used in this way. This initiative is being initially rolled out to target the theft of farm machinery and other crimes that take place on farms but I do not see why it cannot go out into the wider community. The Garda deals on a daily basis with the theft of bicycles and other items that are not returned. A cost is associated with storing this property if it is not located. Therefore I think it is definitely a system that can and will be expanded upon.

Deputy Gabrielle McFadden: I welcome the roll-out in individual areas because it will heighten people's awareness of it. It is a good idea. Mr. Connolly spoke about the seniors alert scheme and the wish for support to extend it for installing alarms, but how will that work? In my constituency, my late father, Lord have mercy on him, used Helplink South which was an alarm he wore on his wrist. It was very effective for an elderly person. Is Mr. Connolly suggesting that, similar to that, we would put alarms in houses to counter burglary? How does he expect that would be rolled out?

Mr. Eddie Downey: There are many new systems for alarms and warning systems now. I saw one recently with a panic button that was completely tamper-proof. We need items like that which can give more security to people in the countryside. The personal pendant has worked very well and is an excellent system, but we need to extend it further to give more security to people.

Mr. Jer Bergin: We are looking at it in the context of the previous system where pendants were available and what other technologies are available now for vulnerable people identified by local communities and text alert groups. We are examining the issue of funding. I acknowledge that the Department of the Environment, Community and Local Government has put seed funding of €50,000 into a text alert group and a community group in our area for cameras. Those initiatives help us to work with people who want to help themselves. That is where we are coming from.

Deputy Niall Collins: I have one observation and a question. Deputy Mac Lochlainn mentioned the soon to be created independent police authority. As a large organisation, the IFA should seek membership of that authority. There is currently a call under the Public Appointments Service. It is open to individuals to seek inclusion in the authority's membership. I think the IFA would have a constructive and valuable role to play in this regard.

Will the IFA representatives quantify the scale of cattle rustling, including the headage stolen? Are the cattle brought to unlicensed, unregulated abattoirs or are they sold on? What is the dispersal method? I am trying to get a sense of the scale of the problem. We had some reports of it happening in my constituency in Limerick. Thankfully, however, the most recent report turned out to be a false alarm. It was reported in the newspaper that there was a large theft of cattle, but apparently they found their way home the following week.

Mr. Jer Bergin: We heard that.

Deputy Niall Collins: The gate was left open and they wandered back. That was not reported in the press, by the way. I want to get a sense of it, including the insurance implications.

Mr. Eddie Downey: On the subject of cattle wandering home, there was an alert because a neighbour had lost the header of his combine and thought it was stolen, but it turned out that another neighbour had put it into a shed to keep it dry for him. There are good neighbours as well.

Forty-eight cases of cattle rustling were reported. In one case, 100 cattle were stolen in Westmeath. It is not that the numbers are huge but it is the potential damage this can do to the industry, including the traceability system. Livestock theft can wipe out individual farm incomes.

The other question was where these animals go. They do not all go to the one place, so there have to be multiple destinations. Some of them are finished cattle that can go to certain places, but others are not. We have to figure out where these are going and what criminals are involved. Some of those criminals must have knowledge of how to deal with animals because not just anybody can walk into a field, load them and move them on. There are groups of people involved in this and we need to break that down.

There was no insurance for cattle theft until 18 months or two years ago. FBD Insurance has stepped into that space now, so insurance is available for farmers. That is not the way we want to go, however. We want to get to the stage where cattle theft is not profitable.

Deputy Niall Collins: Mr. Downey said there were 48 incidents of cattle theft. Staying with the insurance aspect, is the premium level prohibitive?

Mr. Eddie Downey: No, it is very reasonable. Like all insurance, it makes one feel better to have it. We obviously hope that we will never have to use it. We would like to get to the stage where we get to the bottom of this and cut it out.

Mr. Jer Bergin: We have spoken to the Ulster Farmers Union about cattle rustling because there is a commonality and a cross-Border element to it. The Garda Síochána and the PSNI are working together to try to track it down. In recent weeks, we have seen one conviction in that region of which I am aware. As I understand it, that was an ongoing investigation for a long time. As the IFA president said, it is a specialist job and needs targeting by both police forces. I think it can be rooted out.

Deputy Niall Collins: On “Prime Time” I saw a piece about an unlicensed abattoir. Does Mr. Downey know if there is much of that going on? Is he aware of the level or scale of that?

Mr. Eddie Downey: An unlicensed abattoir would have to be on a very small scale because all the animals in this country are tagged and there is a robust traceability system. At least one such case has been found due to the activities of the Garda and the PSNI following up on thefts. It is positive that we found those but we need to root it out completely at this stage. Let us not rush in with one piece of evidence. Let us wait until we have the full picture and then stamp it out completely.

Senator Tony Mulcahy: As regards rustling, obviously the cattle are not remaining in this jurisdiction. They are going to other jurisdictions, which is a problem. Does the same problem apply to stolen farm equipment being moved to another jurisdiction in the main or off the island altogether? I am glad to hear such equipment is being tagged with serial numbers.

Mr. Colin Connolly: It is twofold. Cattle and machinery are moving across the Border. Unfortunately, however, there is also a market within the country for it. Members tell me at meetings that if one attends markets at the weekend, one can see in the early hours of the morning that various things, including tools, are available for purchase. Part of the solution to that is engaging with people, including through the development of a text alert service. The Garda Síochána has a confidential phone number for information, but a forum where people can communicate their knowledge is also useful. One must have an in-depth knowledge to be able to carry out cattle rustling and achieve one's aim. A communications facility, perhaps through the IFA, to the Garda or Crimestoppers and back into the PSNI would be helpful. We need to encourage people to communicate in that way with us.

Senator Martin Conway: It is a very interesting engagement. The initiatives certainly seem to be working. I am particularly struck by the fact that not one of the tagged cattle has gone missing. As regards international best practice, has the IFA looked at other jurisdictions and, if so, are there similar problems there? I imagine there are, so how have they dealt with them? Is there anything we could all learn from what is happening internationally?

Mr. Jer Bergin: We are in the process of looking at best practice in every jurisdiction. There are a number of examples in the UK, Australia and New Zealand, but there is no perfect solution. One of the things we are doing, and which Mr. Connolly will do in his role, is assessing various vehicle-tracking technologies and different types of equipment, seeing what works and what does not. We are not salespeople for security system companies. Our responsibility is to our members and to rural communities and putting together policies and packages that will work for them. The advantage we have over everywhere else is our broad membership base. We have 90,000 members and 950 branches, which gives us a reach. Ireland is a small country and if we can use that bit of knowledge, we will do so, through text alerts, reporting to the Garda, uploading information and documenting it, so that gardaí can access it. We will also work to change policy in terms of encouraging the Legislature to put resources into the Garda. Some of the recent initiatives are very good in terms of extra resources but we also need, for example, to target the markets that were referred to with a van - there has been some targeting by gardaí early in the morning - and we need to close off the market at the other end as well.

Senator Martin Conway: When Mr. Downey and his colleagues attended the Seanad Public Consultation Committee on farm safety we saw evidence from a GAA club in west Cork, which successfully campaigned, held open days, information sessions and so on, regarding farm safety. Is there any role for collaborating with the GAA, which could assist the IFA in intelligence-building?

Chairman: Who wants to take that?

Mr. Eddie Downey: There are two issues. In his new role, Mr. Connolly is going to go across the country, talking to farmers and county executives to get information as to how we can best be defensive in managing ourselves and what measures we can take to make our farms and equipment safer and more secure. We see working with other groups as key to this process. We work with Muintir na Tíre and with different groups along the way. We see the GAA as a major organisation in rural Ireland. This area of security has to be addressed from that point of view. As I said already, and maybe I did not get that across the way I wanted to, we do not see this totally as the Garda's problem. The Garda is part of the solution, as are we, the people who live in the communities, and we have to work together to make best use of the resources, be it the farmers themselves, who are, as Mr. Bergin said, our eyes and ears on the countryside, the GAA, or whoever is out there, all those organisations. We have to work together and become

more security-conscious in what we do.

Senator Martin Conway: In Mr. Downey's view, is the Department of Agriculture, Food and the Marine doing enough to assist in terms of dealing with this, which is a developing area of crime?

Mr. Eddie Downey: Is that question about livestock theft?

Senator Martin Conway: Yes.

Mr. Eddie Downey: There has been huge co-operation between the Department and an Garda Síochána in this area and they take this as a very serious issue.

Chairman: I call Senator Zappone.

Senator Katherine Zappone: I thank-----

Chairman: Sorry, Mr. Connolly wanted to come in on that as well.

Mr. Colin Connolly: On the mention of organisations like the GAA, coming from a non-farming background and coming from an Garda Síochána into the IFA, part of my function is clearly to develop any implementation outside the farming community, things like Theft Stop and text alerts. We want to be all-inclusive because the only way to solve this problem is to bring the wider community into it. That needs to be stressed.

Chairman: I call Senator Zappone.

Senator Katherine Zappone: I have an observation and a question. I really like and affirm the holistic approach the IFA is presenting to us in terms of the issue of rural crime, identifying some of the legislative concerns, the issue of broadband, the ways in which various kinds of partnership are being formed, CCTV installation and so on. It is great to hear that kind of leadership. So much of it is about prevention. Could the witnesses tell us specifically a little more about the rural crime prevention executive, and more generally is it getting enough Government support for that prevention approach? We have spoken a little about the resource issue. Is it about more resources? Surely it is also about new ways of working with the resources the organisation has. Is it about a bit of both?

Mr. Eddie Downey: From my point of view, it is about using the resources we have better. Obviously we also have to identify what is working out there and, as Mr. Bergin said, what is working in other jurisdictions and what we can bring back here. If we find something that works really well, we can see if we can get funding for that. The evidence about CCTV footage is anecdotal. The new road structure in this country is wonderful. I came through the port tunnel this morning and I got here before everybody else, which makes a change. However, that is also facilitating the reverse of that: criminals moving out into the countryside. They are using those arteries to get into these areas. If we had proper CCTV coverage on those roads, we might be able to identify more of these criminals and where they are working. It is a mix of small things that will give solutions. We have to build intelligence within the Garda to help us resolve that. Co-operation with the Garda is essential at all times and the co-operation we have had so far has been excellent.

Mr. Jer Bergin: On Senator Zappone's point regarding the holistic approach, the unique thing about our Theft Stop initiative is the full partnership with the Garda Síochána. We have worked through this for two years and came up with a list of recommendations, including a

rural crime prevention officer. It is not about doing something outside the existing structures, it is about trying to add to the existing structures. That is the unique element of it and that could be rolled out in other areas of industry and so on.

Senator Katherine Zappone: I thank Mr. Bergin. I do not have any further questions, but I think Mr. Connolly wants to respond.

Mr. Colin Connolly: Just to echo the sentiments of Mr. Bergin and Mr. Downey, to describe our approach as “holistic” sums it up. In anything we do, or anything I am involved in developing, I will always look at the cost element of it. Security should not necessarily come with a cost to a rural dweller, because if we put a cost on it with high-tech security implementation systems, it keeps people outside of it, whereas initiatives like Theft Stop or text alerts are relatively inexpensive to implement. We are not asking the Government to invest millions in the Garda Síochána; we are asking it to invest time and effort and to put gardaí back in rural communities. If we are putting them back into the area, we are investing in our communities, which is ultimately going to invest in the overall system. It is a simple basic structure and it is a holistic approach.

Chairman: I have a few questions about Theft Stop. Is that similar to Farm Watch in the UK, where people sign up, a little like community alert? Mr. Connolly said that nothing that was tagged was stolen, which implies there is a way the thieves know those things are tagged so they will not steal them. Am I right or can the witnesses explain further?

Mr. Colin Connolly: It is similar in its nature. Theft Stop, and Farm Watch in the UK, display an obvious sign, similar to the text alert signs we have across the country, with which people will be familiar. With Theft Stop, we have a farm gate sign, which is clearly displayed on a person’s property to show they are part of the system. Then there are serial numbers. One will begin to see obvious serial numbers on trailers and people will start to know what they are very soon.

Chairman: Excellent. Has the IFA looked at forensic marking? A liquid can be used for this, which I think is used in the UK as well.

Mr. Colin Connolly: I have looked at one or two companies. There is a company in the UK called SmartWater, which operates quite an effective system, whereby it is a unique number. However, it does come with a cost element to it and there is an end case element. Ultimately, if something needs to be prosecuted in court, I would always be keeping an eye on the end product. If we do catch somebody with something, we need to be able to prosecute them. The system we have in Ireland is quite robust in that regard in its make-up.

Chairman: The witnesses have emphasised the importance of reporting every theft or attempted theft. That message came from Muintir na Tíre as well, because we have heard people saying from time to time that there is no point in reporting these incidents. The IFA’s message is obviously, in contrast to that, to report everything, no matter how minor, to gardaí so they can build up a picture. Mr. Downey mentioned in his opening statement that people were living in real fear for their personal safety, and we have seen reports of people going to bed with shotguns and firearms. We know farmers use firearms for other reasons as well on farms. Could he comment on the fear of crime? Muintir na Tíre told us the fear of crime can be more devastating than the crime itself.

Mr. Eddie Downey: When there is a break-in in an area, the issue is the effect on the rest

of the community in the area. While the break-in is devastating for the people involved, the ripple effect on the rest of the community is the real problem. What we are seeing in rural areas is the impact of an almost siege mentality. When an alarm is installed, one will put it on when one is going out or at night, such that one feels one locked in. This is creating a fear factor. Electric gates and CCTV cameras are being installed all over the place. What we want to try to do is to bridge it to some extent by working in conjunction with other organisations to have community involvement to release some of the fear. It is not just older people, everybody is experiencing genuine fear. There is nothing as devastating as walking into one's house and seeing it ransacked.

Mr. Jer Bergin: From a social perspective, the solution to the problem is not the provision of security, with everybody locking himself or herself behind a door, removing the sense of community and neighbourliness whereby people look in on their neighbours. It is a combination of things that will give people a sense of security and a sense that they do not have to live as if they are under siege. Legislators must be seen to deal with the legal issues and take repeat offenders out of the system. The simple community systems we are trying to initiate are the way forward. We should avoid turning Ireland into a prison camp.

Chairman: As Deputy Pádraig Mac Lochlainn said, we hope the Garda Síochána (Policing Authority and Miscellaneous Provisions) Bill 2015 will be in place shortly, followed by the burglary and bail laws which, with co-operation, we hope to have completed by Christmas.

Will Mr. Downey comment on the use of firearms, as this issue has been mentioned on a few occasions? The committee did some work on the issue earlier this year.

Mr. Eddie Downey: The idea that people use firearms because they are living in fear is extremely worrying, but if we do not address these issues, we will see a situation we do not want to see developing where things will go in the wrong direction. That is the reason we are trying to get into this space as quickly as we can. We have not come before the committee because of a reaction to recent media reports; we have been working on this issue for a long time and will continue to work on it as we normally do. We would be very worried if people were to take the wrong action at particular times. What is really frustrating for us is that repeat offenders out on bail are committing crimes. When they are convicted, they receive the same treatment on their 100th crime as on their first. That is where the problem lies. There has to be a ratcheting up in order that repeat offenders are dealt with more severely. Everybody on the ground and the Garda have to make that call.

Chairman: The Criminal Justice (Burglary of Dwellings) Bill 2015 and the Bail Bill 2015 will address some of those issues.

Mr. Eddie Downey: That will be a help. We need to see that happening.

Chairman: I think I can speak for all of my colleagues when I thank the members of the IFA for their work and constructive approach and the professional way they go about dealing with issues related to agriculture and the wider farming community. We wish them well and they should feel free to contact the committee if they want to make us aware of issues or make suggestions on how we can support what they are doing. We have been considering the issue of electronic tagging and should they wish to comment on it, they might let us know.

Sitting suspended at 10.24 a.m. and resumed at 10.26 a.m.

Property Services Appeal Board: Chairperson Designate

Chairman: The purpose of this part of the meeting is to engage with Mr. Anthony H. Ensor, chairman designate of the Property Services Appeals Board. On behalf of the joint committee, I thank him for his attendance. The format is that Mr. Ensor will be invited to make a brief opening statement which will be followed by a question and answer session.

By virtue of section 17(2)(I) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or an entity by name or in such a way as to make him, her or it identifiable. Members should be aware that under the salient rulings of the Chair, they should not comment on, criticise or make charges against a person outside the Houses or an official by name or in such a way as to make him or her identifiable.

I invite Mr. Ensor to make his opening statement.

Mr. Anthony Ensor: My opening statement is brief.

Chairman: We like brevity.

Mr. Anthony Ensor: So do I. The other reason is that as I am chairman designate, obviously I do not have too much to say as yet.

I am a retired solicitor now acting in a consultancy capacity with the firm Ensor O' Connor, a firm which was founded by me, but as I have reached the age at which one qualifies for the bus pass, I have stood down to let younger solicitors at it.

I was involved in the Law Society of Ireland for many years when I chaired a number of committees, including the regulatory and education committees. I was fortunate enough to be president in 2000, in which capacity I chaired the council of the Law Society of Ireland for a full 12 months I set then on the disciplinary tribunal which would be partly on all fours with the Property Services Appeal Board in the sense that one deals with the same matters. The statutory limit in serving on the disciplinary tribunal is ten years.

I am honoured to have been asked to become chairperson of the Property Services Appeal Board and I have set out its role. It is relatively limited in relation to the powers of the regulatory authority which deals with issues on a day to day basis and, of course, has its own board. Effectively, what happens is that if a party which has to comply with the regulations of the authority feels disgruntled in any manner and wishes to appeal, he or she can appeal on certain grounds to the appeal board. I have had the opportunity to talk to some of the board members to see exactly what they do in their day to day business. It is a very strong board. Ms Sunniva McDonagh and Mr. James Bridgeman are both barristers, Mr. David McGarry is a chartered accountant, Ms Dorothea Dowling was chairperson of the Personal Injuries Board and Mr. Philip Moynihan was a superintendent in Enniscorthy when I was practising there, so we came across each other.

The board deals with major issues coming to it from the authority. On hearing an appeal,

it can confirm the authority's decision and state it is happy the authority dealt with the matter properly or remit the matter to the authority for certain directions. A number of matters have been remitted for reconsideration, the reason being - and this is anecdotal because, of course, I have not sat on the board because I have not yet been fully appointed - the board felt the authority should look at them in more detail. I have spoken to board members and examined the board's annual report. Some matters failed, probably because they were outside the jurisdiction of the appeals board. The appeals board can make determinations and substitute penalties, in other words overrule the authority, by increasing or reducing fines. The board is somewhat limited in its jurisdiction as set out in the statute. An appeals board must always have regard to applying natural justice and fair procedures. This will be my priority. The authority must do its job and we may be seen to have a more compassionate view, if appropriate. This is how I see it.

Deputy Pádraig Mac Lochlainn: Mr. Ensor is very welcome.

Mr. Anthony Ensor: I thank the Deputy.

Deputy Pádraig Mac Lochlainn: I want to get a sense of his vision for the board. He spoke about natural justice. We particularly think of the establishment of the position of Ombudsman as a very positive development in Irish democracy in recent decades. It is important that people have a right to appeal and it is good that the board will be entirely independent.

Mr. Anthony Ensor: As of yet, it does not have a website. However, the board has notified me - and because I am not yet chairman I must say this somewhat guardedly - that it feels easy-to-follow guidelines should be set out to make it easier for a person who may want to appeal a decision. This would be fairer. I intend to follow up on this once, and if, I become chairman. This would make it easier. We must remember the Act setting up the authority and the board is relatively new, dating from 2011, and the clear intention was to relieve the Ombudsman of this particular function. We see ourselves as doing the same job in a slightly different manner.

Chairman: The organisation is still in its infancy. Does Mr. Ensor see any challenges ahead as he takes on the leadership role?

Mr. Anthony Ensor: It is probably a little early for me because this is a policy decision. I have referred the committee to the board, which is very strong from a personnel point of view. The people on it have huge experience and this can be seen without singling out anybody. These people have been working on it for several years. When they started to operate a number of appeals came through in a bit of a rush but this has now levelled off. The authority seems to be doing its job very well. We do not want to be *functus officio* but, at the same time, it is nice to know that not too many appeals are coming forward. This suggests people feel they are being dealt with properly by the authority. I see us as giving the benefit of compassion and fair procedures to people coming through because if they appeal a decision, they may feel that all matters were not considered by the authority.

Senator Martin Conway: The organisation is in its infancy so perhaps this matter may not be relevant and I ask Mr. Ensor to tell me if it is not. A number of people in the real estate business informed me recently that the property register is not up to much with regard to entering the price of houses. It does not detail the number of bedrooms or the style of house. It might cover the square footage but it does not provide the type of information necessary to protect its integrity. It should be like booking an airline ticket whereby if one does not have all of the boxes ticked and completed properly, one should not be able to register the price of a property. Auctioneers and real estate agents and, in particular, valuers find it very frustrating. This may

have nothing whatsoever to do with Mr. Ensor's organisation or it may have a role in an advisory capacity.

Mr. Anthony Ensor: I not want to sound facetious, and I certainly take it on board, but this matter is definitely one for the authority. However, meetings will be held between the authority and the appeals board and we can certainly discuss with the authority matters which do not come specifically within our jurisdiction and with which we are not entitled to deal. This would be a matter for the authority.

Senator Martin Conway: Deputy Farrell has had serious concerns regarding this operation and the authority's attitude towards it. We might advise him to get the minutes of this meeting and make contact with Mr. Ensor when he is formally appointed.

Mr. Anthony Ensor: Certainly.

Chairman: We wish Mr. Ensor well and thank him for coming before us today. We also wish the appeals board well in its work. We may not be here but I am sure the members of the next justice committee will be eager and anxious to invite Mr. Ensor back when he has his legs under the table in order that he might provide a progress report.

Mr. Anthony Ensor: It will be a pleasure.

Chairman: We will now go into private session to deal with a few housekeeping matters.

The joint committee went into private session at 10.40 a.m., suspended at 10.55 a.m. and resumed in public session at 2.30 p.m.

Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014: Discussion

Chairman: The purpose of this part of the meeting is to engage with some of those who made a written submission on the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014. On behalf of the committee, I welcome the witnesses and thank them for giving their time to come here. We are joined by Age Action Ireland, the Law Society of Ireland, representatives of the Irish Senior Citizens Parliament and some members of the public, so we will go through the introductions as we come to people.

A number of issues arise. I ask people not to respond until I call them as we have a recording system and we must give people the chance to activate the microphones. Do not touch any buttons either as this will be done automatically. If anybody has a mobile phone, please turn it off or put it on aeroplane mode as these interfere with the sound recording system. That goes for colleagues as well, so please ensure all phones are off.

I will invite groups and individuals to make a statement of approximately five minutes and I ask witnesses to keep to this as many people wish to contribute and we want to finish at a reasonable hour. There will be a question and answer session with members about points arising and perhaps there will be interaction between different groups as well. Before beginning, I draw the attention of witnesses to the position regarding privilege. They should note that by virtue of section 17(2)(I) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if witnesses are directed by the committee to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter

only to a qualified privilege in respect of the evidence. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. Members should also be aware under the salient ruling of the chair to the effect that they should not comment on, criticise or make charges against a person outside the House or an official by name in such a way as to make him or her identifiable.

Mr. Justin Moran: On behalf of Age Action Ireland, I thank the committee for the invitation to speak here today. I will briefly introduce my colleagues. I am joined by our senior policy officer, Ms Naomi Feely, and one of our members, Ms Angela Gallagher, whose story was part of our submission to the committee. Mandatory retirement ages are deeply ageist and that they have been permitted for so long is a reflection of the ageism still publicly acceptable in Ireland. Whereas some people cannot wait to retire and are very eager to do so, there are others who want to keep working. There is a large and growing group of workers who realise that with retirement comes a major drop in income and for these people, the longer they can work, the more they can save. If Deputy Anne Ferris's Bill becomes law, older people who are willing and able to keep working would be able to do so. It would eliminate the growing problem of older people being forced to retire at 65, or even earlier, with years to go until they can claim the State pension. Like everyone else, we welcome the continuing fall in the unemployment figures but although there are schemes and programmes to help young people find work, what is there for a forklift driver forced to retire at 55 or the civil servant pushed aside on her 65th birthday?

Older people frequently tell us they feel they are invisible and undervalued. They see the media refer to them as bed blockers or as a burden on society. Against this backdrop, one would need to be very determined to go job-hunting as an older worker. With people retiring today expected to live, on average, for another 20 years or more, we need to have an honest debate about the role of older workers in Irish society, the kind of honest debate that led, four years ago, to the abolition of the default retirement age in Britain. The abolition of mandatory retirement in Britain was no less challenging, difficult or controversial than it would be in Ireland but the political will was there, the recognition of the rights of older people was there and the understanding that older workers have something to contribute to their communities and to the economy was there. It can be done and as the demographics in Ireland change in the coming years, it will be done. There should be no doubt about this. Mandatory retirement ages will be abolished in Ireland, so why not now?

I will ask my colleague, Ms Angela Gallagher, to add a few words on her own experience of mandatory retirement.

Ms Angela Gallagher: I am delighted to be here this afternoon and to have the opportunity to discuss the issue of mandatory retirement. I appreciate that the issue and its implications for employment law, for pensions policy and for many other areas is very complex. At the same time, it is also very simple. People should not be forced out of their jobs because they are a certain age. If we accept that basic principle, we can overcome the complicated policy issues thrown up by abolishing mandatory retirement.

People like me, who are able to work, willing to do so and capable of doing our jobs effectively should not be forced to retire because of our age. To me, this is simply ageism; it is discrimination against me and thousands of people in Ireland like me who are deemed expendable. In my own case, the frustration of losing my job for no other reason than because I had turned

65 years of age was exacerbated by the financial hardship this policy of mandatory retirement inflicted on me. I was trying to pay a mortgage to the bank and a loan to the credit union at the same time. It was very difficult to keep going. I had to cut right back. I had to get rid of my telephone, television and anything I could to save money. I even had to cut back on my medication several times because the cost exceeded the maximum per month under the drugs scheme and I simply could not afford it. There were weeks and months when I did not know how I was going to pay the bank and when I worried whether I would even be able to keep my home.

The thing that annoys me most and the reason I am before the committee today is that none of this was necessary. I wanted to work and I was able to work. I liked what I was doing and I was good at my job. If I had not been forced out of my job I would have been able to work until I was secure. I would have been able to keep contributing to the economy as well. I urge committee members to recognise what older workers have to offer, in particular, the skills, experience and wisdom we have built up in our careers. I strongly support the legislation proposed by Deputy Ferris. I thank the committee members for their attention.

Chairman: Thank you very much. I appreciate that. The representatives of the Law Society of Ireland are next to speak.

Ms Joanne Hyde: I welcome the opportunity to discuss the proposals from Deputy Ferris, Deputy McFadden and Senator White.

Chairman: You have two colleagues with you, Mr. Loughlin Deegan and Ms Deirdre Malone. Is that correct?

Ms Joanne Hyde: I am the chairperson of the employment and equality committee of the Law Society of Ireland. I am accompanied by the vice chairman, Mr. Loughlin Deegan and another member, Ms Deirdre Malone. The employment inequality committee of the Law Society of Ireland is made up of a number of specialist lawyers in the area of employment and pensions. In making our submission I am keen to point out and make clear that we are not here to represent the interests of the profession or the interests of employment lawyers generally. Our submission serves to offer our expertise in so far as any legislation introduced is compliant with developments in EU law and does not contradict any existing provisions of domestic law.

From a legal perspective the context is that the current provision in the Employment Equality Act 1998 permits employers to set a compulsory retirement age. Certainly, it does not prevent them from setting a compulsory retirement age. It does not set out any requirement that such compulsory retirement age must be objective. While that may have been in compliance with the law in 1998, there have been developments at European Court of Justice level in the interim which indicate that setting a retirement age is potentially a type of age discrimination. However, those cases suggest that in certain circumstances where there are objective justifications, it may be possible to set a retirement age.

We have made submissions relating to Deputy Ferris's Bill and the Equality (Miscellaneous Provisions) Bill, both of which would ensure Irish law was compliant with developments in law at the Court of Justice of the European Union. The two Bills are incompatible, however, and could not be introduced together because they are conflicting. Our role and our submission serves to ensure that any legislation brought in is legally clear and from an operating perspective does not create any conflict with either EU law or any other provision of Irish employment equality law. My colleague, Ms Deirdre Malone, will comment specifically on the Bill.

Ms Deirdre Malone: The other Bill proposed relating to implementing the directive is the Equality (Miscellaneous Provisions) Bill 2013. We have some comments in respect of the drafting. There is provision within the Bill for a fixed-term contract to be offered to someone over retirement age. We are seeking clarity around the drafting, especially in regard to section 6(3)(c) of the 1998 Act and the proposed amendment to section 4 of the 2013 Bill.

Deputy Ferris has drafted the other Bill. As we have said, we are neutral on which Bill would be enacted since both are compliant with the provisions in the EU directive. However, I wish to draw the committee's attention to some particular things. We wish to raise a concern relating to the potential costs. In particular, the 2014 Bill permits age discrimination and disability discrimination where an employer can demonstrate that treating the person equally would entail significantly increased costs. Cost alone is not generally an accepted appropriate justification for discrimination.

There is a question over the potential impact on unfair dismissals. We maintain that the Unfair Dismissals Act permits fair dismissal on the grounds of capability. We believe that the drafting in its current form may remove an employer's obligation to participate in performance improvement programmes and other managed processes whereby someone could be fairly dismissed. As currently drafted, the Bill would permit an employer or company to get a report from a doctor to the effect that a person is not fit to do the job. The ground of capability could be a fair ground to dismiss a person. Another aspect we highlighted relates to looking to establish whether a person was capable of doing the job. We take the view that there may be an increased cost to employers where they have to assess employees on a regular basis, for example, on a yearly basis, once they have reached a particular point.

We had concerns on the drafting and around the language used. For example, reference is made to significantly increased costs. How could that be shown? What other evidence would be required? There should be more clarity around the wording.

There is a potential conflict with section 16 of the 1998 Act dealing with disability and when someone cannot do a job. This is a new departure in terms of introducing disability on the grounds of age. The idea is to ensure that both are compatible.

Chairman: Thank you very much for that. We will move on to the Irish Senior Citizens Parliament. Ms. Hayes will speak next. You have colleagues with you. Is that correct?

Ms Máiréad Hayes: My colleagues include Ms Imelda Brown, who is on our executive committee, and Mr. John Walsh, who is the president. I am the chief executive officer. The Irish Senior Citizens Parliament welcomes the opportunity to address the committee on this issue, a critical issue for older people. We thank Deputy Ferris for tabling the Bill. We urge the committee to take action in the term of this, Dáil, the 31st Dáil. I thank Senator White, Deputy McFadden and Deputy Seán Kenny for attending the hearing.

As the Age Action Ireland representatives have said, the Irish demographic patterns continue to be favourable despite predictions of changes in future. We reckon that the 2016 census will produce an opportunity to validate these predictions.

The Bill is brief but cleverly worded and simple in its construct. In September, Senator John Crown introduced the Longer Healthy Living Bill 2015 in the Seanad. The main focus of the Bill was to allow health professionals to continue to work after normal contract. Both Bills focus on capability and people being capable. One of our submissions has said that perhaps all

the Bills could be brought together and we could see them in that context.

We welcome the desired intention of the Bill to abolish mandatory retirement ages for people who are able and willing to continue in the role for which they have been employed, as outlined by Deputy Ferris in introducing the Bill. The element of choice is critical in respect of how long people wish to continue to work. The choice for the individual is made on the basis of whether he or she will have sufficient income in retirement. Some countries allow access to state pensions at an earlier age and also allow people who so desire to continue to contribute for a longer period. Uncle Sam in the US sometimes is not so good, but workers can get their pensions at 62 there and can continue to work. That is important.

At least 50% of people are dependent on a State payment in retirement. Many of them are working on contracts which require them to retire at 65. I bow to the Law Society in some of these matters. Since 2014 the effective age for receipt of the State pension has moved to 66 years. There are people who are retiring at 65 but will not get a State pension until they are 66. Effective from 2021, which is not that far away, it will be age 67 and from 2028 it will be age 68. A mechanism must be found which will ensure that if these workers wish to continue to work they are enabled to do so. Ideally we would seek that on the enactment of the Bill, a new contract would be given to each employee which would substitute the word “voluntary” for “65 years”. To be effective, the Bill must ensure that it is applicable and monitored in both the public and private sectors. We recognise that there may be some cost involved but it is important this should happen in the beginning.

Many in the private sector do not have occupational pension schemes and are solely dependent on the State pension. Late joiners to pension schemes and those with interrupted service due to caring or other duties, in both the public and private sectors, will have access only to small occupational pensions and many in this category are women. We are aware of people who are being forced by their employer to retire at age 65. They are then offered re-employment at a lower rate and on a new contract. These women - we have mainly had contact with women - are clearly capable of doing the job but their employers are getting the benefit of their experience at a lower rate. Their capability is beyond doubt as they are being offered re-employment.

Section 1 as drafted proposes the amendment of section 34 of the Employment Equality Act 1998 by the substitution of subsection (3) and the insertion of new subsection (3). We have a concern that the proposed amendment to the Act in subsection (3)(a) may not be robust enough to secure and achieve the intent of the Bill in its wording of “an employee who is doing a job for which he or she is employed”. Our concern is that this qualification may not reflect the evolving nature of some jobs and we would welcome a comment from the drafters in respect of this matter. The wording presupposes regular engagement with employees in respect of the job for which they are employed. Our evidence is that this does not happen all the time in a lot of cases. We would also have a concern that manual workers in particular may be forced to retire early in such circumstances. Ideally we would wish to allow for a position where provision could be made for those with an acquired disability to be accommodated within the same employment but perhaps on a job for which they were not originally employed. That is one of the areas on which we would like some comment.

Where an occupational pension is part of a package for an employee, there can be conflicting dates with regard to the contract of employment and the so-called contract or promise to pay them a pension. We have been told on many occasions of difficulties encountered when the deed establishing a trust from which pensions are paid may have a pension payment date which differs from the retirement date. In some cases it is a requirement that access to a pen-

sion can only occur when the person leaves that employment. If they continue to work they will continue to pay superannuation costs but will accrue no additional benefit. It is vital that the possible conflicts between trust law and this Bill are fully investigated.

There are three important dates as people approach retirement: the date of the contract between themselves and their employer; the date at which the State pension will be paid; and, if they are in an occupational pension scheme, the matter of whether there is any impact resulting from changes to State pension payments on the amount they will receive from the occupational pension provider.

In conclusion, the Government has published a national positive ageing strategy and we know that, with some amendments, the enactment of this Bill will be seen as a move towards the achievement of positive ageing for all citizens.

Chairman: I thank Ms Hayes for staying close to the time. We have a number of other speakers and I ask all of them to stay within their five minutes. I invite Mr. Noel Conway to make his presentation.

Mr. Noel Conway: I am pleased to be given this opportunity to address the committee today. I fully support the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014, sponsored by Deputy Anne Ferris. I am delighted that my recent submission was selected for inclusion at today's committee hearing stage. I am employed as a community employment supervisor. I am 63 years of age and have worked in this position for the past 22 years. Under current law I must retire in three years at the age of 66. I will still have two sons in third level education and I know my wife and I will find it very difficult to make ends meet. Can I afford to have my sons finish college?

Large numbers of people like myself are working today in the community and voluntary sector with no retirement or pension entitlements to alleviate these fears when we reach the State retirement age. In light of this fact, the Labour Court recommendation LCR 19293 July 2008 stated that "an agreed pension scheme should be introduced for community employment scheme supervisors/assistant supervisors and the scheme should be adequately funded by FÁS as the recognised funding agency". This recommendation was not honoured by FÁS or by the Department of Social Protection, which is the current funding body. As such, many of us face into a poorer and more stressful time in our latter years. Deputy Ferris's Bill offers us, in these circumstances, an opportunity to remain in continued employment provided that the Department of Social Protection will continue the funding of our positions beyond the age of 66, which it currently fails to do.

An article from Age Action Ireland under the heading "employment and income" states: "the Government view access to quality employment opportunities as the best route out of poverty and social exclusion". Community employment employers - community groups mandated by the State to be incorporated company status - under the auspices of the Department of Social Protection fund and control the day-to-day operating procedures of each and every project throughout the State to such a degree that one wonders who the employer is. One very important procedural demand made by the Department of Social Protection in respect of today's Bill is that the Department instructs all community and voluntary employers that no funding be given to any employee on reaching the State retirement age of 66. Employers in this scenario have no choice but to make those workers redundant, as these voluntary groups do not have the financial resources to fund the wages of any staff.

People today are healthier and fitter and thankfully are living longer. They are therefore much more able to continue working if allowed to do so. As an individual approaching retirement age, I feel that I should have the right to determine how long I wish to remain in the workplace. Retirement should not be dictated by the State. The Global Health and Aging report, in the “Living Longer” section, states: “the dramatic increase in average life expectancy during the 20th century ranks as one of society’s greatest achievements”. It will be the greatest achievement of this Dáil to pass into law Deputy Anne Ferris’s Employment Equality (Abolition of Mandatory retirement Age) Bill 2014.

Mr. William Quinn: I am very grateful for the opportunity to speak on this matter. My Name is William Quinn. I am almost 59 years old. I have 32.5 years of service with Dublin City Council. I am one of three area supervisors in the waste management services division, which provides cleansing services, with approximately 40 staff, for the north central regional administrative area of Dublin city. In addition, I deal with divisional attendance management issues and imminent staff pensions. It is very important to change the existing legislation on the mandatory retirement age for public servants and other workers for a number of reasons. When the original legislation was enacted, life expectancy was only a couple of years more than the mandatory retirement age. That demographic has dramatically changed, and people now live much longer because of better diet, education, housing and medical knowledge. Many of the experts in this field contend that staying as active as possible is very important for our more mature citizens, and one of the ways of doing that is by continuing to work. It is inherently unfair to offer the option of staying on after the age 65 or 66 only to those who came into public service after a certain date, namely April 2004, providing they are fit enough to carry out the full range of their duties. This is an option that should be equally offered to all public sector staff. Many staff will not want to exercise that option, but it should be available nevertheless. Otherwise, it appears that they are being penalised because of their age and excluded from a benefit afforded to others. Due to the major difficulties in the public sector over the last number of years, there has been an embargo on recruitment. We have lost a lot of very good, talented and experienced staff who have not been replaced. My own division has lost almost 50% of its staff and, if anything, the city has grown upwards, not outwards, and does business for far longer every day. This means we are now under pressure to provide more services with far fewer resources. The recruitment embargo is now slowly starting to lift in some public sector areas, but it will still be some time before the benefits unfold. Indeed, some sectors may never recover. It is very important, therefore, to ensure that we have enough mature and experienced people to pass on their vital knowledge to a new generation.

If the legislation is changed there will not be hordes of people in their 60s holding onto jobs at the expense of school and college leavers. Many people are very happy to shake off the yoke of work when their mortgage is paid and their children have moved on. However, it will help to prevent many public sector retirees born from 1956 onwards from having to sign on for job-seeker’s benefit and allowances until they qualify for their State contributory old age pension. At that age, and because of the type of work they do, they would be unlikely to get a new job. It will help these people to stay healthier for longer because of their active contribution through work and thus they will be at less risk of becoming a burden on the State through long-term ill health. Furthermore, it will help the beleaguered public sector pension schemes, which were not designed to cope with today’s demographics. If the legislation is not changed then all public servants hired before 2004, if unsuccessful in finding alternative employment when forced to retire, will have to claim State benefits or allowances for between one and three years, depending on their grade, until they qualify for the State contributory old age pension. That is a horrendous prospect for many of us. I fully endorse the changes advocated by Deputy Anne Ferris.

Chairman: I thank Mr. Quinn for his contribution and for being so succinct. I now call Ms Kathleen O'Toole.

Ms Kathleen O'Toole: I have been working in my present employment for just over 17 years and will reach 65 years of age on 15 February 2016. I work in retail, have extensive experience and certified skills and am well able to carry out all duties assigned to me. I feel I am being forced to retire against my will. I have made a request to my company to continue working until pension age, which for me is 66, but the company is refusing to discuss this issue with me or my union representative, making it clear that the retirement age is 65 years. There is no retirement age on my contract of employment. I am sure I will be replaced by someone on a lower wage and with a zero-hour contract. This represents a cost reduction towards the minimum wage, part of a race to the bottom.

I find it difficult to understand why the Government, when changing the pension age to 66 years, did not introduce legislation allowing people to stay at work until pension age or longer if they so wish. Why would anybody want to leave a job that he or she is experienced and skilled in after 17 years and have to look for another job? I find it ludicrous that I will be forced onto jobseeker's allowance against my will when I could, through the transfer of payments, continue to contribute to society. This will also result in a substantial drop in my income.

Older staff have a major contribution to make, and age is irrelevant. Many employers recognise the contribution that older, experienced sections of the workforce have to offer. In the retail sector, Tesco and SuperValu are just two examples of such employers. The State pension is inadequate, as the recent economic crisis has left many people with substantial debts and in need of money. Other countries have greater flexibility around keeping older staff in employment. Retirement should be an option and should not be compulsory. Forced retirement because of age is discrimination. I fully support the proposal from Deputy Ferris.

Chairman: I thank Ms O'Toole for being so succinct in her contribution.

Mr. Seán O'Reilly: I am a serving assistant governor in the Irish Prison Service. I have worked in the service for 35 years and am 55 years of age. My contract of employment states that I may retire after 30 years of service but that I must retire at the age of 60. It is unfair that at 60 I will no longer be able to work as a servant of the State, despite the investment of large amounts of money by the Prison Service in developing my various skill sets, while elsewhere in the EU members of the prison services can continue to work until they are 67.

In 2005, under the proposal for organisational change in the Irish Prison Service, an annualised hours system for attendance was introduced. The aim was to eliminate the large amounts of overtime being worked by staff and to improve our work-life balance. Staff are liable to attend for a certain number of hours over and above their normal 39 hours of work per week. In my case this was set at 112 hours a year, which works out at an average of two extra hours per week. In my current role I am responsible for the human resources function for 700 staff in the west Dublin campus. As a result of my current conditions of service I must retire at 60, while a person in the Irish Prison Service headquarters carrying out a similar function may work until he or she is 65 years old. The reality is that if I wish to work beyond the age of 60 I will have to look for a job outside the service now, as the chances of getting something at age 60 will be greatly diminished. There is a provision whereby sanction can be sought from Department of Public Expenditure and Reform to extend service on grounds of public interest, which is covered in Circular 13/752.

The grounds for forcing staff, particularly at the grade of governor, to retire at 60 no longer exist due to the changes in working conditions that I referred to earlier. Staff in the headquarters of the Irish Prison Service working in a similar role can continue working until they are 67 years old. There has been no recruitment in the Prison Service for the last ten years but approximately 850 staff are eligible to retire in the next three years, which is roughly one third of the total. This will result in the loss of a substantial knowledge base. In contrast to the Garda Síochána, there is a provision in the Prison Service whereby sanction can be sought from the Department of Public Expenditure and Reform, but this is at the discretion of the director of the Irish Prison Service.

To sum up, when a person has reach the required service age for pension entitlement the choice should be with that person as to when he or she retires, and not with the State.

Chairman: Thank you, Mr. O'Reilly, for being so succinct and clear.

Mr. Patrick Meany: I thank the Chairman for giving me an opportunity to speak today. I also thank Deputy Ferris for introducing this Bill.

People in Ireland today are living longer. Life expectancy has been revised upwards and people who have reached retirement age should have the option of remaining in employment. Life expectancy at the average effective retirement age can be as high as 18 to 20 years, about a third longer than it was 30 years ago. It is projected to increase further, so the retirement period will lengthen unless retirement itself is delayed. As we can look forward to living longer, we need to rethink what retirement looks like. As the population dynamics change, there are many potential advantages for all of us, including a stronger economy, higher living standards, less pensioner poverty, reduced spending on benefits, and improved national well-being and inter-generational cohesion.

The obvious solution is to embrace later-life working, helping to realise the potential of older workers who have so much experience and talent to offer. This is not about being forced to work on but enabling and encouraging those who want a fuller working life. Older workers can play a vital role in future growth both for individual businesses and the wider economy overall. Employers need to adopt age-friendly policies such as flexible working, phased retirement, family care leave and even gap breaks. This can facilitate a new type of retirement in which people cut down rather than suddenly stop working, where health and well-being policies take account of older workers' needs and where employers enable staff to combine work with caring responsibilities. Managers with the right skills are crucial to supporting older workers successfully.

Working in retirement offers many benefits. For example, not only can working delay the onset of age related diseases such as dementia, but keeping mentally and physical active helps one feel younger for longer. It is generally accepted by most people on reaching retirement age that they would prefer to continue working beyond retirement. Working also keeps one socially active, preventing isolation and providing a sense of purpose. Senior citizens who stay in the workforce are much more likely to retain their cognitive ability. Many senior citizens become isolated after retirement which can have widespread psychological consequences for anyone. Senior citizens who stay in the workforce are much more likely to stay up to date with technology, since technological changes have an effect on each and every workforce.

By simply working a few extra years, one can put oneself into a much better financial situation. Whatever a person's circumstances, working into the second half of one's 60s or beyond

offers the prospect of a happier and more financially secure retirement when one finally does retire. The financial benefit from working is obvious. One keeps earning income. This regular income allows one to continue to pay for one's life expenses without needing to turn to one's retirement benefits for necessities. Workers generally have become healthier and more educated while jobs have become less strenuous. This means more people are willing and able to work longer. The definition of retirement has changed. Rather than retire altogether, many older workers are phasing out of one career and into another. On reaching 65 years of age, an employee should have the option to continue working. We must ensure older people's skills do not go to waste. It is generally accepted by most that on reaching retirement age, they would prefer to continue working beyond retirement.

Chairman: I thank Mr. Patrick Meany for his presentation. I invite Dr. Enda Shanahan to make his opening statement.

Dr. Enda Shanahan: I thank the committee for the invitation to speak on the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014. I worked in the public hospital sector until I had to retire on reaching the age of 65 years, nearly two years ago. I did not wish to retire at the time as I was able and willing to continue working. There was no objective reason for my retirement. I was still rated fit for purpose by the Medical Council and was physically fit, as demonstrated by being able to run distances from 10 km to the marathon. Retirement was entirely because of a date in the calendar.

The forced retirement of experienced, able and willing workers is commonplace and represents an enormous waste of human resources. This is particularly acute in the public health sector where there is an ever-increasing demand driven by increasing numbers of people using services due to population increase, reduced numbers having private health insurance due to increased unemployment and premia, and an increasing number of older people who inevitably require health treatment. This situation is made worse by the great reduction in staff numbers in recent years and by difficulty in recruiting both doctors and nurses because of the terms and conditions offered by the Health Service Executive, HSE. As well as the loss of numbers, there has been a disproportionate loss of experienced workers.

If there were no mandatory retirement, many workers would work on which would alleviate skills shortages. There would also be retention of knowledge and experience built up over many years. It would be possible to provide mentoring to less experienced workers. These older workers would continue to contribute to society, both by their work and their taxes, and by either deferring or reducing pension payments, they would reduce demand on pension schemes.

The EU has legislation prohibiting discrimination on age grounds. However, the wording of the directive allows member states to interpret this more or less as they wish. The rulings of the Court of Justice of the European Union tend to favour the member states. There is no doubt that age discrimination is treated far less favourably than other types of discrimination. The UK recently changed its employment law to ensure there must be appropriate and objective grounds for mandatory retirement. The United States abolished mandatory retirement in the 1960s and it has continued to have the leading economy in the world. It must be doing something right.

One of the objections made against retaining older workers is that this would reduce employment prospects for the young, a point touched on by the Minister of State on Second Stage. This idea is known as the lump of labour fallacy, which has repeatedly been disproved by economists such as the Nobel laureate, Paul Krugman, as well as by exhaustive research performed over many years and covering many countries by such bodies as the National Bureau

of Economic Research in the United States and the Institute for the Study of Labor, IZA, in Bonn. There are multiple publications in peer-reviewed journals which confirm it is a fallacy to suggest retaining older workers interferes with the employment of younger workers. All the published work on youth unemployment asserts that education, training and motivation are the keys to dealing with it.

It is also alleged that retaining older workers impedes the advancement of younger employees. In the real world, promotion is based on ability and work performance, not on seniority in an organisation. It is known that as most workers age, they wish to reduce stress and tend to stand aside from the most challenging types of work. They also have more interest in having a better work-life balance, a point which they have in common with workers with young children. The National Health Service, NHS, in the UK is a model for how to retain and value older workers and it is benefiting greatly by this. All over Europe, businesses are making changes to retain older workers by reducing hours, having flexible working times, working from home, changing benefits, changing workplaces to meet workers' needs and ensuring older workers retain skills and feel valued.

Working past 65 years of age will not be for everyone. Those doing hard manual work, especially outdoors, and those in stressful occupations will probably welcome retirement. Those who have contracts with specified retirement ages should be allowed to retain these. However, those who are willing and able to work should be allowed in law to do so. There should be no age cleansing as a means to get rid of underperforming workers. There needs to be objective and independent assessment of suitability for work regardless of age. As someone who regularly runs with people of all ages and as a doctor of 42 years' experience, I am aware that chronological age is not the same as biological age. One size does not fit all.

In Canada, for example, 12,128 physicians aged 65 and over are still working, comprising 15% of all doctors there. Another 25% of doctors are in the 55 to 64 age group. Most of them will continue to work after 65 because the Canadians deal with this by having an assessment of fitness to practice. They use a questionnaire for those who have been in practice for more than 35 years. If a warning flag is raised, such as in the case of a doctor who has been working for 35 years or more or a doctor who is working solo as a locum with not much contact with others, then there is a further review. It works well for the Canadians. Their experience of disasters in the health service is probably better than ours.

Any system for assessing fitness to continue in work should be objective and independent. Human nature is such that some colleagues may want to work and not to retire because they want to keep something that he or she has. Self-interest is very good at disguising itself as the public interest.

Chairman: I thank Dr. Shanahan very much for a very interesting contribution. There is more information which we can read and we will come back to him later.

Mr. Tony Kenny: Go raibh maith agat as an deis thairiscint dom chun aghaidh a thabhairt duit ar an mBille atá molta anseo inniu. I thank the joint committee for giving me the opportunity to make my contribution to this important draft legislation. I am here in a personal capacity. My interest in the proposed legislation is personal and also has regard to the broader policy implications. I refer to the article by Professor John FitzGerald in *The Irish Times* on 10 November 2015 in which he set out the economic policy argument in support of the proposition in a far better and more trenchant way than I could.

I am 66 years of age and fortunate to be in full-time employment. If the current situation continues - I see no reason it should not - I will be required to retire when I reach the age of 70 years. As the committee will have discerned, I work for a progressive employer who takes account of the contribution older employees can make. Even so, in a few short years I will be surplus to requirements. My mother worked until she was 73 years old and would have kept going but for the fact that the firm for which she worked closed down. Many well known people continue to work past normal retirement age, including President Michael D. Higgins and the Minister for Finance, Deputy Michael Noonan. This suggests the concept of “retirement age” is a societal construct which draws its legitimacy from our culture rather than from any scientific or biological fact. If I am able to continue to do my work in a capable manner that meets the expectations of my employer, what relevance does my age have to the decision on when I need to stop working? Apart from convention, I do not think it has any relevance.

For many working people, men in particular, their job is a vital source of identity and self-worth. If I am enjoying my work and performing well, why should I be forced to stop simply on age grounds? Many employees look forward to the opportunities retirement may bring and the Bill will not alter this in any way. While I may be in a minority in being less enthusiastic about retirement, it is an important equality consideration. The decision to retire is very personal and age is just one of the factors that should be taken into account.

Regarding the broader policy issue, the dependency ratio has been referred to by many speakers. It worries policy makers throughout the world. Professor John FitzGerald has pointed out that the Irish dependency ratio has been trending upwards since 2005. It seems to be an odd policy choice to require people to become dependent. For many older people, the State pension system is the only, limited, support they have to sustain a basic standard of living. Approximately 50% of citizens have no other pension entitlement. Where continued employment is a possibility, it seems perverse to require a person to depend on the State pension. Although there is no legislatively defined mandatory retirement age, there are a raft of regulations, contacts of employment and pension schemes that *de facto* legislate for it. While youth unemployment is a very significant policy concern, the shorthand connection drawn between the numbers leaving the workforce and the numbers wishing to join it, to which my colleague referred as the “lump of labour” theory, is very simplistic.

The Minister of State is not opposing the Bill, although he raised questions about how it might impact on employers’ contractual rights. It is the proper function of legislation to address this issue and it is the subject of the Bill. The proposed change would not disadvantage any sensible employer by allowing productive employees to remain working. While there may be differences of opinion between an employer and an employee about whether the employee is productive, there is a raft of legislation to deal with this issue. The proposed legislation would remove an important discriminatory barrier for a minority of employees. In doing so it would add to the progressive transformation of our society, sustained by the Oireachtas, in a small but significant way. Deputy Anne Ferris is to be commended for taking the lead on it.

Ms Margaret Haughton: I thank the joint committee for inviting me to discuss the Bill which should be passed to amend the Employment Equality Act 1998 to abolish mandatory retirement ages for those able and willing to continue in the roles in which they were employed. I will be 65 years old in January 2016 and due to retire, as my contract states. I am well and healthy and feel I could work for at least another three to five years. It is an absolute disgrace in this day and age that workers are being forced into retirement against their will when there are so many role models of older citizens working creatively and contributing so much to the

economy.

I work as a dental nurse for the HSE. It makes no sense for a skilled, competent and widely experienced dental nurse to be asked to cease employment based on a mere number on the calendar. Given my knowledge and experience, my compulsory retirement would be particularly disadvantageous to the service. The age factor should be removed when considering suitability and necessity for retirement. The Government has already increased the retirement age in the public sector to 68 years, thereby recognising people's capability to perform their duties competently past the retirement age of 65. People of sound mind and body should be allowed to work for as long as they choose. Retirement should be voluntary. We, therefore, need to remove the age factor.

I fully support Deputy Anne Ferris and hope the Bill will be passed and enshrined in law before my retirement date. I do not know if that will happen, but it would be great if it did.

Chairman: I thank everybody who has contributed. The people present have given their personal stories which cannot be easy to do and for which I salute them. I have been Chairman of the joint committee for almost five years and almost 600 people have given evidence to us on topics including criminal law, insolvency, burglary, prostitution and missing persons. It goes on and on and we have sent 35 reports to the Government. The submissions made today have been some of the most powerful, sensible, well thought out and well researched I have heard and I congratulate those who have made them. While I usually speak last, I have been very moved by them. From what I have heard, unless I am persuaded otherwise, I will support the proposal. There are anomalies that could be addressed on Committee Stage and it must be done. Whether it can be done before the end of the year remains to be seen, as a raft of legislation has backed up. The delegates have put down a very powerful marker, for which I congratulate them. Given that it is her Bill, Deputy Anne Ferris will speak first.

Deputy Anne Ferris: I thank the organisations and individuals who have made very powerful presentations on their own stories. They are very moving and it is a very personal issue for them as they approach retirement age. I had not realised staff in the Irish Prison Service had to retire at the age of 60 years. When I introduced the Bill last year, many people contacted me to tell me their stories. I was delighted when the Bill was chosen. When one introduces a Private Members' Bill, it is included in a lottery to be given the opportunity to debate in one of the two Friday Dáil sittings per month. I was over the moon when my proposal saw the light of day in the Dáil. That it has now come as far as Committee Stage means it will not die, as do the many Private Members' Bills which do not get a hearing. Even if it does not get through before Ms Haughton's retirement, it will, I hope, become law during the next Dáil.

I do not have any questions because the witnesses are preaching to the converted. I know all of their stories and am aware of the major anomalies that exist in this area. The delegates from the Law Society raised a number of issues that can and will be teased out. The Bill was drafted by a senior counsel who is now a judge. If there is a need for further clarity on certain provisions, it can be achieved on Committee Stage. The main anomaly under the current regime is that people are being forced to retire at age 65 and, because they cannot claim their pension until age 66, they are obliged to seek jobseeker's benefit and apply for jobs they do not want. The biggest culprit in this regard seems to be the Health Service Executive. This is not just a matter for the Department of Justice and Equality. It is a broader equality issue which the Department of Social Protection, the Department of Jobs, Enterprise and Innovation and others must take on board. If the pension age is pushed out to 67 or 68 and people are obliged to work until that age, then the whole area of pension provision will have to be reviewed.

I thank the Chairman for accommodating this debate. It is not often that a Private Members' Bill proceeds to Committee Stage so quickly after First Reading in the Dáil. I am obliged to the Chairman and committee staff for their efforts in this regard. A great deal of work has gone into these proposals and I assure the delegates that I will keep pressing the legislation. If the good people of Wicklow and east Carlow return me to the Dáil after the election, I will work on it further.

Chairman: The Deputy must be careful not to engage in electioneering. I congratulate her on bringing this legislation forward and I hope it goes well for her. To clarify, we are not dealing with Committee Stage today. When Second Stage of the Bill was completed in the Dáil, it was referred to us for public hearings and scrutiny. The next Stage will be Committee Stage in the select committee, where the Minister and members will have an opportunity to table amendments. The next Stages will be Report and Final Stages in the Dáil, after which the Bill will be referred to the Seanad. There are issues and complications that need to be ironed out but the will is there to move the legislation forward.

Deputy Gabrielle McFadden: I do not have any questions for the delegates but I commend Deputy Anne Ferris on bringing forward this fantastic legislation. Subject to clarification on some of the issues raised by Ms Malone, I cannot see why these proposals should not have the full support of members. I thank all the delegates for attending. As the Chairman said, the submissions were very powerful, moving and intelligent. I have an aunt whose age I will not give, because she would kill me if I did, who retired from the HSE in her 60s, although she did not want to. She opened a business 21 years ago and it is still going strong today, as is my aunt. She worked in that business for more than 12 years and still has an input into it. She made the decision to set up on her own because she did not want to retire. She should not have had to retire because she is a very capable and intelligent person. She should have been able to continue in her job until she was ready to leave.

Mr. Kenny spoke about the people, men in particular, for whom their job is a source of identity and self-meaning. That applies to women just as much as men. I congratulate all the delegates on their submissions and assure them the legislation has my complete support.

Chairman: Dr. Shanahan referred to the isolation some people experience following retirement. That is a very important point and he made it very strongly.

Deputy Alan Farrell: I join colleagues in congratulating Deputy Anne Ferris on bringing forward this Bill. The Chairman summed up the importance of proposals like these being brought before the committee. I apologise to the delegates for not being here in corporeal form but I was watching proceedings on my monitor. I had another meeting that ran late. I read most of the submissions and take this opportunity to express my appreciation for the time the witnesses have taken to make their views known.

Like previous speakers, I do not have any specific questions. I have some personal experience of the issues concerned in that my father was obliged to retire many years ago from the public sector at age 52. He still had a huge amount to contribute to society and that is what he did, for a further 20 years, by way of voluntary work for several charitable organisations in Malahide and further afield. The experience he garnered over 30 years in the public service was wasted to the sector when he had to retire due to downsizing. It was a personal choice he made not to return to paid employment. If he had been in a position to stay on within the public sector and provide his skills and experience, it would no doubt have been of benefit to those with whom he worked.

Reference was made to the fact that the pension age and retirement age are not aligned. It is outrageous to force individuals either to sign on or participate in schemes like JobBridge. Last weekend, at the Pavilions shopping centre in Swords, I met a constituent of mine who I have known for many years. When I told him he looked well and asked how he was getting on, he informed me that, at 65 years of age, he is doing a JobBridge scheme and that he had no choice in the matter. It is not appropriate that people who have been out of work because of the economy and who are somewhat discriminated against because of their age should be treated like that. Such people have a wealth of experience earned over a lifetime of working. The opportunity, particularly within the health service, to use one's skills and experience to nurture young talent coming through as to best practice and so on is extremely important.

In regard to social isolation, as referred to by the Chairman, that is a very important matter for us to consider in the context of this discussion and, indeed, when the Bill comes to Committee Stage. Allowing a person who has 30 or 40 years experience working in a particular industry to continue is far preferable to putting them out to pasture. We must ensure people, particularly in the later stages of their working life, are valued for the important role they can play.

Senator Mary M. White: It gives me great pleasure to support Deputy Anne Ferris's Bill on the abolition of a mandatory retirement age. I introduced an Employment Equality (Amendment) Bill in the Seanad in 2012 on behalf of Fianna Fáil, which had the same objective. I brought that Bill to Second Stage but did not push it to a vote in case the Government chose not to support it. However, the former Minister for the Environment, Community and Local Government, Phil Hogan, who was in attendance, indicated his support for the proposal.

In the past 40 years, the Oireachtas has introduced many progressive legislative measures to ensure people in the workplace are not discriminated against on grounds of gender, race or sexual orientation.

Chairman: I apologise for interrupting the Senator but I would prefer members to interact with our guests by way of questions, rather than making speeches.

Senator Mary M. White: I do not propose to make a speech. It is important to point out that I introduced legislation in 2012 with the same objective as the Bill we are discussing today.

Chairman: I understand that and am trying to be helpful.

Senator Mary M. White: May I give the meeting my-----

Chairman: I am sorry. Please hear me out. For years, it has been the agreement of the committee that members will ask witnesses questions to elicit information and tease out issues. If the Senator has questions later, I will be delighted to let her ask them then.

Senator Mary M. White: No. I am passionate about this issue.

Chairman: I understand. That is why we would like an interaction.

Senator Mary M. White: I held a public meeting six or seven years ago on ageing and ageism. One of the most dramatic moments at my public meeting was a woman, not unlike Ms Gallagher, stating that she had to retire upon her marriage. She cried. She was approaching 65 years of age and had to retire again. I congratulate Ms Gallagher on her statement at this meeting. I am not allowed to state my reasons but I would like to put on the record the fact that if

there was age discrimination in the Oireachtas, Senators Quinn and Ó Murchú and the Minister for Finance, Deputy Noonan, would not have been able to contribute their experience. Nor would President Higgins. I would love to express my reasons that I stated in the Seanad but I will give the killer sentence instead. The witnesses and those elsewhere who are approaching retirement know the heartbreak and trauma faced by people who go over the cliff's edge of compulsory retirement at 60 or 65 years of age. I would love to have had the opportunity to say everything but that is the bottom line. It is a cliff's edge. Many people's health deteriorates after they have had to retire. We are not forcing anyone to retire. If people wish, they should stay on in the job and negotiate the hours that they want to do. I am fully supportive of this Bill.

Chairman: Mr. Moran wished to contribute on a point.

Mr. Justin Moran: I wish to pick up on a comment made by the Law Society of Ireland. I also welcome members' responses and contributions. I will be brief. A term that keeps arising as we examine this issue is the concept of "legitimate aim". It is mentioned in the Employment Equality (Amendment) Bill 2013. Under the equality directive, age discrimination is wrong and should not happen unless it enables us to meet a legitimate aim related to employment policy or the labour market. This raises the quick question of what constitutes a legitimate aim. In 2007, the European Court of Justice found in Spain that it was legitimate to discriminate against older workers if it allowed younger people to get employment. In Ireland's *Donnellan v. Minister for Justice*, a Garda Commissioner was forced out of his job because doing so was seen as facilitating promotion prospects. There have been similar High Court equality cases.

Something that I admire about Deputy Ferris's legislation is that the two little words "legitimate aim" are not included. It is not legitimate that older workers should be forced aside to make room for younger ones. As Mr. Quinn and Dr. Shanahan observed in some detail, there is no research to support that idea.

I thank the committee for inviting me to this meeting and the Chairman for allowing me to speak again.

Deputy Finian McGrath: I agree with the Chairman's remarks on the contributions. I commend Deputy Ferris on her work on this legislation and Senator White on her previous work. It is important that their work be recorded. I support the legislation. This is not an issue of equality in society but of common sense.

The Chairman will be delighted to know that I only have two short questions. I encountered something in the disability sector. I speak as a former chairman of the Dublin branch of Down Syndrome Ireland. Has any of the groups present ever encountered a complete breakdown in services for people with intellectual disabilities because people who have worked therein for years have been forced to retire? A major problem emerged, given the relationship between the older members of staff and adults with intellectual disabilities. As parents, we encountered this breakdown. Often, the role of senior citizens who work with adults with intellectual disabilities is not recognised in broader society.

Chairman: Who wishes to respond to the subject of the Deputy's question or other sectors?

Deputy Finian McGrath: I will focus on disability services but there are other sectors.

Chairman: We are referring to where services have been affected because people have needed to leave.

Ms Imelda Browne: I have seen this in general in nursing services. Many experienced people left over a few years. They used to mentor younger staff. We did not have enough people to mentor and help some of our young students and foreign national nurses, who were not only adjusting to a new job, but to a new culture. It was stressful for everyone. This problem will be repeated in the next few years unless we address the issue.

Chairman: I thank Ms Browne.

Mr. William Quinn: The wife of one of my best friends works with older people in various sheltered accommodation that is run by Dublin City Council. People are living for much longer, which means that older people are in these complexes for some time. They build relationships, in particular with the staff whom they deal with on a day-to-day basis. If one staff member leaves, it is horrendous for everyone. This is a major problem.

Deputy Finian McGrath: Even if there was not-----

Mr. Tony Kenny: I will make a brief point on that.

Deputy Finian McGrath: I am sorry. Go ahead.

Mr. Tony Kenny: To look at the issue another way, this is not so much about retirement as it is about the levels of service that many older people experience. My aunt died when she was 88 years of age. She had been looked after by a succession of care workers. She did not have the same care worker from one week to the next. It affected quality. I am sure that the cost was the same but the quality of the service that she received was poor. That cost does not show up in the books.

Deputy Finian McGrath: I accept that. It is important that the groups know that parents value many of those who work in the disability sector and, in particular, their relationship with young adults with intellectual disabilities. My second question is on the Canadian figures on doctors working beyond retirement age. I missed a few of them. Was it Canada that was mentioned?

Chairman: Yes. Would Dr. Shanahan like to respond?

Deputy Finian McGrath: Is it 15%?

Dr. Enda Shanahan: Would the Deputy like me to read the figures out again?

Deputy Finian McGrath: Just the highlights. There were four or five interesting figures.

Dr. Enda Shanahan: In Canada, there are 12,128 physicians who are aged over 65 years and still working, comprising 15% of all doctors in Canada. A further 15,555 doctors are in the 55 to 64 years age group, equalling 25% of all doctors working. It is not a problem in Canada because it has a means of assessing. Quebec has had it since 1970 and the other provinces followed suit. Canada does not target doctors until they are 70 years of age or older, at which point a questionnaire is taken. If that raises a red flag, for example, a doctor doing locum work solo or having been 35 years or more in practice, Canada follows up on it. This approach works. Does that answer the Deputy's question?

Chairman: Indeed.

Deputy Finian McGrath: I thank Dr. Shanahan.

Deputy Anne Ferris: Some 40% of all doctors working in Canada are over 55 years of age.

Dr. Enda Shanahan: It is a high percentage.

Deputy Anne Ferris: It is huge.

Chairman: Yet we are retiring doctors at a younger age. Did Deputy McFadden wish to ask a question?

Deputy Gabrielle McFadden: I have a general one. I do not know who wants to take it but I am curious as to the witnesses' opinion on a comment that is always thrown out when people who are older than 65 years of age stay in employment, namely, that they are taking jobs from young people. I do not believe that for one second.

Chairman: That issue arose earlier.

Mr. William Quinn: In terms of my employment at Dublin City Council, it is a moot point. We have an embargo, so there is no recruitment.

Dr. Enda Shanahan: There is a large amount of research on this matter in the published literature. The National Bureau of Economic Research in the US, which is a private, non-profit research organisation committed to undertaking and disseminating unbiased economic research among public policy makers, business professionals and the academic community, has repeatedly examined this issue in the US and various other countries. It has found there is no link between employing older workers and reducing employment for younger workers. It also found that having older workers continue to work does not reduce the wages of younger workers. In the European Parliament, the Directorate-General for Internal Policies of the Union produced something similar in April 2013. The Journal of European Labor Studies, IZA, in Bonn has come up with the same findings. I have umpteen references on this.

Chairman: I thank Dr. Shanahan for that. Did Mr. Moran want to come in on that?

Mr. Justin Moran: On Dr. Shanahan's point, not only does the world of labour research show there is no link between younger people gaining employment and older people losing out, it actually shows a correlation between rising employment for both categories. The more older people are employed, the more younger people are employed. Four of the countries with the top ten employment rates for older people are also in the top ten for the employment of younger people. I suspect Dr. Shanahan and I have been looking at much the same research. An OECD report states, "It is important to dispel a number of myths in this area [...] the claim that fewer jobs for older workers results in more jobs for younger workers, though unfounded, is proving especially stubborn". This proves the Deputy's point; it is a stubborn myth but a myth nonetheless.

Chairman: Would Deputy McGrath like to come in on the same issue?

Deputy Finian McGrath: It is the same issue but I may have to disagree with our two visitors because I have concerns about the research. I hope it is well-researched, as we say at the Joint Committee on Justice, Defence and Equality, because I get a lot of people in their 50s coming to my constituency office who say they find it very difficult to get a job as some of the companies they go to say they can get a young man or woman in their 20s for half the price, from a salary point of view. The over-55s are telling me this. That seems to contradict what the witnesses are saying about their research. A private company, in IT, human resources or

some other sector, can get a young person in their mid-20s or 30s for half the salary of this older person. It is an issue.

Chairman: I call Deputy Farrell on the same point.

Deputy Alan Farrell: On the same point, I was going to raise the issue Deputy McFadden raised but coincidentally, I was going to reference the fact that the report from the OECD, which I think was last year, had some interesting findings on the issue. That is not to say that I have not experienced exactly the same anecdotal, rather than empirical, evidence from constituents from time to time. It goes back to the example I gave of the 64 year old who is not in a position to find employment. I often find that is cyclical with the economic profile of the country being studied and that was the case in the OECD report Mr. Moran referenced.

Chairman: Mr. Conway wanted to come in on that.

Mr. Noel Conway: I want to come in on what I put forward and expand on it from the perspective of the community and voluntary sector, where we have up to 85,000 people working today. I fully support the Bill but its spirit will be devalued if the Department, the way it is operating currently, ceases funding for anyone reaching retirement age. Even though the Bill could be law tomorrow morning, if the Department does not change its policy in regard to extending funding beyond retirement age, which is 66 this year or next year and 67 in two years' time, it will be of no value to the staff employed in the community and voluntary sector. Community and voluntary groups do not have the funding to maintain salary and wages without funding from the State.

Chairman: With a rising demand for workers at the moment, where in some areas there is demand for more workers and skills, it seems to be a good time to look at this.

Ms Máiréad Hayes: There are different issues here. One is about activation of older people. At the beginning of austerity or the recession, the tendency was not to activate older people. We are now seeing that trend changing because there are more people employed. The skills of older people will again be recognised. We are seeing people in their 60s being activated, which we had not experienced at the beginning. We would always make the point that the skill sets they bring, as evidenced by the contributions here, are very important.

I wonder whether it is possible to put a question. I am not sure about the protocol. Two equality Bills have been brought forward by committees. There is the longer healthy living Bill and the other equality Bill. These Bills seek to do the same thing, namely, to allow people to work longer. This Bill is simple. That has been mentioned before. I know groups have been working in this regard because I have participated with some of the people from the law group, particularly Mr. Loughlin Deegan, and have had conversations on this. Is it within the power of the committee, along with other committees - I know there are different Departments - to push this as an objective before this Dáil finishes? That is what is important. There are a lot of things that can be worked around.

What the witness from the community and voluntary sector is saying is that there are so many community and voluntary groups which are going to have to disband, including our one, because they have no funding. That is a huge issue for people. It is about the principle. I am concerned that this would work particularly well for the public sector but not so much for Ms O'Toole's situation as she is in retail and may not have as much power. It should be a choice for everybody, not just for people in the public sector. I appreciate the scarcity of skills and that

is very important. We are hopefully moving into a different era now, as 2016 looms. I would say to the legislators that they should make it an objective to get this through before the end of this Dáil.

Chairman: There are four weeks left before we break for the Christmas recess.

Ms Máiréad Hayes: I know.

Chairman: None of us knows whether we will be back after Christmas and if we are back, it might only be a week or two, so time is extremely short.

Ms Máiréad Hayes: If all the members work an extra couple of hours a week-----

Deputy Finian McGrath: I will be here.

Chairman: Unless anyone has anything else to say on this-----

Dr. Enda Shanahan: Referring to what Deputy McGrath was saying, I see age discrimination applying to all ages from a 17 or 18 year old right up to a 65 year old and older. I do not distinguish between them. Age discrimination is just that. I do not care what the age is. What the Deputy says is correct. People who lose their jobs in their 50s have great trouble getting into the workplace because they are considered too old. That is age discrimination and it should be made illegal. It is downright wrong and takes no account of the experience or the skills of that person. The Deputy is right in saying that the companies are probably employing younger workers because they can pay them less and treat them like dirt. It is not exclusive to what I was saying. All the research says - there is a lot of it and I can give the references to anybody who wants them because I have a lot of them-----

Chairman: Actually, if Dr. Shanahan could send those to the clerk to the committee, they would be very useful.

Dr. Enda Shanahan: I can give the references and members can see for themselves.

Mr. Tony Kenny: Very briefly, to echo Dr. Shanahan's point, discrimination is a very interesting concept at a societal level. Part of how we begin to deal with it is to name it. Age discrimination is still very *sotto voce* in our society. It is talked about but in whispers. I will give a short anecdote. A friend of mine lost his job at 62. He sent out 600 applications and got one or two responses. Somebody told him to take his age off his application and he got eight or ten responses from the next 20 or 30 he sent out. It is a live issue in our society but we tend not to talk about it. This Bill sends a powerful message from the Oireachtas and the people of Ireland that this should be an unacceptable practice.

Deputy Anne Ferris: We have to finish up now. I thank the witnesses who came here today. Senator White alluded earlier to the marriage bar that was brought in to force women out of their jobs when they got married years ago and was subsequently lifted. There was a major debate on the lifting of the marriage bar. The argument was that men would lose their jobs or not get them if married women were allowed to work, but the sky did not fall in. The lifting of the mandatory retirement age is an issue of equality and concerns getting rid of discrimination at all levels. The age of 65 years is the new 55 and I am nearer to 65 than to 55. Believe me, we will do our best to have the legislation coming down the track enacted. I ask organisations such as the HSE that have people like Margaret Haughton who is due to retire to take another look at the issue of retirement age. In one year organisations will not have a choice because

the legislation will have been enacted. I plead with them to look with compassion, honesty and equality at what they are doing.

Chairman: I second that proposal as it would apply across the public sector. All public sector organisations should look at this issue to see what they could do to retain staff with ability, energy, knowledge, wisdom, skills and experience. I join members in thanking the delegates for being here as it is very important that we hear the public. This is not a forum in which members should make speeches but for members of the public to engage and have their views made known to the Oireachtas, the Legislature and Parliament. That is the reason we invite groups and citizens to come before us because this is the parliament of the people. They are the bosses, not us.

The joint committee adjourned at 4.05 p.m until 9.30 a.m. on Wednesday, 25 November 2015.

APPENDIX 4

Justice, Defence and Equality Committee

List of Submissions Received

Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014

Doc. No.	Received From
2015/813	Ms. Deirdre Burns (Member of the Public)
2015/814	Mr. Noel Conway (Member of the Public)
2015/815	Mr. William Quinn (Member of the Public)
2015/816	Professor Eric Weitz (Member of the Public)
2015/817	Ms. Kathleen O'Toole (Member of the Public)
2015/818	Ms. Martina Halpin (Member of the Public)
2015/819	Ms. Ann Cawley (Member of the Public)
2015/820	Mr. Sean O Reilly (Member of the Public)
2015/821	Mr. Pat O'Connor (Member of the Public)
2015/822	Ms. Patricia Wheel (Chairperson, Woman 2000)
2015/823	Mr. Philip Gerard Murphy (Member of the Public)
2015/824	Ms. Margaret O Farrell (Member of the Public)
2015/825	Mr. Patrick Meany (Member of the Public)
2015/826	Ms. Bridget Kane (Member of the Public)
2015/830	Ms Maura Connolly (Chairperson) Law Society of Ireland
2015/831	Colm and Iris O Dunlaing (Members of the Public)
2015/832	Brendan Roantree (Member of the Public)
2015/833	Irish Business Employers Confederation
2015/834	Rita O'Sullivan (Member of the Public)
2015/835	Aidan McDonnell (Member of the Public)
2015/836	Age Action Ireland
2015/837	Dr Enda Shanahan (Member of the Public)
2015/838	Tony Kenny (Member of the Public)
2015/839	Ms. Margaret Haughton (Member of the Public)
2015/841	Irish Senior Citizens Parliament
2015/879	Mr. Donal Denham (Member of the Public)

Deirdre Burns

2015/813

I have worked all my life since i left school. Through pregnancy of 4 children separation divorce in the day when there was no childcare or one parent benefit when separation meant poverty and inequality socially and religiously divorce was illegal. That work included 8 yrs of working nights. I have endured all that through 2 recessions. Five yrs ago i would be retired and have my pension that i paid for through payment of tax. Poor government and recession has meant i have to keep going. I want to retire i should have the right to 68 is too old physically and mentally. Not all 60yr >are fit and well the vulnerable should be protected retirement should go back to 60 for a woman and 65 for a man we have earned it. Those that wish to work on should be allowed to as those that wish to go earlier should be allowed to. Are we to drop dead in our place if work so the. Government has to pay nothing and we are replaced by another from the unemployment line. Why not a campaign to reduce the immoral payments made to government tds and business men in their pensions. Lets look upwards to those that have plenty instead of downwards to those that have less?

Sent from my Windows Phone

Noel Conway,

14/10/2015

**Employment Equality (Abolition of Mandatory Retirement Age) Bill
2014**

I am making my submission as I fully support this Bill

I am employed in the Community and Voluntary Sector as a Community Employment Supervisor. I have worked in this capacity for twenty two years and I am due to retire in three year time.

When first hired I was working under the Community Employment Development Programme (CEDP) which later became Community Employment (CE) as is known today.

The programme was funded by FAS up to 2012 when the Department of Social Protection were given the responsibility in funding same. That is the case today.

My employer is combination of community and voluntary groups for example the local GAA clubs, Tidy Towns Committees, AFC Clubs, Community Halls and the Heritage Centres. In earlier years the group committee were of voluntary nature but in the late nineties were mandated by FAS to become incorporated as otherwise they would no longer receive funding to run the programme. By now the scheme was hugely beneficial to the community so all similar groups like our- self yielded to this demand.

As one of fourteen hundred supervisors/assistant supervisors working today all around the country have yet to receive a pension plan for their retirement. In spite of receiving a very favourable Labour Court recommendation in 2008 for same to be introduced by Fas, this has yet to be delivered.

My main reason in supporting this Bill is the opportunity to work beyond normal retiring age for the simple reason of need and I believe this bill shall provide me this when passed.

It is sad to think that the Department of Social Protection withdraws funding for working beyond sixty six years of age which means in reality that our employers are forced in firing us, as they do not have the means to fund our wages from the very little resources they possess.

Quoting Minister of State Deputy Aodhan O Riordain “ Age discrimination should not be countenanced. I am the Minister of State with responsibility for equality, and equality issues are dear to my heart and central to my reason for being in politics.” I trust that the Minister is sincere in his statement and I hope he will follow through on same.

I feel that passing this bill without delay is essential in protecting thousands of families from facing poverty and stressful times in the years ahead.

Submission on Compulsory Retirement Age of Public Servants

To whom it may concern,

I was born with a physical deformity of both hands but went to a normal Christian Brothers school & was successful in getting part time employment in Boland's Bakery, 9A Grand Canal Quay Dublin 2, when I was about 14. When I got my leaving certificate in 1974, I became full time there. I lost my job in the late autumn of 1981. Times were hard then & I found it very difficult to get work because of my circumstances. However, I persevered & got a temporary summer relief park ranger job with the then Dublin Corporation, in May 1983, through the good offices of the National Rehabilitation Board. I have now worked for Dublin City Council for more than 32 years. They have been very good to me & have been very instrumental in the development of my family, my home & me. I am particularly proud of the fact that, apart from being without work for 18 months, I have never been a burden on the state.

I fully understand the reason why our government felt it was necessary to change the rules regarding eligibility for the old age pension. The demographics have changed, people are living much longer & the old system was not designed to cope with that. I have no problem with that. People who were born before 1956 are not affected by the changes. People who were born between 1956 & 1961 now do not qualify for the old age pension until they are 67 & people who were born after 1961 now do not qualify until they are 68.

Under current legislation, public sector employers are bound to retire Clerical & Professional or Technical Staff at 65. General Operative Grades must be retired at 66. In my own case, as a General Operative Supervisor, my employer will be forced to let me go on the 21/12/2022. I will not be eligible for the old age pension for a further year. I will then have to find another job (unlikely under the circumstances), or sign on for Jobseekers Benefit. I will be in receipt of a contributory pension from work & my wife will have her pension (she is older than me), so that will affect my eligibility for benefit. I have a work colleague, a Clerical Grade 6, born in 1964, who must retire at 65 & will not qualify for old age pension for a further 3 years.

What makes this particularly unfair is that we will have done a lifetime of service & will have no choice. Yet able bodied people of retirement age, who have joined public sector jobs post 2008, have the option of applying for an extension to their job, annually to age 70, providing they can demonstrate their ability to carry out the full range & function of their duties.

In the past, I had, for a number of years, been a full time union convenor for more than 1000 SIPTU General Operatives in Dublin City Council. I have also served on their Corporate Partnership Forum, & their Equality Committee & Disability Committee. I have completed one year of legal studies as part of a Local Authorities Management Degree at the Institute of Public Administration. In my view, the current position is ageist & a clear breach of the Equality Act. Please open up this option for all public sector staff who are able. Many will not wish or need to avail of it but it would be nice to have the same rights & options as others. In addition, it would mean that those who find themselves, like me, with less than 40 years service at normal retirement age, could solve this problem, complete the service necessary for a full contributory pension & not be a burden on the state for the intervening years between job retirement & old age pension. Many thanks

I should like to register my vigorous support for the Employment Equality (Abolition of Mandatory Retirement Age) Bill to terminate a statutory policy that remains an archaic affront to notions of anti-discrimination in a society that has led by example in other areas of social inclusivity.

Although I feel as strongly about the issue of ageism as I do about racism, sexism and, in fact, prejudice against any other demographic group, this issue has stricken me personally to quietly devastating effect since several years ago, when it began to hit home that I would be forced to retire at the age of sixty-five.

As my prescribed date of retirement approaches, I do not exaggerate when I report that I have felt infuriated, exasperated, frightened and institutionally hazed, first of all by the suggestion that I will no longer have a right to my job just because of an outmoded notion of a social sell-by date that has nothing to do with my actual abilities to work effectively and productively; and second, because my unconventional career path has left me with vastly insufficient pension entitlement copper-fastened to an onerous prohibition on my ability to work in the public sector (and as a third-level lecturer, that eliminates the most appropriate possibilities).

I have worked hard all my life, but have followed a varied career path, beginning as a professional actor and then moving to journalism before finding myself in academia. I have taught in Drama and Theatre Studies at Trinity College Dublin since 2003, and I do not exaggerate by claiming that at sixty-three I am entering the prime of my professional life as a lecturer/scholar, in terms of teaching effectiveness, research publication profile, and international professional stature. I love what I do, I have proven myself an energetic and effective teacher, and with the country's collective appetite for addressing discrimination in so many other areas, I cannot imagine how such blatant ageism has remained acceptable for so long. I would love someone to tell me what 'objective reasons' (which appears to be the fuzzy caveat in official terms) cast sudden doubt upon my ability to do my job on my sixty-fifth birthday. I am in good health, eat well and cycle to work; as a teacher in Acting classes, I play (strenuous) games with my students and I give free, informal tap dancing classes open to all Trinity students; I am involved in an organising, editorial capacity with two monumental scholarly projects for major academic publishers (Palgrave and Methuen) in addition to my own steady stream of publications. Yet all of a sudden and for no other reason than a number on my birth certificate, I will be deemed unfit for purpose.

The second, more personally threatening aspect of my case results from my varied work history – which importantly and unquestionably contributes to my distinctive professional value. Because of my particular life journey, which includes coming to family life later than many and returning to college in my forties, I have no nest-egg and a vastly insufficient accumulation of pension entitlement. Furthermore, current government policy legislates retirement without any regard to personal circumstances, enforcing a straight-jacketing prohibition on my ability to supplement what little pension I would receive. I will simultaneously be removed from full-time employment *and* legally prohibited from earning enough to supplement my monthly allowance, placing me in catastrophic double-jeopardy: The government has no problem shoving me and my family off a fiscal cliff while forcibly removing any recourse to a safety net. This is not fair and not humane, and the pat suggestion that I can pedal my services in the private sector is callous and demeaning, and disingenuously ignores the actual likelihood of such a prospect.

I have found myself struggling emotionally with the looming eventualities of forced retirement in terms of my unrelenting appetite to be productive, the institutionalised curtailment of which I cannot bear. I do not feel old nor am I old by today's standards, yet the government tells me that I can no longer have my job. This is not a matter of me coming to terms with aging, but a matter of

how society, through such outmoded concepts as forced retirement casually stigmatises an individual without any regard to the person s/he is or the achievements of which s/he is capable. How the age of sixty-five, remnant from another era as some kind of valid threshold to mortal workplace decline, remains a legally credible indicator of such value lies well beyond belief, especially in an era in which our own President is well into his eighth decade. The results of recent studies attest to the fact that we age at different rates, and so the maintenance of fixed-age, across-the-board mandatory retirement is scientifically as well as morally indefensible.

I speak for myself, of course, well aware that some lifelong workers are grateful and reasonably well equipped for departing the daily grind and pursuing other interests. I also know that there is a wariness of a work-until-you-drop culture of forced labour. But I also know I am by far not the only person in this situation and with these feelings on the subject. I am uninterested in receiving money from the state for not working; I would much prefer to continue contributing to the tax coffers. The truth of it is that removing someone from a job for a reason abstracted from one's personhood is the very definition both of discrimination and wrongful dismissal, and official wording by the government (or the EU, for that matter) that 'mandatory retirement shall not constitute discrimination' is a blatant example of Orwellian double-speak that does nothing to change the fact that it is.

Let me also call attention to the insidiousness of what are put forth as common-sense presumptions about 'labour market policies', in which the forced retirement of older staff either for the purpose of reducing budget costs by replacing advanced earners with junior employees; making room for younger workers; or simply 'reducing head count', amount to a clear matter of economic engineering by discrimination. To be sure, a coherent economic policy attempts to help young people into the workforce – it cannot, however, be carried out in blanket fashion at the expense of actual individuals who have a legitimate right to and need of their jobs. I can understand that the state might want to preserve a policy that *entitles* long-serving public workers to draw pension and ensures a general rejuvenation of the work force. I can also imagine a time when I will be happy to step aside and take life a bit easier. I cannot, however, understand how a government can reconcile mandatory redundancy on the basis of age with yearly anti-ageism campaigns – I dare say there would be no question of such blatant workplace discrimination if a member of any other demographic population were suddenly removed from the workplace solely on the basis of belonging to that demographic group.

The fact that had my date of hiring at Trinity been half a year later I would have no legal retirement date (April 2004) and that there remain several different retirement dates in force for anyone currently in the work force is further definition of insitutionalised inequality (again, regardless of whether it is 'declared' not discriminatory on some official document or another).

The only fair, ethical and right thing to do is to take a decisive step toward removing one of the last invisible prejudices condoned by our culture. I urge you to pass the Employment Equality (Abolition of Mandatory Retirement) Bill as soon as possible.

Sincerely,

Eric Weitz

2015/817

The Employment Equality (Abolishment Of Mandatory Retirement Age) Bill 2014

Submission

I have been working for 17 plus years in my present employment. I will reach 65 years on 15/02/2016.

I have made a request to the company to continue working till pension age for me being 66. The company is refusing to discuss this at this time, making it clear that retirement age is 65 years. There is no retirement age on my Contract of Employment.

I work in the Retail Section of my employment, having extensive experience and skills and very able to carry out all duties assigned to me. I feel I am being forced to retire against my will.

I find it very difficult to understand why the Government when changing the pension age to 66 did not bring in legislation allowing people to stay at work till pension age ,if they so wished.

Why would anybody want to leave a job that they are very experienced and skilled in after 17 plus years and have to go and look for another job. I find it ludicrous that I am forced onto job seekers allowance against my will when I could be contributing through taxes to society. This will also create a great financial loss to my income.

I wish to support this bill

Yours faithfully

Kathleen O'Toole

Martina Halpin

2015/818

I am emailing in reference to the retirement enforcement on Community Employment Scheme Supervisors.

We here at the Disabled People of Clare have worked with our supervisor since 2004 and she continues to be both a positive and effective supervisor and member of our team in the organisation.

We fail to see the reasoning behind the enforcement of retirement at the age of 66 when employees both want and are capable of continuing to work and contribute to the economy and the local welfare of our communities.

We most definitely conclude this to be a form of discrimination against the working aging and propose to challenge the fact that our hard working and committed supervisor be forced to retire before she is ready to do so. We would like to point out the fact that it seems ludicrous to retire a trained and experienced supervisor who engages well with her participants, the department of social welfare employees and the larger community where she represents the needs of both participants and people with disabilities.

Today we would put it to our government to lift this ban of discrimination on the working aging and allow suitably qualified and experienced supervisors to experience equality in the area of employment. Mandatory employment is a discrimination to those who can and want to continue working after 66.

I hope that we will receive positive action from this email and that we are not forced to retire an exemplary employee unduly

Kind Regards,

Martina Halpin
Manager
Disabled People of Clare
Tel: 0656843488
Email: martina.halpin@dpoc.ie

Ann Cawley

2015/819

Dear Sir/Madam

I feel people should be allowed to work until they get the state pension at 66 years.

I really need the department of social protection to change their rules regarding the state pension.

it is very unfair for people to be forced to retire at 65 that they have then to sign on for job seekers

allowance for a year before the state pension kicks in.

Mandatory retirement at 65 should be abolished.

Ann Cawley

Committee

My name is Seán O Reilly I am an Assistant Governor in the Irish Prison Service with 35 years service at 55 years of age.

At present my conditions say I may retire after 30 years service but that I must retire at 60 years of age .

The back-ground to this age of 60 being the retirement age was based on the fact that an number of reports stated that due to the amount of hours that prisoner officer's where working and the large amounts of overtime which they were required to work, and the nature of the job they suffered high levels of burnout.

This identified that prison officers were working in 60 years service the equivalent of what an average staff member in the civil service was working in 65 years.

In 2005 under "The Proposal for organisational Change in the Irish Prison Service" the annualised hours system for attendance was introduced so that staff were assigned a fixed amount of hours in line with their grade.

Staff would be liable for this attendance over and above their normal 39 hours of a work a week.

In the case of the Assistant Governor grade this it is set at 112 hours a year which works out an average of 2 hours a week.

I my current role I am responsible for the Human Resources function for 700 staff in the West Dublin campus with service investing a lot of training in my skill set .

As a result of my current conditions of service I have to retire at 60 while a person in the Irish Prison Service head quarters carrying out this function may work until they are at least 65 years old. The reality is that if I wish to work beyond the age of 60 I will have to look for a job now outside the service, as the chances of getting something at age 60 would be greatly diminished.

There is a prevision where sanction can be sought from D/PER to extend service on grounds of public interest which is covered in Paragraph 7 of Circular 13/752".

My main points on this hearing are

- The grounds for staff particularly at the grade of Governor having to retire at 60 no longer exists due to changes in working conditions
- Staff working in the Prison Service HQ working in a similar role do not have to retire at 60 years of age
- Due to the fact that there has been no recruitment in the prison service for 10 years and that staff can leave at 60 this will cause a loss of a large knowledge base which a lot of time and money has been invested in to create
- Between now and 2020, 980 staff can leave the service that is 1/3 of all the present staff
- Unlike the Garda there is a prevision for the Prison Service where Sanction can be sought from D/PER to extend service on grounds of public interest which is covered in Paragraph 7 of Circular 13/752"

Regards

Seán O Reilly

Sent from my iPad

Submission from Pat O'Connor

Introduction:

I am an academic with 45 years' experience in teaching, research and management in higher education, including participation in EU funded projects which created employment for younger researchers. My personal situation is that I am single; have no children; no interest in golf, bridge etc; good health; great energy and high work orientation.

Yet within the next year I will be forced to retire. All academics in the Irish university where I work must retire in their 65th year. Anticipating this, and the fact that I will not be allowed to hold an EU grant as a retired person, I have not applied for a new research project, so the Research Fellow who has worked with me will be unemployed when the current EU project ends.

Factual: The forced retirement of people on the basis of age is discriminatory. Furthermore, forcing people to retire, before the state pension kicks in is financially punitive as well as discriminatory for many people. What is particularly galling is that our leaders who preside over this discriminatory forced retirement system are themselves NOT retiring. (Michael Noonan, 72 years; Joan Burton 66; Enda Kenny 64, with no intention of retiring [by age 65](#))

Comparative information: Academics in Sweden, UK, Australia etc are not forced to retire in their 65th year. Some universities in Ireland (e.g. Report on Irish Times re NUIG) seem to have negotiated/developed informal arrangements so that that their staff do not have to retire in their 65th year

Recommend: [Enact legislation so that](#) compulsory retirement on the basis of age [is](#) illegal
It is [a bit](#) too late for me now [but](#) it would give me some satisfaction to see this blatant discriminatory behaviour changed
Molaim Anne Ferris

[Thank you](#)
[Pat O'Connor](#)

Patricia Wheel

2015/822

I am Chairperson of Woman 2000, a womens group of almost 50 members in Killorglin, County Kerry and want to add our collective views on the abolishment of the Mandatory Retirement Age Bill.

This is yet another example of discrimination within the population. Historically women have been hugely discriminated against in the workplace, particularly in the civil service and banking sectors which used to require women to leave their job upon marriage and even as recently as 20 years ago a married woman was not welcome to work in the public sector unless she was either widowed or a deserted wife.

In a vibrant economy where the country needs as near full employment as possible, there can be no justification in retiring people indiscriminately at the age of 65. I accept that there are people who might welcome the opportunity to cease full time work but it should be for each person to decide when he/she wishes to retire. For people who have tremendous skills and experience it is a total nonsense to withdraw their ability to work purely as a result of their age.

How can we, as a country, encourage our citizens to become educated to the highest level, take on further training and then gain valuable experience in the workplace only to be told that, because they reach a certain age, their skills are no longer needed. I cannot see a valid reason why this Bill should be retained, or indeed why it was introduced in the first place.

Let each of us make up our own mind about retiring and do not insult us by assuming that because we might be 65 years of age we have no value in the workplace.

Sincerely

Patricia Wheel
Chairperson
Woman 2000

Patricia Wheel

Mandatory Retirement Age

I am a 64 year old Hospital Consultant in full time Clinical Practice, (Medical Microbiology), with a 35 year experience at Consultant level in the management of infection. My hospital is a Voluntary hospital but funded by government funding.

In my training I spent 5 years in Science and research followed by 5 years in Medical school and then 10 years training as a "junior Doctor" in my speciality. By comparison with many other careers this is a long evolving training, (i.e., 20 years between leaving school and starting a permanent job).

Such investment in acquiring my professional skills is at the expense of a reduced payback for society if my job contract has a mandatory retirement at age 65, which it has. I am contractually required to retire in 8 months time despite being very fit and able to continue with a wealth of experience at many levels, clinical, managerial and with a considerable research output of > 100 published papers in medical Journals.

I consider my contribution to society is about to be prematurely ended with a consequent reduction in value to society. This is of particular relevance in our current environment nationally of being unable to recruit applicants for >200 medical consultants.

I am unclear as to the reasons for the existing mandatory age of termination of my contract, particularly as I work alongside other consultant colleagues more recently appointed who have no such ageist element to their contract. I wish to support the proposed Employment Equality Bill 2014 as I believe society would achieve greater gains for its investment in its greatest asset - its people.

I also wish to object to the anomaly whereby people who retire at 65 have to wait a year or longer to receive access to State pensions.

Philip Gerard Murphy

I have been working for an organisation for over 27 years as a Clinical Nurse Specialist.

I started in 1986 in a temporary position and then got a permanent post in 1989. At that time I signed a contract stating that the retirement age was 65 years.

I reached 65 yrs. On March 2014, at that time I requested a further extension of employment and was granted 6 monthly extensions, which is due to terminate on 31st December 2015. I was granted "Specified purpose contract of employment" covering my employment at this organisation.

At this time I am willing and capable to continue working in the position as clinical nurse specialist. I have paid attention to updating my skills and kept up with further education along the way. I feel that I have a lot of expertise and sound knowledge to enhance the nursing, allied health professionals and support the medical teams.

For me to give up employment at present would definitely be a huge disadvantage on all fronts.

No 1.... It would cause financial difficulties, as I have large financial commitments over the next 3 to 4 years. So I do need to continue working to pay a mortgage and do not wish to be a burden on my family or the State.

No 2....I do not wish to have my contract terminated on the grounds of ageism. As I am competent and fully qualified to do the job thoroughly with so much expertise.

Now, working on a temporary contract, I have lost all my benefits and permanent status by being forced to change the terms of employment.

MARGARET O FARRELL

SUBMISSION TO THE COMMITTEE ON JUSTICE, DEFENCE AND EQUALITY REGARDING THE
EMPLOYMENT EQUALITY (ABOLITION OF MANDATORY AGE) BILL 2014

I work for a multinational company in the republic of Ireland. My area of expertise is a technician within the Engineering group.

On reaching 65 years of age, I believe that the employee should have the option to continue working.

The reasons an employee should be allowed to continue working after the age of 65 are.

1. The employee continues to do his or job correctly and in a safe manner
3. employees can no longer be forced to retire on the grounds of age alone
4. Older workers can play a vital role in future growth both for individual businesses and the wider economy overall
5. We must make sure older people's skills do not go to waste.
6. As we can look forward to living longer, we need to re-think what 'retirement' looks like, especially as the population dynamics change. There are many potential advantages for all of us, including a stronger economy, higher living standards, less pensioner poverty, reduced benefit spending, and improved national wellbeing and intergenerational cohesion.
7. The obvious solution is to embrace later life working, helping to realise the potential of older workers who have so much experience and talent to offer. This is not about being forced to work on, but enabling and encouraging those who want a fuller working life. Older workers can play a vital role in future growth both for individual businesses and the wider economy overall.
8. Employers need to adopt age friendly policies such as flexible working, phased retirement, family care leave and even gap breaks. This can facilitate a new type of retirement, where people cut down rather than suddenly stop working, where health and wellbeing policies take account of older workers' needs (including support for women through the menopause) and where employers enable staff to combine work with caring responsibilities. Line managers with the right skills are crucial to successfully supporting older workers.

I think society in general thinks retirement is age rather than attitude related. I've lost count of the number of people who have suggested that I should be retired because I'm now 65 years old. They just don't seem to understand that I enjoy what I do, I still feel I can make a contribution and that you can't buy experience.

An EU directive, 2000/78/EC provides that any differences in treatment on the ground of age must be objectively justified and reasonable. This directive is therefore inconsistent with Ireland's national law-the Employment Equality Acts-when it comes to discrimination on the grounds of age.

Bridget Kane

2015/826

Hi

I want to express my support to abolish a mandatory retirement age

Personally I do not want to be forced into retirement - as well as liking to work, I owe the bank too much on my mortgage (which I extended to make ends meet in bad times)

Bridget

Sent from my phone



The Oireachtas Joint Committee on
Justice, Defence and Equality

By email only: retirementage@oireachtas.ie

5 November 2015

**Re: Submissions on:
*Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014 and
Equality (Miscellaneous Provisions) Bill 2013***

Dear Sir/Madam,

I am writing to you in my capacity as Chairperson of the Law Society's Employment and Equality Law Committee. Our Committee comprises members of the solicitors' branch of the legal profession who work predominantly in the areas of employment, equality and pension law.

1. PRELIMINARY

A. Relevant factual background information

Our Committee previously highlighted the necessity to amend section 34(4) of the Employment Equality Act 1998 ("the 1998 Act"). A copy of our letter to Minister of State, Kathleen Lynch TD dated 29th June 2012 is attached for ease of reference. In summary, our letter at the time sought to draw the Minister's attention to the following:

- (i) Developments in case-law of the Court of Justice of the European Union (CJEU) rendered it appropriate to amend section 34(4) of the 1998 Act because:
 - a. setting a retirement age is a type of age discrimination, but
 - b. setting a retirement age is possible in some circumstances, if it can be objectively justified. The relevant EU Directive expressly envisages that member-states' laws may set retirement ages.
- (ii) Section 34(4) at present purports to permit employers to set a compulsory retirement age, but does not provide a requirement for an employer to objectively justify such a retirement age. Section 34(4) gives rise to a significant concern that Irish law is not compliant with EU law.
- (iii) A number of solutions to amend section 34(4) of the 1998 Act were suggested.

B. Proposed amendment to section 34 of the 1998 Act

There are now two Bills before the Oireachtas, both of which, in our view, would satisfy the Directive's requirements and would ensure compliance with EU Law.

- (i) The **Equality (Miscellaneous Provisions) Bill 2013** ("the 2013 Bill") proposes (among other things) the amendment of section 34(4) of the 1998 Act to limit the ability of an employer to fix compulsory or voluntary retirement ages for some or all employees retirement age. Whereas at present employers enjoy an unqualified right to set such compulsory retirement ages, the 2013 Bill would establish conditions before employers may set such ages. Employers would have to demonstrate that the setting of such compulsory retirement ages is objectively justifiable by a legitimate aim and that the means that the employer is using to achieve that aim are appropriate and necessary. The Bill also proposes some other amendments relating to retirement age.
- (ii) The **Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014** ("the 2014 Bill") proposes an amendment of section 34(3) and (4) of the 1998 Act that would remove the ability to fix a compulsory retirement age (or ages) for different categories of employees. An exception would be made in respect of certain specified emergency services, where compulsory retirement ages could still be fixed. The fixing of voluntary retirement ages would be permitted. Certain types of discrimination on age and disability grounds would be rendered lawful.

The relevant provisions of the two Bills are mutually contradictory and cannot both be enacted. The Employment and Equality Law Committee is neutral in respect of which of the Bills is enacted. We have concerns about the drafting of both of them (especially the 2014 Bill) and we believe that, whichever of the two is enacted, that Bill could be significantly improved at Committee Stage.

C. Council Directive 2000/78/EC ("the Directive")

The Directive seeks to establish a general framework for equal treatment in employment.

Member States are required to take necessary action for "*the social and economic integration of elderly and disabled people*"... [and] "*to pay particular attention to support older workers in the workplace in order to increase their participation in the labour force*".

In our view, both Bills meet with the requirements set out in the Directive. The choice for the Oireachtas is a matter of enacting the most appropriate one for this country.

2. EQUALITY (MISCELLANEOUS PROVISIONS) BILL 2013

A. General comments

Section 10 of the 2013 Bill proposes the amendment of section 34(4) of the 1998 Act as follows (with the proposed addition underlined for ease of reference):-

"...it shall not constitute discrimination on the age ground to fix different ages for the retirement (whether voluntarily or compulsorily) of employees or any class or description of employees if –
(a) it is objectively and reasonably justified by a legitimate aim, and
(b) the means of achieving that aim are appropriate and necessary."

The proposed amendment achieves the following:

- (i) It brings Ireland into compliance with the Directive.
- (ii) It allows an employer the opportunity to fix a compulsory retirement age, but only if it is objectively justifiable to do so.

B. Issues of concern

Section 4 of the 2013 Bill would amend section 6(3)(c) of the 1998 Act. At present, this is a provision that renders it lawful for an employer to offer to a person who is above the compulsory retirement age a fixed-term contract. The proposed amendment would qualify the lawfulness of such an offer. To paraphrase the proposed amendment, it shall not constitute discrimination to offer a fixed term contract to a person who is over the compulsory retirement age if -

- (i) *"It is objectively and reasonably justified by a legitimate aim, and*
- (ii) *The means of achieving that aim are appropriate and necessary."*

It is unclear what "it" means at point (i) above. It is not entirely clear whether "it" relates to:

- the justification of the retirement age; or
- the justification of the provision of a fixed-term contract to a person who is over that compulsory retirement age; or
- the justification of both the compulsory retirement age and the offer of the fixed-term contract to a person who is over that compulsory retirement age.

Clarification of that point in the 2013 Bill would be extremely helpful. It appears to us that the intention of the Oireachtas is to require such an employer to justify both the existence of the compulsory retirement age and the provision of the fixed-term contract. If that is the case, we suggest the following amendment to the 2013 Bill:

- (i) *"The offer of a fixed-term contract is objectively and reasonably justified by a legitimate aim, and*
- (ii) *The means of achieving that aim are appropriate and necessary."*

3. EMPLOYMENT EQUALITY (ABOLITION OF MANDATORY RETIREMENT AGE) BILL 2014 ("the 2014 Bill")

A. General comments

The proposed amendment to section 34(3) and (4) of the 1998 Act would abolish all compulsory retirement ages for those employees who are capable of doing the job for which they were employed, except for certain categories of employees in the emergency services.

Specifically, the 2014 Bill proposes an amendment of section 34(4) of the 1998 Act that would remove the ability to fix a compulsory retirement age (or ages) for different categories of employees. An exception would be made in respect of certain specified emergency services, where compulsory retirement ages could still be fixed by employers. The fixing of voluntary retirement ages would continue to be permitted.

The 2014 Bill also proposes the replacement of section 34(3) with a provision which would expressly prohibit the fixing of compulsory retirement ages except in the case of specified emergency services.

It would introduce a right for employers to discriminate on grounds of age and disability in circumstances where granting equal treatment would entail "significantly increased costs".

The 2014 Bill would remove certain exemptions for employers, such as the ability to fix different ages for admission to certain employee benefits schemes.

The 2014 Bill would also render it lawful for an employer to financially incentivise voluntary retirement from a particular age. In the absence of such a provision, an employer would be unlawfully discriminating against younger employees by declining to incentivise their voluntary retirement too.

The proposed amendment would achieve the following:

- (i) It would bring Ireland into compliance with the Directive.
- (ii) It would prevent an employer from setting a compulsory retirement age except in the cases of specified emergency services.
- (iii) It would require an employer to objectively establish that an employee is no longer capable of doing a job before they can fairly compulsorily retire an employee at a particular age, with the costs associated in proving this.
- (iv) It would permit employers to fix voluntary retirement ages for all or some employees.

B. Issues of concern

We highlight the following aspects of the 2014 Bill as drafted (with emphasis added by us):

Section 1(a) substitutes a new subsection 34(3) into the 1998 Act which would provide as follows: "*Nothing ... shall make unlawful discrimination on the age ground or the disability ground in circumstances where it is shown that there is clear actuarial or other evidence that significantly increased costs would result if the discrimination were not permitted in those circumstances, provided that –*

(a) *Save in the case of employment in An Garda Síochána, the Defence Forces, fire services or security-related employment prescribed by the Minister for [Justice and Equality] it shall not be lawful to set or contract for an age for the compulsory retirement of an employee who is capable of doing the job for which he or she is employed...*"

(b) *but it shall not be unlawful for an employer to provide financial incentives for the voluntary retirement of an employee at a particular age...."*

The foregoing formulation raised a number of concerns which we believe would need to be addressed at Committee Stage, in the event that the Oireachtas decides to proceed with this Bill.

(i) Permission to discriminate on grounds of cost

The 2014 Bill would permit age discrimination and disability discrimination where an employer can demonstrate that treating a person equally would entail significantly increased costs. There are a number of circumstances in which discrimination can be objectively justified in European law.

For example, the Directive expressly permits age discrimination where such discrimination is objectively justified, and other grounds of discrimination are permitted in other circumstances.

However, cost alone is generally not accepted as an appropriate justification for discrimination. This provision of the 2014 Bill could give rise to concerns about the compatibility of the 1998 Act (as it would then stand) with European law.

This concern could be addressed at Committee Stage by providing derogations more closely aligned with the derogations provided for by the Directive.

(ii) Impact on unfair dismissals litigation

Section 4 of the *Unfair Dismissals Act 1977* (as amended) permits the fair dismissal of employees if it relates to “*the capability, competence or qualifications of the employee for performing work of the kind which he was employed to do*”. Arguably, the introduction of the amendment outlined above may remove an employer’s obligation to participate in performance improvement plans and other managed processes, simply obtaining a report from an employer/company doctor to state that the employee is not capable of doing the job.

This could potentially result in an increase in the number of unfair dismissal claims. This provision may need to be revised at Committee Stage to address this concern.

(iii) Establishing whether an employee is capable of doing the job

An employer will be required to incur potentially significant increased costs to establish that an employee is not capable of doing the job for which they were employed, on each and every occasion that an employee reaches a particular age. For health and safety and/or insurance purposes, the employer may be required to assess the employee’s capability to carry out their duty on an annual basis.

The proposed section 34(3)(b) has the potential to significantly increase costs for employers as it may result in each employer having to pay an employee to retire, in order to avoid the costs associated with ensuring that an employee remains capable of completing their duties after a particular age.

(iv) Uncertainty about language likely to give rise to litigation

The facility that is provided by the proposed new section 34(3) would, as drafted, be likely to give rise to litigation. Questions such as the following arise:

- how an employer would “show” appropriate evidence of significantly increased costs;
- to whom those costs would be “shown”;
- what “other evidence” would be acceptable; and
- how to define “significantly” increased costs.

In the absence of clear statutory definitions of those terms they could only be answered through expensive and protracted litigation. These expressions would need to be carefully defined by Committee Stage amendments in order to reduce the likelihood of such litigation.

(v) Conflict with section 16 of the 1998 Act

The question of “capability” of doing a job, and the obligations of employers in cases where employees have disabilities, are matters which are already dealt with by section 16 of the 1998 Act as amended. The proposed new section 34(3) would establish different rules and

standards from those provided by section 16. As the 2014 Bill is drafted, it does not make provision for resolution of the conflicts arising between section 34(3) and section 16. Committee Stage amendments that resolve those difficulties would be advisable.

(vi) Contracts made prior to the enactment of the 2014 Bill

The 2014 Bill contains no saver for contracts of employment which are made prior to the Bill's enactment which may provide for compulsory retirement ages. The Oireachtas Joint Committee may consider the implications of rendering unlawful contractual provisions that were lawful at the date the parties entered into the employment contracts. This may give rise to significant constitutional concerns that may need to be addressed by way of Committee Stage amendments. These same concerns do not arise in respect of the 2013 Bill because its effect is limited to bringing Ireland into compliance with European law. Article 29.4.10 of the Constitution renders constitutional any laws that are "necessitated by the obligations of membership" of the EU.

(vii) Voluntary redundancy

Section 1(b) proposes the amendment of section 34(4) by the deletion of "*retirement (whether voluntary or compulsory)*" and its substitution with "*voluntary retirement...*"

When read in conjunction with the employer's ability to provide a financial incentive, it may be interpreted that a voluntary retirement payment must be provided to those employees.

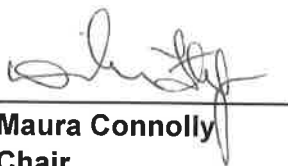
4. CONCLUSION

The Committee is neutral as regards the enactment of either Bill. Subject to the foregoing observations regarding drafting, either Bill would bring Ireland into compliance with the Directive.

We hope that the information outlined above is of assistance in the consideration of the 2014 Bill at Committee Stage. We welcome the opportunity to engage further on the matters raised. To that end, Deirdre Flynn, Secretary of the Law Society's Employment and Equality Law Committee may be contacted on 01 8815708 or d.flynn@lawsociety.ie with a view to agreeing a suitable time, date and venue for a meeting.

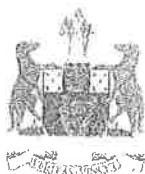
With thanks for your consideration on our submission.

Yours sincerely



P.P.
Maura Connolly
Chair
Employment & Equality Law Committee

cc. Aodhán Ó Ríordáin TD, Minister of State at the Department of Justice and Equality and Arts, Heritage and the Gaeltacht



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From the Law School

Minister Kathleen Lynch TD
Minister of State
Department of Justice, Equality & Defence
94 St. Stephen's Green,
Dublin 2

29 June 2012

**Re: Directive 2000/78/EC ("the Directive");
the *Employment Equality Act 1998* (as amended) ("the Act of 1998");
the increase in the State Pension age.**

Dear Minister Lynch,

I am writing to you in my capacity as Vice-Chairperson of the Law Society's Employment and Equality Law Committee and as a member of the Law Society's Pensions sub-committee. Both committees collectively comprise members of the solicitors' branch of the legal profession who work predominantly in the areas of employment, equality and pension law.

We would like to draw your attention to a number of issues that we believe should be considered by your Department in the context of:

- (a) developments in the case-law of the Court of Justice of the European Union (CJEU) which may render it appropriate to amend section 34 of the Act of 1998 in order to ensure that it is fully compliant with the Directive in respect of compulsory retirement ages; and
- (b) the increase in the qualifying age for receipt of the State pension on a phased basis from 1 January 2014 which is provided for in the *Social Welfare and Pensions Act 2011*.

While the change in the State pension age is not in itself a matter for your Department, it is a matter which is likely to have an enormous practical effect on your Department and (in particular) the workload of the Equality Tribunal or such other forum as may be established to succeed the Equality Tribunal further to the current process of review of employment rights bodies.

That is because a large cohort of employees who will turn 65 in 2014 will not (as the legislation currently stands) be entitled to receive a State pension until they turn 66. Many of these employees will have (or may arguably have) compulsory retirement ages of 65 provided in their contracts of employment. This will create a potential for litigation in respect of retirement ages that has not existed before.



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For this reason, we believe that the underlying problem – the difficulty in reconciling section 34 of the Act of 1998 and the Directive – requires to be addressed as a matter of urgency, and in any event well in advance of 1 January 2014. This, we believe, will be a matter for your Department.

Section 34 of the Act of 1998

Section 34 is the section of the Act of 1998 which has, until recent years, been interpreted as allowing employers to set compulsory retirement ages for employees or specific categories of employees.

The correct interpretation of section 34 has been rendered ambiguous as a consequence of a number of decisions of the CJEU about the effect of the Directive. The Directive forbids (among other things) age discrimination except in limited circumstances; the types of circumstances in which exceptions arise are set out in the Directive.

The decisions of the CJEU which have raised these issues relate to the ability of Member States to set retirement ages. The CJEU decisions might be summarised by saying that:

1. the setting of a retirement age is a type of age discrimination, but
2. the setting of retirement ages is not prohibited in all cases, but can be objectively justified in particular circumstances.

The CJEU decisions have raised the prospect of age discrimination claims where employees do not accept a compulsory retirement age.

The precise implications of these decisions are unclear because Irish law does not require any express or implied consideration of objective justification when retirement ages are being set or enforced. Instead, Irish law permits (or appears to permit) employers to set retirement ages at their discretion.

The approach of the Equality Tribunal in the case-law which relates to the issue of compulsory retirement/age discrimination is that it is entitled to interpret section 34 of the Act of 1998 in light of the Directive and consequently that it falls to an employer who has provided a compulsory retirement age or who has compelled an employee to retire at a stated retirement age to satisfy the Tribunal (or any new body which



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replaces it) that the enforcement of such a compulsory retirement age is objectively justified. The High Court in the case of *Donnellan*¹ has taken a similar approach.

Other parties take different views. At least one party before the Equality Tribunal has initiated judicial review proceedings against the Tribunal relating to the Tribunal's approach to the interpretation of section 34. These proceedings may take several years to conclude.

The net effect of the foregoing is uncertainty for employers, who do not know whether their compulsory retirement ages are valid and for employees who may find that they have to initiate legal action to have clarity on their rights.

Legislative clarity about objective justification

Legislative clarity would be desirable to address the employment law issues that are presented by these developments. This clarity would also create a situation where the Irish legislation is made more clearly compliant with the Directive.

One possible way of achieving this clarity would be by way of amendment of the Act of 1998 so that it specifies that an employer may set and enforce a compulsory retirement age, but only where to so set and so enforce is objectively justifiable.

The amendment could then go on to set out clearly the mechanism by which a compulsory retirement age might be held to be "objectively justified", and/or could provide for guidance to be given by way of a Code of Practice made under section 56 of the Act of 1998 or some other appropriate mechanism.

Another option might provide a mechanism by which the Oireachtas may from time to time adopt employment policies and/or labour market and/or vocational training objectives for the purposes of establishing norms around retirement ages.

An example of how the foregoing might be achieved would be as follows.

Possible heads of amendment	Comment
Head 1 - To provide that an employer may fix a compulsory retirement age in respect of an employee or any class or description of employees.	Self-explanatory.

¹ *Martin Donnellan v The Minister for Justice, Equality and Law Reform, the Commissioner of an Garda Síochána, Ireland and the Attorney General* [2008] IEHC 467



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<p>Head 2 - To provide that any employer who fixes such a compulsory retirement age may only compel an employee to retire at that age where to do so is objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives provided means of achieving the aim are appropriate and necessary.</p>	<p>Avails of the "objective justification" derogation at Article 6(1) of the directive.</p> <p>Note proposal is focussed on actual date employer compels employee to retire rather than on the date the retirement age was fixed – many things may have changed between those two dates, not least the State pensions age.</p>
<p>Head 3 - To provide that the requirement at Head 2 is without prejudice to section 37(2) of the Act of 1998.</p>	<p>Section 37(2) is the section of the Act of 1998 which gives effect to article 4 of Directive 2000/78. This article permits differences in treatment based on genuine and determining occupational requirement provided objective is legitimate and requirement is proportionate.***doesn't read properly – not sure what is missing....</p>
<p>Head 4 – to provide that nothing in Head 2 shall affect any measure which is necessary for public security, for the maintenance of public order and the prevention of criminal offences, for the protection of health or the protection of the rights and freedoms of others.</p>	<p>This follows the provisions of article 2(5) of Directive 2000/78.</p>

A further head of amendment – which might be incorporated either into the legislation or into any Code of Practice or Oireachtas policy which might, from time to time, be published in order to assist employers and employees to determine whether a compulsory retirement age is justified by reference to Head 2 – might provide as follows:

"In determining whether the fixing of a particular compulsory retirement age is objectively and reasonably justified by a legitimate aim, regard shall be had to all relevant matters, including but not limited to the following considerations:

- *Whether the particular compulsory retirement age is one which complies with any employment policy, labour market and/or vocational training objectives as may from time to time be adopted or enacted by the Oireachtas.*
- *Whether the particular compulsory retirement age is an age at which affected employees are entitled to receive an adequate retirement pension from the State.*



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- *Whether the particular compulsory retirement age is an age at which affected employees are entitled to receive an adequate benefit from an occupational retirement scheme sponsored by the employer in question.*
- *Whether the compulsion of employees to retire at the age in question is significantly likely to facilitate the equitable distribution of employment opportunities between generations.*
- *Whether the particular compulsory retirement age is one which has been agreed by way of collective agreement in the enterprise or sector concerned.*
- *Whether the particular compulsory retirement age is one which has been agreed in a contract of employment between the affected employee and the employer in question.*
- *Whether the particular compulsory retirement age is one which has been fixed further to a recommendation of Labour Court or to the dispute-resolution services of the Labour Relations Commission."*

Dispute avoidance and resolution

It would also be helpful if an effective mechanism could be introduced which would be available for early dispute avoidance and resolution in the interests of both employers and employees.

This would avoid the uncertainty of the present situation, whereby employers and employees do not know whether a particular retirement age will be upheld until after an employee is compulsorily retired and concludes litigation. It would be far preferable if employers and employees could establish in advance of a retirement date whether a previously established retirement age is objectively justified in the case of an employee.

Such a mechanism might also entail a mechanism by which a retirement date could be amended, for example in cases where circumstances change and a retirement age which might previously have been justified might be rendered unjustified by such changing circumstances.

Issues arising for other Departments

A number of related issues arise under pensions law and employment law. We have separately communicated with the Department of Social Protection and with the Department of Jobs, Enterprise and Innovation in relation to the matters relating to compulsory retirement ages.

These are issues that will have an impact on your Department, because of the aforementioned knock-on consequences for litigation before the Equality Tribunal or



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From the Law School

its successor. If you would like to hear more about these related issues, we would be happy to share our proposals in relation to them with your Department also.

The foregoing is a brief overview of some of the issues arising for your Department. We would welcome the opportunity to engage with your officials further on the matters raised. For this purpose, we would appreciate if the relevant individuals could contact Mr. Rory O'Boyle, the Secretary of the Law Society's Employment and Equality Law Committee, on 01 881 57 08 with a view to agreeing a suitable time, date and venue for a meeting.

With thanks for your consideration of these issues,

Yours sincerely,

Maura Connolly
Vice-Chairperson of the Employment & Equality Law Committee
Law Society of Ireland

cc Deaglain O Briain (Diversity and Equality Law Division DJED)

Colm and Iris O Dunlaing

2015/831

To the Oireachtas committee for Justice, Defence, and Equality.

To be brief: we are strongly in favour of the bill to abolish mandatory retirement ages, and are very much obliged to Deputy Ferris for sponsoring it.

Yours sincerely
Colm and Iris O Dunlaing

Brendan Roantree

6th Nov 2015

Submission to

Committee on Justice, Defence and Equality

Re: Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014

Dear Committee Members

I wish to state that I strongly support the passing and implementation of this bill as soon as possible.

I work as a Counsellor, Psychotherapist and Family Mediator. A main focus of my work is supporting individuals and groups developing and practising positive mental care plans.

In recent years I have concentrated on Older Peoples Mental Health Issues and I have seen on so many occasions the results and consequences of middle aged and older people being forced to give up work because of Mandatory Retirement Age by Companies, Firms, Organisations and The State.

I recently celebrated my 65th birthday, healthy, fit and happy – it is my intention to continue working for the foreseeable future for all the obvious reasons – to continue doing this I had to go through the most humiliating and distasteful process of writing to my employers and “begging” them to be allowed to stay on and continue working in “my own Job”.

This experience caused me to experience much sadness, anxiety and stress – now I truly understand and feel what it is like to be discriminated against and discarded because of my age – just like many of my clients and groups I work with.

My most valuable assets in my work are as mentioned above – I also see myself as a role model for my fellow older citizens who can continue to contribute to this country, their families and communities in such a valuable and positive way as long as they wish to themselves, rather be retired and thrown on the “scrap heap” by a Government supported policy that discriminates and makes a mockery of the EQUALITY we all claim we aspire to in this country.

Finally, when we look at the economic situation in our country right now policies such as this one are of no benefit to anyone, State or citizens and presently discriminate against almost 12% of the current population (2015 census).

I respectfully urge you to support the passing of this bill without further delay.

Brendan Roantree



IBEC SUBMISSION TO JOINT OIREACHTAS COMMITTEE ON JUSTICE, DEFENCE AND EQUALITY

EMPLOYMENT EQUALITY (ABOLITION OF MANDATORY RETIREMENT AGE) BILL 2014

Context

At present Irish law allows employers discretion to set a compulsory contractual retirement age. This position is supported by Court of Justice of the European Union (the CJEU). Recent CJEU case law has consistently held that compulsory retirement ages may be set provided there are objective justifications underpinning the chosen retirement age. As provided by Section 6 of the *Employment Equality Acts 1998 to 2011*, an employee's contract of employment may contain a compulsory retirement age. The above mentioned Bill proposes that "it shall not be lawful to set or contract for an age for the compulsory retirement of an employee".

There also exists a proposal in the *Equality (Miscellaneous Provisions) Bill 2013* to codify the CJEU position in Irish legislation. Ibec recognises the need for the CJEU case law to be reflected in section 6. However we suggest that this be done in a manner which retains the ability for employers to set a retirement age and grant a further fixed term contract if necessary as is currently permitted.

Practical concerns relating to abolition of retirement age and resulting policy issues

- The abolition of a contractual retirement age will result in a bottleneck in the workforce with promotion and advancement for younger workers proving elusive. This will result in greater levels of youth unemployment nationally.
- The removal of a compulsory retirement age will result in increased health and safety concerns with older workers remaining on in the workforce, particularly in safety critical roles.
- Removal of compulsory contractual retirement ages is likely to require an individual's departure from the workforce being addressed through performance management. This poses a risk that the dignity of older worker will be undermined in the process. This issue has arisen and has been acknowledged by the CJEU¹.
- Employers will be faced with a situation where they will have to compensate employees who may otherwise have retired willingly anyway. This will place a serious financial and managerial burden on employers.

European Union law

European Union law, Directive 2000/78/EC, provides expressly for retirement ages. While it acknowledges that this involves requiring employees to exit the workplace once they reach a specified age, this difference in treatment directly based on age is permissible provided it is objectively and reasonably justified by a legitimate aim such as legitimate employment policy, labour market and vocational training. The means of achieving these aims must be appropriate and necessary.

¹ Gisela Rosenblandt v Oellerking Gebäudereinigungsges.mBH Case C-45/09

Difference of treatment is provided for in Articles 6 and 14 of the Equal Treatment Directive, Council Directive 2000/78/EC.

Article 6 states:

Justification of differences of treatment on grounds of age

1. Notwithstanding Article 2(2), Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives, and if the means of achieving that aim are appropriate and necessary.

Such differences of treatment may include, among others:

(a) the setting of special conditions on access to employment and vocational training, employment and occupation, including dismissal and remuneration conditions, for young people, older workers and persons with caring responsibilities in order to promote their vocational integration or ensure their protection;

(b) the fixing of minimum conditions of age, professional experience or seniority in service for access to employment or to certain advantages linked to employment;

(c) the fixing of a maximum age for recruitment which is based on the training requirements of the post in question or the need for a reasonable period of employment before retirement.

Article 14 states:

(14) This Directive shall be without prejudice to national provisions laying down retirement ages.

The CJEU has confirmed that national laws specifying mandatory retirement ages can only be justified if the laws were made in the interests of pursuing a legitimate aim and the means used by those laws in pursuing the legitimate aim were appropriate and necessary.

Financial and administrative burden on employers

The Bill itself proposes to abolish mandatory retirement ages by amending the *Employment Equality Acts 1998 to 2011*. The Bill will in effect require employers to provide financial incentives to employees for voluntary retirement. The net effect of this proposal is likely to be that even employees who planned to retire voluntarily will require compensation from the employer. The financial cost to business, as well as the management implications for employers engaging in such negotiations, will be unsustainable.

The Bill would also result in placing a further burden on employers; ordinary management practices, such as succession planning, would likely lead to a myriad of claims of age discrimination when discussing future plans with older employees. It is difficult to see how such issues could be broached without creating a liability under the *Employment Equality Acts 1998 to 2011*.

In a recent retirement case from the Equality Tribunal the complainant proposed the employer should send individuals for a medical when employees reach the retirement age. The Tribunal rejected this proposal as an impractical tool and confirmed setting a retirement

age is a proportionate tool in the pursuit of a legitimate employment policy². Yet the prospect of introducing medical assessments of older workers is something employers may have to consider in the event it is no longer possible to retire employees at a certain specified age.

Removal of ability to engage in workforce plan

If mandatory retirement ages are abolished employers will find themselves in a position where they are unable to plan properly for the future. The ability to set a retirement age is a necessary tool for succession planning. Employers can plan for when to recruit and train new employees in the knowledge other employees will be exiting the workforce. The abolition of retirement ages would result in employees staying in the workforce for longer periods resulting in a greatly reduced number of opportunities for younger workers and a resulting increase in youth unemployment. Additionally in redundancy situations it will have an adverse effect on the ability of employer to reduce the workforce through natural attrition of those employees nearing contractual retirement age. It will also impact the amount of redundancy entitlement for employees who may well be in a position to access their pension schemes, but claim an entitlement to redundancy package nonetheless.

Promotional planning and the ability to motivate middle ranking employees would be seriously hampered by the absence of a retirement age. The CJEU has held workforce planning and mobility and motivation issues to be legitimate labour market objectives in justifying the use of retirement ages.

The use of fixed terms contracts post retirement provides flexibility should the employee and employer agree that the employee should remain in the workforce. This has proved a useful tool as the age at which employees can access the State pension increases. Ibec submits that this measure as provided in section 6 of the *Employment Equality Acts 1998 to 2011* be retained to facilitate the adaptation of workers and employers to this significant change.

Culture of uncertainty

The abolition of retirement ages will create massive uncertainty for both employer and employee. Employers will find themselves in a position whereby they are unable to plan for the future. Employees will be faced with a working world where there are no parameters on the anticipated end of their career. This will likely impact on people's pension arrangements and it may even operate as a disincentive to plan properly for retirement. Finally the use of a retirement age negates the performance or capability related dismissal of older workers and as accepted by the CJEU preserves the dignity of those involved. We urge the Committee to reflect on the issues raised above when considering this Bill.

² Paul Doyle v ESB International DEC-E2012-086

Rita O'Sullivan

2015/834

I worked for a well known Retail Company for 25 years, and was forced to retire at the age of 66 last month and was lucky not to have to retire at 65. I am a very active and fit person and feel that I would have easily been able to do my job for another 5 to 6 years. My private pension fund and been very much depleted due to the economic downturn, so I am now relying on allowances from the state to give me enough to live on. I heartily support this Bill.

Rita O'Sullivan

Submission on the Equality (Abolition of Mandatory Retirement Age) Bill 2014

This bill will remove the anomaly and unfairness that exists for individuals that became Public Servants before 1 April 2004.

Every effort should be made to have this bill passed by both Houses of the Oireachtas as quickly as possible; so that it can become law before the dissolution of the 31st Dáil.

Public Servants who commenced their Public Service employment on or after 1 April 2004 are not required to retire at 65, but Public Servants who were employed before the 1 April 2004 are required to retire at 65. The passing into Law of the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014 will remove this anomaly.

The Longer Healthy Living Bill 2015 [Bill Number 81 of 2015] also proposes to remove the mandatory retirement age. However the Longer Healthy Living Bill 2015 would only apply to those who are employees of the Department of Health, and those who are employed by bodies directly funded by the Department of Health. The Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014 on the other hand will apply to virtually all employees.

If there is not sufficient time to pass both bills before the dissolution of the 31st Dáil, I hope that the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014 will be prioritised, as it also achieves the main objective of the Longer Healthy Living Bill 2015.

Work flexibility in older age -a new approach to retirement

<http://www.welfare.ie/en/downloads/greenpaperchapter14.pdf>

BBC Can Retirement Kill You

<http://www.bbc.com/capital/story/20130813-the-dark-side-of-the-golden-years>

Health after the workplace– is retirement a health hazard for men?

https://www.uws.edu.au/_data/assets/pdf_file/0007/273085/Health_after_the_workplace.pdf

Australian Government: Recruitment and Employment Law Compulsory retirement

<http://www.alrc.gov.au/publications/2-recruitment-and-employment-law/compulsory-retirement>

We need better retirement, not compulsory retirement

<http://www.theguardian.com/commentisfree/2015/may/13/retirement-compulsory-blackpool-magistrates-70>

The Longer Healthy Living Bill 2015

<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/seanad2015093000002?opendocument#PP00100>

Working in the UK without a Default Retirement Age: Health, Safety, and the Oldest Workers

<http://ilj.oxfordjournals.org/content/44/1/75.full.pdf>



**Submission to the Oireachtas Joint Committee on Justice, Defence and
Equality on the Employment Equality (Abolition of Mandatory Retirement
Age) Bill 2014**

Age Action
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www.ageaction.ie

1. Overview

Age Action is a national charity established in 1992 as the voice for older people and Ireland's leading advocacy organisation on ageing issues. We act both as a network of organisations and individuals, including older people and carers of older people, and a service provider, assisting thousands of older people every year.

Our mission is to empower all older people to live full lives as actively engaged citizens and to secure their rights to comprehensive high quality services according to their changing needs.

According to the latest Census (2011) there are currently more than 530,000 people aged over 65 and just 128,000 over the age of 85. By 2046, 1.4 million of us will be aged 65 and over, and 470,000 of us will be over 85.

When we talk about planning for an ageing population, effectively we are talking about developing an age friendly society not just for those currently over the age of 65 but for all of us who hope to grow old.

This planning includes developing a coordinated response across all policy areas. It must ensure that employment legislation supports older workers and that retirement practices and policies enable older people to have a choice around when they stop working.

Age Action welcomes the opportunity to make a submission to the Oireachtas Joint Committee on Justice, Defence and Equality on the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014.

2. Context

Section 34 (4) of the Employment Equality Acts 1998-2011 allows employers to fix a retirement age for their employees. Some contracts of employment will therefore have a clause identifying a mandatory retirement age, while others will not.

There are many older people in Ireland who do not have a written contract of employment and who do not know whether their employer operates a mandatory retirement age or not. While some people may welcome the opportunity to retire, others are willing and able to continue to work.

Age Action believes that mandatory retirement for older workers is contrary to the Government's commitments under the National Positive Ageing Strategy.

The strategy states:

“There is evidence that longer working lives have beneficial effects on individuals’ physical and psychological wellbeing. Some evidence also shows that workers’ productivity does not necessarily decline with age - any decline in physical capacity is easily compensated by qualities and skills acquired through experience.”¹

It goes on to identify the removal of “any barriers (legislative, attitudinal, custom and practice) to continued employment and training opportunities for people as they age” as the first objective under National Goal 1 of the strategy.²

Mandatory retirement ages, set arbitrarily on the basis of the worker having lived for a set number of years and not his or her capability to do the job, constitute the kind of barrier that the strategy is designed to remove.

Age Action recommends that mandatory retirement clauses be removed from employment contracts. We make this recommendation based on consideration of:

- The Government's alternative
- Mandatory retirement and youth employment
- The impact on pensions
- Choice for employees
- International evidence
- Public opinion
- The lived experience of older people – Angela's Story

3. The Government's alternative

During the Second Stage debate on the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014 Minister of State at the Department of Justice and Equality, Deputy Aodhán Ó Ríordáin, suggested that an amendment made at the Report Stage of the Employment Equality Amendment No.2 Bill 2013 might resolve this matter as far as would be appropriate.

¹ National Positive Ageing Strategy 2013. Page 24. http://health.gov.ie/wp-content/uploads/2014/03/National_Positive_Ageing_Strategy_English.pdf

² Ibid. Page 20.

The amendment to which he refers makes clear that the setting of a mandatory retirement age would not be considered age discrimination if it was “objectively and reasonably justified by a legitimate aim”.

This raises a question over what would be considered a “legitimate aim” by the Labour Court or the Equality Tribunal in consideration of cases that could be taken under this legislation.

The right of an older person to stay in work would seem dependent on the policy of the Government at any one time in achieving what it defines as legitimate economic or labour policy objectives.

In his contribution the minister mentions concerns regarding pension policy and that abolishing the mandatory retirement age “may reduce opportunities for young people”.

Eliminating mandatory retirement provisions would enable older people to work longer and, therefore, contribute more to the State, helping to alleviate pension pressures.

We would also argue that increasing the numbers of young people in employment at the expense of older workers cannot be construed as ‘legitimate’ and international evidence, as outlined below, shows that mandatory retirement does not facilitate youth employment.

We believe the Government’s alternative, containing a qualification referring to ‘legitimate aims’ is insufficient to protect the rights of older workers and merely serves to copper-fasten ageism by justifying age discrimination if it assists in achieving a policy outcome.

4. Mandatory retirement and youth employment

An argument frequently cited by proponents of a mandatory retirement age is that it is necessary to facilitate youth employment.

The evidence indicates that reducing labour force participation among older people does not lead to increased employment for young people.

Iceland, New Zealand, Sweden and Norway are among the top ten countries in the world for youth employment and simultaneously for the employment of older people.³

³ <https://data.oecd.org/emp/employment-rate-by-age-group.htm>

A 2014 report from the IZA World of Labour research institute found that:

“There is no trade-off in the employment of young and old workers: Higher employment for older workers coincides with higher employment for younger workers...Reducing the employment of older persons does not provide more job opportunities for younger persons.”⁴

The report also found that measures introduced in Denmark and France that reduced labour force participation for older workers saw drops in youth employment over the same period.

The French example provides a case study that is worth quoting in its entirety:

“In France, the employment rates of young workers dropped after pension system reforms that led to lower rates of labour market participation for older workers over the period 1971–1993. Subsequent reforms reversed this trend, leading to an increase in labour force participation for older workers between 1993 and 2005. This increase in the percentage of older workers in the labour force was accompanied by a corresponding increase in the employment rate of younger workers.”⁵

Similarly, a comprehensive 2008 IMF working paper analysis of the effects of early retirement on youth unemployment in Belgium found that:

“We could not observe any positive link between early retirement and youth employment. On the contrary we observe a negative link indicating that the activity rates of both young and elderly workers are sensitive to business cycles.”⁶

The link has also been comprehensively dismissed on repeated occasions by the OECD:

“It is important to dispel a number of myths in this area...the claim that fewer jobs for older workers results in more jobs for younger workers, though unfounded, is proving especially stubborn.”⁷

Indeed, it was also dismissed by the Minister for Social Protection Deputy Joan Burton when she told the Dáil:

“Describing what is termed the ‘lump-of-labour fallacy’ the OECD state that ‘the idea that public policy can re-shuffle a fixed number of jobs between workers of different ages is simply not true in anything but the very short-term’.”⁸

⁴ <http://wol.iza.org/articles/effect-of-early-retirement-schemes-on-youth-employment.pdf>

⁵ Page 7. <http://wol.iza.org/articles/effect-of-early-retirement-schemes-on-youth-employment.pdf>

⁶ Page 29. <https://www.imf.org/external/pubs/ft/wp/2008/wp0830.pdf>

⁷ Page 13. <http://www.oecd.org/employment/emp/36218997.pdf>

⁸ <http://debates.oireachtas.ie/dail/2011/05/10/00042.asp>

The OECD report to which Minister Burton was referring goes on to show that the relationship between the two “is positive and highly significant in statistical terms.”⁹

Instead of setting older and younger workers against each other, we should be trying to maximise the valuable contribution older workers provide to the economy, including making full use of the skills, experience and wisdom of older workers to train in younger and newer employees.

5. Impact on pensions

Spending on retired and older people in the Social Protection budget amounted to €6.4 billion in 2013, constituting 35 per cent of total expenditure by the Department of Social Protection¹⁰ and more than 12.5 per cent of total gross current expenditure.¹¹

The task of financing increased pension spending will fall to a diminishing share of the working population as demographic projections indicate the ratio of working age to older people will decrease from 5.3 to 1 at present to 2.1 to 1 by 2060.¹²

As pointed out by Minister Brendan Howlin in the Spring Statement, just ensuring the maintenance of existing State Pension payments costs an additional €200 million per annum.¹³

Longer working lives reduce the period during which individuals receive the State Pension and increase the time during which they are contributing, both to the State and to their own incomes.

It also reduces the cost to the State of payments to older public sector workers currently forced to retire at the age of 65, but ineligible for their pensions until they are 66.

A worker forced into retirement at the age of 65 is entitled to a Jobseeker’s Allowance of €188 at the maximum rate until he or she turns 66.

⁹ Page 13. <http://www.oecd.org/els/public-pensions/47712019.pdf>

¹⁰ <http://www.publicpolicy.ie/a-survey-of-the-benefit-system-in-ireland/>

¹¹ <http://www.budget.gov.ie/Budgets/2013/Documents/Expenditure%20Report%202013%20Part%20I.pdf>

¹² <https://www.kildarestreet.com/wrans/?id=2015-06-09a.197>

¹³ <http://www.per.gov.ie/en/spring-economic-statement-speech-by-the-minister-for-public-expenditure-and-reform-mr-brendan-howlin-t-d/>

If, instead, that worker was able and willing to work, on a salary of €40,000 he or she would be contributing almost as much through income tax, the universal social charge and PRSI contributions.¹⁴

Financially, it makes sense for an older worker to continue to contribute to the Exchequer instead of receiving payments from it.

This is quite apart from the needless blow to a person's dignity as was argued forcefully by Deputy Eric Byrne during the Second Stage debate on the proposed legislation:

“(it) is outrageously offensive to those who, having put in a lifetime of work, reach retirement age at 65 and are being told with a nod and a wink to sign on for jobseeker's allowance for 12 months as the Department will not come after them and is not really serious about them looking for a job.”¹⁵

Mandatory retirement reduces the income of older people and so reduces their spending power. The less they have to spend, the less they can contribute to stimulating the domestic economy, further driving job creation and the economic recovery.

6. Choice for employers, but not employees?

One of the criticisms made of the legislation proposed by Deputy Ferris was that under the new system proposed by her Bill the employee would have a choice to retire at the contractual date while the employer would have no choice in the matter.

It should be noted that Deputy Ferris' legislation makes clear that an employee can only avail of this legislation if he or she "...is capable of doing the job for which he or she is employed". It is not clear to us why employers would choose to fire capable employees.

Regardless, it seems there is concern around the issue of choice for the employer, but no such concern regarding the choice of the employee.

They are not given a choice, nor are they consulted on applying for a role, what the mandatory retirement age for that position should be. They must simply accept the contract as it is offered to them or seek employment elsewhere.

¹⁴ After the age of 66 older workers do not make PRSI contributions but would continue to contribute to the State through other forms of taxation.

¹⁵<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2015100900014?opendocument>

It is unacceptable for the employer to take all choice away from the employee once he or she has lived for a set number of years, chosen by the employer, and cause them to seek work elsewhere, to retire or to go on unemployment supports.

7. International Comparisons

According to the OECD, Ireland's employment rate for people aged between 55 and 64 years of age was 55.2 per cent compared to an OECD average of 58 per cent.

It is also noteworthy that for Britain the figure is 61.8 per cent and for a number of our EU partners, the proportion is also much higher, with rates of 72.3, 74.3 83.6 per cent being recorded in Sweden, Norway and Iceland respectively.¹⁶

The World Health Organisation recommends the elimination of mandatory retirement ages: *“Policies enforcing mandatory retirement ages do not help create jobs for youth, as was initially envisaged, but they reduce older workers’ ability to contribute and reduce an organization’s opportunities to benefit from the capabilities of older workers.”*¹⁷

The United Nations Madrid International Plan of Action on Ageing, published in 2002, says that States should, “Enable older persons to continue working as long as they want to work and are able to do so”.¹⁸

8. Public opinion

A 2012 Eurobarometer survey on ageing issues found that across the EU 61 per cent of respondents felt that people should be allowed to continue working past the official retirement age.

The average rises to 65 per cent in EU15 states and was higher again in Ireland at 73 per cent.¹⁹

¹⁶ <https://data.oecd.org/emp/employment-rate-by-age-group.htm>

¹⁷ WHO World Report on Ageing and Health 2015. Page 190.

http://apps.who.int/iris/bitstream/10665/186463/1/9789240694811_eng.pdf?ua=1

¹⁸ Madrid International Plan on Ageing. Page 22.

http://www.un.org/en/events/pastevents/pdfs/Madrid_plan.pdf

¹⁹ Special Eurobarometer 378 *Active Ageing*. Pages 71-72.

http://ec.europa.eu/public_opinion/archives/ebs/ebs_378_en.pdf

People reject the idea that giving a job to a woman denies a job to a man. It is clear that the majority of Irish people find it hard to understand why we do not similarly reject the notion that it is wrong to deprive a woman in her 60s of a job to give it to a man in his 20s.

9. The lived experience of older people

At the centre of Age Action's policy analysis is the lived experience of growing older in Ireland. We spoke with a number of our members about mandatory retirement. One lady we spoke to provided a detailed account of her experience.

Angela's story

I live in Limerick and I joined the civil service in March of 1994 at the age of 46. At that time there was an influx of people into the civil service who were a little bit older than was usual then.

A lot of them were women who had been forced to leave years ago because of the marriage bar. Now, with a skills shortage, they were looking for people with more experience.

I worked in the training department of the Revenue Commissioners for 19 years until I was forced to retire in March 2013. I absolutely did not want to leave. I asked if I could be kept on and they wouldn't even entertain it. I went to my trade union and they refused to help.

I even had to agree not to take any temporary jobs that might come up elsewhere in the public sector or I'd lose my pension.

My big worry was how I was going to make ends meet. Because I had only been in the civil service for 19 years I was only entitled to a quarter of my salary as a pension.

My husband had passed away in 1996. We had two sons together. I was forced to remortgage the house to make ends meet and when I was forced from my job I still had two years to pay it off. I had also borrowed money from the credit union to ensure our children could go to college.

Like all civil servants I had been hit by the cutbacks during the recession. Additionally, when the USC was introduced, widows lost our entitlement to a concessionary rate of PRSI, making me just under €50 a week worse off.

So, I owed money on the mortgage, I owed money to the credit union and my income was being cut by 75 per cent.

It was extremely difficult to keep going. I had to cut right back. I got rid of my telephone, got rid of my television and did anything I could do to save money. There were weeks and months when I didn't know how I was going to pay the bank.

My credit union was a lifesaver. My bank didn't want to help at all but the credit union twice allowed me to borrow small sums so I was able to make every mortgage payment and I finally paid it off last year.

The thing that frustrates me is that none of this was necessary. I wanted to work and I was able to work. I liked what I did and I was good at it. If I hadn't been forced out of my job – which is age discrimination any way you want to look at it – I would have been able to work until my income was secure.

I want to support this submission from Age Action and I want to urge all of the committee members to support this Bill.

Angela Gallagher

10. Conclusion

Forcing older workers to leave the workforce make no economic or social sense. It creates poverty traps that are a drain on the economy and deprives society of a wealth of knowledge and experience.

Age Action strongly supports the proposed Bill and we would welcome the opportunity to discuss the content of this submission with the committee.

For further information please contact:

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The Committee on Justice, Defence and Equality,

Dail Eireann

05/11/15

Re: The Employment Equality (Abolition of Mandatory Retirement Age) Bill

Introduction

I am writing to the committee in support of this bill and I am very grateful to Anne Ferris for having the wisdom, courage and persistence to introduce it as a private member.

Two years ago I was compelled to retire from the health service where I worked as a specialist hospital doctor. I wrote to management, Minister Howlin and to Minister O'Reilly indicating that I was able and willing to keep working in the public health sector after age 65. I explained that I was physically fit - still running all distances up to and including marathons- and medically fit for purpose as certified by the Medical Council continuous professional development process. I also made the case that I was prepared to defer my pension and that this would save the state money in not having to pay a pension and a replacement specialist's salary and pension provision. The answer was that retirement was mandatory on reaching age 65.

At no point was any objective effort made to assess my suitability to continue working. I was retired purely because of a date in the calendar.

Up to my final day at work I continued to do the most complex and challenging medical procedures and it was galling to know that some poorly-performing and poorly motivated staff continued as usual without check or correction.

I have always been committed to the public health sector and since my mandatory retirement I have worked part-time, at different periods, at three different public hospitals, supporting an over-burdened and under-resourced health service. I continue to run marathons and other distances.

My experience is not unique because throughout the public service, good, experienced and willing workers have been retired against their will. There is no effort made to retain knowledge and experience built up over many years and there is no consideration of work ethic. At a period when there is: an increase in population: an increase in the numbers of older people who require more from the health service: an increase in the number of people using the public health services because of unemployment or unaffordable private health insurance premiums and difficulty in recruiting healthcare workers, it makes no sense to be retiring able and willing workers.

It might be said that people like me are few and far between so I have researched the literature on Retirement, Mandatory Retirement, Ageism, Demography and the Economics of having an increasing number of older people. The list of references which the committee may find helpful will be attached to this letter.

An Ageing Workforce

The statements and opinions contained in this section are drawn principally from three detailed reports published in The Economist magazine during 2014 and were prepared by The Economist Intelligence Unit. The remainder are based on the references provided with this letter.

The Economist reports are titled: *Is 75 the New 65? Rising to the challenge of an ageing workforce: Older but None the Wiser? The Implications of an Ageing Workforce in the UK and A Billion Shades of Grey.*

“Europe’s working age population is rapidly becoming older and smaller. The implications for the continent’s economies and its business leaders are profound”

These are the opening words of an Economist report prepared for Towers Watson, a global professional services firm specialising in risk management and human resource consulting. Four hundred and eighty European companies were surveyed to assess how they were planning to respond to this new situation. Most companies were large, with 2,000 plus employees globally, and they included BMW, Astellas Pharma, Philips Electronics and McDonalds. Most companies know that they have to change and that managing an ageing workforce will be a top three issue by 2020, with 46% saying that they will implement changes to ensure that the skills of older employees remain up to date and 32% saying that they will adapt their structures to ensure that older workers who reduce work hours or responsibilities retain their status within the company and continue to feel valued.

There is a general belief that adapting work so it suits older workers is good for all employees;

35% of businesses expect to have increased flexible working: 56% will offer more flexible working hours or working from home: 50% will change employee benefits and 48% will give more choice over those benefits.

There is a widespread view that retaining older workers is good for business by retaining experience, knowledge and people skills. Older workers act as mentors to the less experienced and the blend of experience with youthful enthusiasm and creativity is a powerful force for success. Increasingly, the more highly educated are working past the usual retirement age and there is evidence that these workers are more productive than their predecessors because the skills that complement computers, from management expertise to creativity, do not necessarily decline with age.

According to Robert Sternberg, Professor of Human Development at Cornell University, the three things that count are: the store of knowledge: practical abilities and the wisdom of making decisions in a broader context. Not only do these last far longer than fluid ability, but they require time to grow and build. So, replacing a 65 year old with say a 30 year old can be a mistake.

In an age of ever-smarter machines, the attributes that enhance productivity may have less to do with pure cognitive oomph than motivation, people skills and managerial expertise. (Age Invaders, the Economist).

In order to retain older workers businesses need to make changes to:

Workplaces: BMW have made physical changes with better ergonomics and larger print fonts.

The key to engaging and retaining older workers is to adjust work to their needs. (Maria Karanika-Murray, Work Psychologist, Nottingham Trent School of Social Sciences)

Work practices: Intercontinental Hotel Group changed contracts so that people could get the work-life balance that they wanted. Workers move up the ladder and, if they are staying in senior positions for longer, career opportunities are created. IHG also ensures that knowledge and experience are shared among employees. The IHG CEO does not see age as a problem but considers that talent is what matters. *The key thing is to have the right people in the right place at the right time.*

Benefits: Give employees more choice

Offer flexible working and working from home and ensure that those who reduce work hours or responsibilities retain their status within the organisation and feel valued.

Ensure that the skills of older workers are up to date.

Address intergenerational differences within the workplace

If older people maintain a healthy lifestyle there is no reason why they can't choose to continue to work well beyond the pensionable age and contribute in some way, at no extra expense, to the employer. (Ken Jones, CEO Astellas Pharma).

With regard to this matter there are many references in the literature to the need for good Occupational Health in the workplace and to the positive benefits that are brought to the whole work force.

Large companies such as Astellas Pharma, BMW, Philips Electronics and McDonalds do not see a conflict between retaining older workers and the career progression of younger workers. Many older workers want to reduce hours worked and to have a less stressful life and they naturally move aside from the most challenging positions. Their interest in a better work-life balance is similar to that of young workers with young children and they complement each other.

It has been claimed that retaining older workers limits jobs and career opportunities for younger staff. This is evidence more of the tabloid variety than the scientific. Most economists, such as Paul Krugman, the Nobel Prize winner, consider that older workers increase the GDP of an economy and increase wealth for everyone while reducing dependency on welfare payments. In a properly functioning and free marketplace it is ability, talent and hard work that lead to advancement and not seniority or age.

The Lump of Labour Theory dates from the 19th century and has repeatedly been shown to be incorrect. A recent survey conducted in the USA found that there was no evidence that retaining older workers reduced either wages or employment opportunities for the young and that this was true for male and female as well as for those of different educational standards. The Chinese economy, where *the lump of labour* theory is practised, was also studied and it was found that employment of older workers had no impact on labour market outcomes for other age groups.

The main reasons for having mandatory retirement are custom and practice and contractual. Before people began to live longer, healthier lives, retirement at age 65 appeared reasonable to most people. However, now that most people can expect to live well into their eighth and ninth decades, it has become a nonsense. Many people would welcome the choice of working past the usual

retirement age. One third of Europeans would like to keep working full-time after they reach pension age and a further two thirds say that part-time work combined with a partial pension would be more desirable than retirement. In the UK even more workers want to work past retirement age; 56% would like to continue full-time and 82% would opt for part-time work combined with a partial pension. Ireland is likely to be similar.

For the unemployed and many people doing hard manual work, especially outdoors, retirement is welcome. Removing mandatory retirement need not adversely affect existing contracts of employment. There is a legitimate concern about unilaterally altering contracts of employment - although that did not trouble government in recent years. Those who have contracts with retirement age specified should be allowed to exercise them if they wish. Plenty of workers in stressful unsatisfying jobs welcome retirement. However those who are willing and able to work on should be allowed in law to do so. The European Union is supposed to have removed age discrimination but the judgements of the CJEU have mainly favoured the States in having mandatory retirement and no protection against unfair dismissal after age 65. There is ambiguity at the heart of the EU Age Discrimination Directive and the judgements of the CJEU are not consistent with the spirit and intent of the legislation. Age discrimination was only intended to be used in exceptional cases, but the states continue employment practices that have no objective or legitimate justification.

The cultures and traditions of member states do not require deference to be exhibited to the extent of ignoring developments in scientific evidence.

Ageism is the last of the discrimination “isms” to remain active in our society. It is embedded in culture and daily life and has subtle but corrosive effects. It is institutionalised in healthcare with health screening limited to younger age groups and QALYs (quality added life years) used to determine treatment where the potential life expectancy of an older patient is used to deny expensive treatment.

Negative stereotyping drives negative outcomes. (Becca Levy, Yale University)

Age should no longer determine the appropriate end of a working life. Mandatory retirement and pension rules that discourage people from working should go.

Racial bias targets people for what they are; Age bias targets people for what they become.

Segrave, K (2001) Age Discrimination by Employers, Jefferson, NC: McFarland &Co.

Recommendations to the committee

- Please remove mandatory retirement because it is discrimination on age grounds and wastes valuable workers who are able and willing to contribute to society.
- Do protect the right of those with a contractual retirement age.
- A system for assessment of suitability to continue working will need to be developed. Increasing age inevitably brings mental and physical deterioration to most people. In Canada there are 12,128 physicians who are aged over 65 years and working- 15% of all doctors. There are another 15,555 doctors in the 55-64 age group-25%. The Medical Colleges and the regions have introduced competency reviews to ensure that older doctors are fit to practice. Quebec has been doing this since 1970 and most of the other regions have followed this

practice. Most use a questionnaire targeting those over 70 years and if a return raise a warning flag, such as a Physician working solo as a locum or has 35 plus years in practice, a peer review is performed. (*A country for older doctors*)

- Any system for assessing fitness to continue in work should be objective and independent. Human nature is such that some colleagues may want a worker to retire because they want something that he/she has. Self-interest is adept at making itself appear to be doing what is in the common good. Sheer malice can motivate others, so older worker validation needs to be fair. This does not mean that work colleagues may not be consulted, however management should not delegate its responsibility to those with a vested interest in having someone retire.
- Each worker of whatever age should be judged only on ability to do the job and on work performance.
- Remove obstacles such as the Pension Related Deduction which is levied on those who work in the public sector post retirement even though their pension has been paid for and earned and they can have no benefit from the levy. It is a nasty mean tax and it is one of the reasons that healthcare workers use locum agencies. These agencies cost the HSE more than if the workers were directly employed.
- Provide equal pay for equal work. The public service will not allow a retired worker to earn more than final salary when a pension is being paid. If a worker has earned and paid into a pension fund then that pension has been earned and is due. If that worker then returns to work for the public service then pay should equate to work done as it does for any other worker.
- Remove *age cleansing* whereby mandatory retirement is used to get rid of poorly performing workers. A means of continual assessment of performance needs to be introduced for all workers, with suitable support, training and occupational health services to help workers with difficulties. This should not be seen as a means for management to *get at* workers but it should function as a means to help every employee to achieve potential and job satisfaction. The best European companies do this.

I will finish with the words of Dennis Burkitt the TCD graduate who, as a medical missionary in Africa, discovered the childhood lymphoma that bears his name and who helped discover the link between fibre in the diet and bowel disease and cancer;

Attitudes are more important than abilities

Motives are more important than methods

Character is more important than cleverness

And the heart takes precedence over the head.

Age does no feature on this list!

Yours faithfully,

Enda Shanahan MB, BCh, BAO, FRCA

Committee on Justice, Defence and Equality**Submission on the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014.**

I am very interested in this proposed legislation because I am 66 – and still working. If it is passed it will enable me to continue working for as long as I am able. This is entirely consistent with my own family tradition – as my mother worked until she was 73. (Having entered employment for the first time at 45).

The reasons why I believe this proposal should be adopted into law are:

1. The proposal states that an employee may continue to work as long as he/she (hereafter he) is capable of fulfilling the tasks required by his employment. So it will only be applicable to productive workers- which must be to the employer's advantage.
2. Approximately 50% of the current workforce do not have a personal pension – but are dependent on the State pension. By extending a person's working life past mandatory retirement age, the law will enable such individuals to retain a better quality of life for a longer period – as they can continue to earn an income.
3. The social stereotype of "ageism" has a strong presence in our culture. This prejudice is experienced by many "older" people seeking employment. The chronological border of "too old" seem to be very flexible. By passing this legislation, the Dail will be making a very clear statement that such attitudes are not acceptable any longer in our culture.
4. The concept of retirement age is based on laudable principles. Before state pensions were introduced by Lloyd George – many people had to keep working to avoid destitution. Then then retirement age was set at 70 years. But the average life expectancy of a man in 1910 was 51 years (woman – 55 years). Today the average life expectancy of a man is 79 years (woman – 83 years).¹ So the duration of "retirement" has been extended gradually – over the last 100 years.
5. The issue of the affordability of pensions is a pressing concern for the future financial stability of states – including our own. Moves to increase the retirement age reflect this concern. However leaving mandatory retirement ages in place in certain industries/ groups of employees – is completely contradictory in the context of that trend. To arbitrarily constrict the size of the work force through mandatory retirement – in the face of an aging demographic seems to defy common sense.
6. Older employees typically hold a deeper awareness of corporate processes, procedures and core values- simply because they have shared in the history of their development. That may not seem so significant, until one considers the impact of largescale redundancies on the subsequent performance of the companies where such events have taken place (typically in the context of corporate mergers and takeovers).²
7. The experience of some large US corporations is that hiring /retaining older employees is a smart move – because they tend to be more conscientious and committed to their work.³
8. The social and health maintaining benefits of continuing employment has long been recognised – especially for men. Many people develop a strong social network around their

¹ London Independent :September 1 , 2015

² Effects of Mergers and Acquisitions on the Economy: An Industrial Organization Perspective- Richard E. Caves**Professor of Economics and Business Administration, Harvard University

³ <http://www.evancarmichael.com/library/allison-grace/Benefits-of-Hiring-Older-Workers.html>

workplace. The loss of this can often have a severe impact on the on-going wellness of many recent retirees.

9. During times of high unemployment, arguments are often advanced that “the old should make way for the young”. This is very appealing – but typically ignores the more complex characteristics that contribute to a lack of demand for workers (poor work place organisation, uncompetitive wages, changes in demand, inadequate management etc.). Fortunately we are experiencing rapid growth in employment. The issue of youth unemployment will not be solved by forcing older worker to retire.
10. The lack of consistency in many of the current retirement practices of many employers (public & private sector) simply reflected the “frozen at a point in time aspects “of much of our social legislation. Nobody is making arguments the current Minister of Finance should be retired on the grounds of his age. The same applies to many senior judges. Yet this attitudes are so entwined in many of our customs – that enabling legislation is the most effective way to cut though these attitudes.
11. The proposed change is voluntary for the employee. It does not alter existing retirement entitlements – should an individual wish to exercise them. I surmise that most employees will wish to do so, under the new law. I appreciate that restricted options will apply in areas where a high degree of physical fitness/stress is a feature of the work.
12. Employers will lose the option of requiring an individual to retire at a specified age. But this only applies where the individual is able to perform their duties in a satisfactory manner. It is difficult to see how this can be a disadvantage to the employer.

Conclusion

Ireland has benefited from the progressive revision of many social “norms “that were embedded in our social fabric. i.e. the marriage bar in the public service , legalisation of martial separation & divorce, rules relating to adoption , enhanced employee protections , marriage equality etc. It is time that mandatory retirement ages is added to that list of achievements.

Yours sincerely

Tony Kenny

04/12/2015

Margaret Haughton

2015/839

6th November 2015

I feel the Bill should be passed to amend the Employment Equality Act of 1998 to abolish mandatory retirement ages for persons able and willing to continue in the role for which they were employed.

I will be age 65 in January 2016 and due to retire as my contract states. I'm well and healthy and I feel I could work for at least another three/five years.

I feel that because of my knowledge and experience my compulsory retirement would be particularly disadvantageous to the service (HSE). I strongly feel that the age factor should be removed when considering suitability and necessity for retirement. The Government have raised the retirement age already within the public sector to 68 thereby recognising the capability of people to perform their duties competently past the retirement age of 65.

I hope the Bill will be passed through the Oireachtas and enshrined in law before my retirement date.

Many thanks

Margaret Haughton

2015/841 (1)

SUBMISSION BY THE IRISH SENIOR CITIZENS PARLIAMENT ON THE EMPLOYMENT EQUALITY (ABOLITION OF MANDATORY RETIREMENT AGE) BILL2014

Introduction

The Irish Senior Citizens Parliament (ISCP) is a representative organisation of older people in Ireland comprising over 370 affiliated organisations together with individual members. We work on behalf of and for older people on all of the issues that affect their lives and living. Our affiliated organisations comprise older people many of whom are in receipt of pensions but others who have not yet reached pensionable age. The Parliament has a stated policy that the **age of retirement** should be voluntary with choices available to the individual based on what is in their best interest taking account of the person's health, occupation and personal preference.

Background and Context

The Parliament welcomes the publication of this Bill as the matter of choice with regard to retirement age is a serious issue for many older people. In March 2010 the "National Pensions Framework" document proposed the abolition of the State Pension Transition with effect from 2014. This action resulted in the extension of the State Pension age to 66 years. Budget 2010 provided that future public servants would not qualify for full pension until age 66 and could continue to work until age 70.

These changes took no account of the fact that many workers had employment contracts which stated that they must retire at 65 years of age. The Parliament has since that time lobbied for the enactment of provisions which would protect those workers whose contract of employment forced them to leave work at age 65 with no access to a State Pension until they reach 66.

Initially the Department of Social Protection facilitated discussion across the many stakeholders on the matters of contracts, access to pensions and the issues involved. Laterally the response has been that an Inter-Departmental Group led by the Department of Jobs, Enterprise and Innovation together with the Departments of Justice Defence & Equality and Department of Social Protection were actively examining all aspects of this matter.

The Bill

We support the general intention and purpose of the Bill as published. We note in the Bill as drafted and in the debate to date there is an assumption that the shift will be for the person to work for a longer period and so fulfil the

actuarial and cost implications. In the USA people have an option to get a State Pension at age 62.

Comment as follows

1. Section 34 of Employment Equality Act 1998 is amended as follows

Amendment 1 (a)

Comment

We support the removal of the unlawful discrimination on the basis of the age ground and/or the disability ground.

We recommend that there should be an acknowledgement in the Bill that to achieve what is being legislated for will require some additional costs and that once off costs should be excluded from the provisions of paragraph (3).

It is easy to quantify some costs but benefits such as “experience” are more difficult to quantify and can be overlooked.

(3) (a) we suggest that a definition of “capable“ is essential and that it would strengthen the Bill and create the proper environment to deal with issues in a respectful and dignified manner.

The Longer Healthy Living Bill No 81 of 2015 in the Seanad recently sought to address some of the above issues.

A further strengthening of the provisions of the Bill would be that on the passing of the Bill that all employers be required to agree revised contracts with their employees. We would also wish to have inserted in the Bill a requirement that occupational pension schemes managed by Trustees must be fully compliant with all aspects of Employment Equality legislation.

Máiréad Hayes
Chief Executive Officer

As someone who has just suffered the fate of mandatory retirement at 65 despite feeling fully capable of going on for another few years, and wishing I could do so, I applaud the draft legislation attempt to right this wrong. After 40 years in the service of the State (in the Dept.of Foreign Affairs), I believe I have built up a well of experience which could have been of further and future use to others, especially in promoting our society's economic development.

Instead, and adding insult to injury, I have ended up on the slag-heap of history, working normally one day and gone the next on my 65th birthday. Last week, I had to visit our local Social Protection office in order to preserve my credits I am told, until the state retirement kicks in on my 66th birthday next August. In the meantime, after a 35 minute wait in the queue, I was handed five forms and told to complete them all, prior to an interview I must now undertake with another official on 2 November (the earliest "appointment" date I could be given to assess if I qualify for "jobseekers credits").

As well as the detailed forms to be completed, I must furnish my passport or drivers licence, proof of address, AND three examples of "proof of looking for work", all this despite explaining that I had been a civil servant for over 40 years (including being an Ambassador of Ireland for ten of those)...how ludicrous, how wasteful! And yet, it is not a situation of my own making or wish as I would have gladly stayed at work and would happily accept any offer to do so.

Moreover, when I signed my initial contract as a civil servant, it was stated that I would retire at 65 since that was the mandatory retirement age for civil servants; this subsequently changed, at a later date, to 66 but my contract was not amended to reflect that change. One could argue, in natural justice, that I should have been advised of the contractual implications of the change in state pension age and should be given the opportunity to extend my contract to comply with it.

While I accept that many may wish to retire at 65 - and should be allowed to so do- the notion of *mandatory* retirement was, I gather, introduced by Bismarck in the 1860's at a time when most did not live long enough to qualify. Retirement age should have, but did not keep abreast of progress in longevity since then. Instead, mandatory retirement has become the new unemployment, for older people. It is discriminatory age redundancy by any other name.

Dónal Denham

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Donal Denham
(Ambassador of Ireland, retd.)