



REVIEW OF BARRIERS TO EXTENDED PARTICIPATION IN PUBLIC SERVICE WORKFORCE



November 2017

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|--|-----------|
| Report on Review of Barriers to Extended Participation in Public Service Workforce .. | 2 |
| 1. Background | 2 |
| 2. Discussion Document | 2 |
| 3. Uniformed Fast Accrual Group of Public Servants | 3 |
| 4. Current Position | 3 |
| 5. Main Issues Raised by Public Service Employers..... | 4 |
| 6. Next Steps | 5 |
| Appendix A: Discussion Document | 6 |
| 1. Purpose of the Paper..... | 7 |
| 2. Background | 7 |
| 3. Retirement Age | 7 |
| 4. Current Position | 8 |
| 5. Legal position regarding the retirement age | 8 |
| 6. Groups most adversely affected..... | 10 |
| 7. Equality provisions affecting the retirement age | 10 |
| 8. In support of working longer | 11 |
| 9. Possible financial impact of amending the retirement age | 13 |
| 10. Issues that need to be considered | 15 |
| 11. Possible approaches to implementation..... | 16 |
| Appendix 1 - Summary of Points raised by the Interdepartmental Report on Fuller Working Lives..... | 18 |
| Appendix 2 - Current practice internationally..... | 20 |
| Appendix B: Outcome of Consultation with Public Service Employers..... | 23 |
| Civil Service HR Policy Division, DPER | 23 |
| Department of Health (D/Health) | 24 |
| Health Service Executive together with Department of Health..... | 25 |
| Education Sector (Department of Education and Skills (DES))..... | 26 |
| Justice Sector (An Garda Síochána) | 27 |
| Defence Sector | 27 |
| Local Government Sector | 28 |

REPORT ON REVIEW OF BARRIERS TO EXTENDED PARTICIPATION IN PUBLIC SERVICE WORKFORCE

1. BACKGROUND

The [Report of the Interdepartmental Group on Fuller Working Lives](#) was agreed by Government in August 2016. On foot of that Report, the Department of Public Expenditure and Reform (D/PER), with Public Service employers, was tasked to review the current statutory and operational considerations giving rise to barriers to extended participation in the public service workforce up to and including the current and planned age of entitlement to the Contributory State Pension (CSP).

As part of that review, meetings were held with the following public service employers:

- Health Sector (Department of Health and the HSE);
- Local Government Sector (Department of Housing, Planning, Community and Local Government);
- Defence Sector (Department of Defence);
- Garda Síochána (Department of Justice & Equality and An Garda Síochána);
- Civil Service (Civil Service HR Division of Department of Public Expenditure and Reform);
- Education Sector (Department of Education and Skills).
- Parent Departments of non-commercial semi state bodies (NCSSBs) were consulted in relation to the NCSSB sector.

2. DISCUSSION DOCUMENT

As part of the first phase of the review, D/PER researched the issues surrounding compulsory retirement ages in the public service and produced a Discussion Document which was used as a basis for the discussions with the public service employers. The Discussion Document examined the legal position in relation to the existing compulsory retirement ages in the public service. It detailed the situation currently prevailing in the public service whereby different categories of public servants had different compulsory retirement ages, depending on the date of their recruitment to the public service. It also outlined equality issues surrounding the current arrangements and legal challenges that were ongoing in relation to the current arrangements in the civil service. The paper looked at work undertaken by the OECD and others in support of longer working and examined the possible impacts, financial and otherwise, of amending the current compulsory retirement ages. Following on from the issues addressed in the Discussion Document, the paper raised a number of key questions that needed to be considered by the public service employers in the course of the review, ranging from their view as to whether a new compulsory retirement age would be appropriate in their sector and, if so, the views of the employers of what that age should be, to the nature of supports, if any, that would be required if the retirement age was to be increased. Finally, the paper examined the question of how any change in the compulsory retirement ages in the public service might be implemented. A copy of the Discussion Document is at Appendix A of this Report.

3. UNIFORMED FAST ACCRUAL GROUP OF PUBLIC SERVANTS

There are certain groups of employees in the public service who, due to the nature of their work, are currently required to retire early (“uniformed fast accruals”). Members of An Garda Síochána, the Permanent Defence Force, Firefighters and Prison Officers are the constituent groups in this category. Consideration was given to including these groups within the ambit of the review and this was discussed with their employers. It was decided, however, that the relevant employer was in a better position to consider the operational aspects of the employments concerned and to consider the appropriate compulsory retirement age for the employees in those groupings. Each employer provided a convincing objective justification as to why these groups of workers should be dealt with separately from the review. These groupings were, therefore, excluded from the ambit of the review.

4. CURRENT POSITION

The age of compulsory retirement in the public service is generally linked to the date of recruitment of the individual public servant and for the most part, is provided for in primary legislation. Primary legislation will, therefore, be required for the implementation of any change in the compulsory retirement ages for public servants. Details of the legislative provisions are set out below, followed by a table which summarises the various arrangements applying:

- (a) The Civil Service Regulation Act 1956 imposes a compulsory retirement age of 65 on all civil servants appointed before 1 April 2004. For public servants (other than civil servants) recruited prior to 2004, retirement age is generally determined either by individual employment contract or by the relevant pension scheme, some of which are established by way of S.I. (health, education and local government sectors). The majority of such public servants would also have a compulsory retirement age of 65;
- (b) the Public Service Superannuation (Miscellaneous Provisions) Act 2004, removed the compulsory retirement age for all public servants, other than the uniformed fast accrual group and increased the minimum pension age to 65 for most new entrants to the public service from 1 April 2004;
- (c) the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 established the Single Public Service Pension Scheme and provided for a minimum pension age consistent with the age of eligibility for the Contributory State Pension and a compulsory retirement age of 70 for most new entrants from 1 January 2013.

Overview of Compulsory Retirement Ages in the Public Service

| Group | Recruitment Date | Description | Pension Integrated with CSP? | Minimum Pension Age | Compulsory Retirement Age |
|-------|-------------------------------|---|------------------------------|--|---------------------------|
| A | Pre-6 April 1995 | *Modified PRSI | *No | *60 | 65 |
| B | 6 April 1995 to 31 March 2004 | Full PRSI | Yes | *60 | 65 |
| C | 1 April 2004 to 31 Dec 2012 | “New Entrants” - 2004 Act Full PRSI | Yes | 65 | No |
| D | On or after 1 Jan 2013 | Single Scheme members - 2012 Act Full PRSI | Yes | Currently 66 (rising to 67 from 2021, 68 from 2028 per changes in State Pension Age) | 70 |

* with some exceptions

5. MAIN ISSUES RAISED BY PUBLIC SERVICE EMPLOYERS

The main issues that were raised in the course of the review are as follows:

(a) Gap between compulsory retirement age in the public service (65) and age of eligibility for the Contributory State Pension (CSP) (66).

All employer groups agreed that the gap between compulsory retirement age in the public service and the age of eligibility for the CSP is not desirable and that the problem will only worsen with the increase in the age of eligibility for the CSP to 67 in 2021 and 68 in 2022. All groups agreed that the problem should be addressed by implementing an increase in the compulsory retirement age in the public service for all public servants recruited before 2004.

(b) If a new compulsory retirement age was introduced, whether it should be age 70 or linked to age of eligibility for CSP.

There were varying opinions on this issue. On balance, however, employers considered that for consistency with the Single Scheme, it would be preferable to provide for a new compulsory retirement age of 70. In addition, it was considered that the concerns being addressed by employees at present did not always focus on eligibility for the CSP. In some cases, employees wanted to work longer because they felt they were fit and healthy and were still in a position to contribute.

(c) Whether additional service (over the current compulsory retirement age) should accrue pension benefit.

Again there were a number of views expressed on this issue. There was an argument that additional pension accrual beyond the current age of 65 might be limited or curtailed in some form, in deference to the cost of pension accrual in pre-existing schemes compared to a new appointee who would be a member of the Single Scheme with significantly reduced pension accrual cost. It was also pointed

out that the choice to stay at work beyond age 65 would be entirely voluntary so employees whose priority is to accrue additional pensionable service would not be obliged to work beyond age 65. On the other hand, it was acknowledged that the cohort recruited between 2004 and 2012 (new entrants) who have no compulsory retirement age continue to accrue full pension benefits under the pre-existing pension schemes up to the date of their retirement (subject to the statutory 40 year limit) so there were equity issues to be considered.

(d) Whether additional service (over the current compulsory retirement age) should be subject to performance/health criteria.

It was agreed that for equality reasons, it would not be possible or desirable to have specific medical or performance management criteria applying only to public servants who are approaching the age of 65 and wish to remain working beyond that age. Many of the employer groups considered, however, that performance management and sick leave issues needed to be addressed on an administrative rather than a legislative basis. The importance of effective sick leave and performance management throughout an employee's career and not just approaching retirement age was emphasised. It was not an age specific issue.

(e) Lack of any compulsory retirement age for the cadre of employees recruited between 01/04/2004 and 31/12/2012.

Due to the fact that this cadre of employees will only have come on stream since 2004, no significant issues have yet arisen in relation to employees remaining in employment to a very high age. It was considered by all employer groups, however, that it was desirable to address any potential issue at this stage by consolidating the compulsory retirement ages in the public service. A compulsory retirement age of 70 was agreed in that regard.

Copies of the agreed reports of meetings with the various sectors which were held in March and April 2017 are attached at Appendix B of this Report.

6. NEXT STEPS

The Department of Public Expenditure and Reform will consider the observations made in the context of the review and make a submission to the Minister in the matter. Future policy in this area will be determined by the Government.

APPENDIX A: DISCUSSION DOCUMENT



Extended participation by Public Service workers up to and including the current and planned age of entitlement to the State Pension

8 February 2017

Department of Public Expenditure and Reform

EXTENDED PARTICIPATION BY PUBLIC SERVICE WORKERS UP TO AND INCLUDING THE CURRENT AND PLANNED AGE OF ENTITLEMENT TO THE STATE PENSION.

1. PURPOSE OF THE PAPER

- (i) To seek to identify the current statutory and operational considerations giving rise to barriers to extended participation in the public service workforce up to and including the current and planned age of entitlement to the Contributory State Pension.
- (ii) To seek the views of Public Service employers.

This paper does not propose any change to the minimum retirement ages, only the maximum retirement age.

2. BACKGROUND

(i) **Report of the Interdepartmental Group on Fuller Working Lives**

The [Report of the Interdepartmental Group on Fuller Working Lives](#) was agreed by Government in August. On foot of that Report, the Department of Public Expenditure and Reform (DPER), with Public Service employers, was tasked to review the current statutory and operational considerations giving rise to barriers to extended participation in the public service workforce up to and including the current and planned age of entitlement to the Contributory State Pension.

(ii) **Increase in the age of entitlement to the Contributory State Pension**

The age of entitlement to the Contributory State Pension (CSP) is currently 66 years of age. Further increases are scheduled for 2021 (67 years) and 2028 (68 years). These changes are incorporated into legislation in section 7 of the Social Welfare and Pensions Act 2011. When the age of entitlement to the CSP originally increased from 65 to 66 years of age, its effects were alleviated by the existence of the State Pension (Transition) which was of the same value as the CSP and paid by the Department of Social Protection for one year from age 65, after which recipients were automatically transferred to the CSP.

The abolition of the State Pension (Transition) Payment in 2014 affected the retirement income of certain public servants, hired between 1995 and 2004 who have a compulsory retirement age of 65 but who are not entitled to receive the CSP until the new eligibility age.

3. RETIREMENT AGE

Concern for the sustainability of the pension system has focused attention onto this issue. To anchor our discussion, it will be useful to keep the following questions in mind while reading this paper:

1. Should a new compulsory retirement age be established for all public servants? If so, what should that age be and how should this be achieved?
2. Should all public servants have an option to stay beyond the age of 65 and work to the new compulsory retirement age?
3. Should agreement to stay beyond 65 be subject to suitability? If so, subject to equality considerations, what kind of criteria should be put in place to ensure fairness and transparency?

Review of Barriers to Extended Participation in Public Service Workforce

4. What workforce planning/performance management issues arise in the context of allowing people to work beyond age 65?
5. What are the financial impacts that might arise in the context of allowing people to work beyond age 65?
6. Relevant Public Service employers may also consider whether current compulsory retirement ages for atypical public service groups (Garda/Defence Forces/Prison Officers/Firefighters) require reconsideration also?

4. CURRENT POSITION

The current position in relation to retirement ages in the civil and public service is set out in Table 1.1 below. Groups A and B are governed by the Civil Service Regulation Act 1956 which applies to the civil service only. Other arrangements may apply in individual sectors. Groups C and D are governed by legislation covering the wider public service as detailed in paragraph 1 below.

Table 4.1 Overview of Retirement Ages in the Public Service

| Group | Recruitment Date | Description | Pension Integrated? | Minimum Pension Age | Compulsory Retirement Age |
|-------|-------------------------------|---|---------------------|--|---------------------------|
| A | Pre-6 April 1995 | *Modified PRSI | *No | *60 | 65 |
| B | 6 April 1995 to 31 March 2004 | Full PRSI | Yes | *60 | 65 |
| C | 1 April 2004 to 31 Dec 2012 | “New Entrants” - 2004 Act Full PRSI | Yes | 65 | No |
| D | On or after 1 Jan 2013 | Single Scheme members - 2012 Act Full PRSI | Yes | Currently 66 (rising to 67 from 2021, 68 from 2028 per changes in State Pension Age) | 70 |

*with some exceptions

5. LEGAL POSITION REGARDING THE RETIREMENT AGE

(i) Current legislative position

The main primary legislation dealing with compulsory retirement ages in the public service is as follows:

- a) The Civil Service Regulation Act 1956 provides that the compulsory retirement age for civil servants recruited before April 2004 is 65, subject to certain limited exceptions. We would be interested in receiving details of any sectoral legislation which may have imposed similar compulsory retirement ages on other public service groupings (e.g. health, education and local authority sectors) etc.;
- b) The Public Service Superannuation (Miscellaneous Provisions) Act 2004 provides for a minimum pension age of 65 and removes the compulsory retirement age for most public servants appointed after 1 April 2004; and

- c) The Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (the Act of 2012) provides for a minimum pension age of 66 currently (rising in line with age of eligibility for the Contributory State Pension) and a compulsory retirement age of 70 for most public servants appointed from 1 January 2013.

There are other legislative provisions dealing with the terms and conditions (including compulsory retirement age) of individual public servants e.g. Ombudsman, Data Protection Commissioner etc. and different arrangements also apply in the case of certain public servants who, due to the nature of their work are required to retire early e.g. Gardai, Prison Officers, Members of the Defence Forces, Firefighters.

Because these retirement ages are firmly entrenched (backed by legislation in many sectors), there is very little flexibility to allow people to stay on beyond normal retirement age. While there is currently some leeway for retention of certain civil servants beyond normal retirement age, this is limited and subject to strict criteria.

The scope for retention beyond normal retirement age for civil servants is regulated by Department of Finance Circular 13/1975 which permits retention on certain limited grounds. These typically relate to grounds of hardship or public interest. There are currently 35 civil servants being retained under this Circular.

(ii) Legal advices on the State imposing a common retirement age on all civil servants

In summary, the advice received was that the State could provide for the application of a common compulsory retirement age to all of the groups listed in Table 1.1. above, including the 2004 “new entrant” group which is the only group that would be negatively affected by the move.

In the event of the introduction of a common compulsory retirement age, the legal advice suggests that, in respect of all groups, discretion should be maintained similar to that provided at section 8(4) of the Act of 1956. This would provide amended and strengthened statutory discretion to allow public servants to remain in employment beyond the common compulsory age.

(iii) Legal challenges in the Civil Service to the current retirement age

There are a number of cases listed at the WRC in relation to this matter. The first two listed below are currently awaiting the outcome of an appeal lodged by the WRC to the Supreme Court regarding a decision of the High Court on whether the WRC or the High Court has jurisdiction to hear cases about retirement ages.

- **Individual X v The Office of the Revenue Commissioners**
Retirement age /equality case involving a post 1995, pre 2004 recruit, challenging the requirement to retire at 65.
- **Individual Y v Department of Social Protection**
An officer who is aged 67 (and had been retained) in the DSP, has been successful in a competition for the position of Medical Assessor which is the grade they currently hold. Based on the provisions of the Act of 2012, as a member of a pre-existing scheme with a retirement age of 65, he cannot accept the position and join the Single Scheme on appointment unless he had a break of 26 weeks. However, another person of similar age, with no public service work background, would be eligible to accept the position and join the Single Scheme with a retirement age of 70.
- **Individual Z v The Public Appointments Service**
Challenge under section 77 of the Employment Equality Act involving a permanent Clerical Officer job offer which was made by the Public Appointments Service to an individual who was over 70 years of age.

6. GROUPS MOST ADVERSELY AFFECTED

Most Public Servants recruited from 1995 onwards have their pensions integrated with the Contributory State Pension (CSP). This means that they receive the CSP from the Department of Social Protection (DSP) and the remainder of their pension from their employer. Under current arrangements, the occupational element of the pension is generally available from the employer at age 65 while the CSP is not available until age 66. Up to 1 January 2014, this did not cause problems as DSP operated a "State Pension (Transition)" of the same value as the CSP for one year from age 65, subject to ceasing to work in insurable employment. Recipients of this payment were automatically transferred to the CSP when they reached age 66.

On 1 January 2014, the State Pension (Transition) was discontinued but public service pensioners (who would be considered 'unemployed retirees' until CSP age under the Social Welfare system) can apply for Jobseeker's Benefit in its place to cover the period until they are entitled to the CSP at age 66. Such pensioners are required to be actively seeking work but are not required to engage in the normal activation process that applies to younger jobseekers. The value of the State Pension (Transition) was the same as the CSP but Jobseeker's Benefit is less. Because of this and because some former employees, through no fault of their own, are not entitled to Jobseeker's Benefit, they may apply to their former employer for a Supplementary Pension so that their total pension matches that of a pre-1995 recruit whose pension is not integrated with the CSP. In many cases, provision for the payment of a Supplementary Pension is set out in the scheme rules of each public service pension scheme and these rules are often set out in primary or secondary legislation. Furthermore, in most cases, Jobseeker's Benefit continues for only 9 months (or until age 66 for those over 65) so a further application for adjustment of the Supplementary Pension is often required. A fair amount of inter-action by the pensioner with their former employer and with DSP is, therefore, required.

This does not present significant difficulties for Public Servants recruited post 2004, as they have no compulsory retirement age and can continue to work until they reach the age of eligibility for the CSP, if they wish to do so, although clearly if they choose to retire at 65 they would still be affected. Neither does it present difficulties for Public Servants recruited since January 2013 and who are member of the Single Pension Scheme, as their retirement date coincides with the age of eligibility for the CSP. Difficulties are, however, being experienced by the group of public service workers recruited between April 1995 and April 2004 and who are required to retire at age 65. They feel that they have earned their pension and should not have to "sign on" as a jobseeker in order to receive a portion of it. Many would prefer to continue to normal CSP age rather than engaging in this process which is likely to become more protracted as the age of eligibility for the CSP increases in 2021 and 2028.

7. EQUALITY PROVISIONS AFFECTING THE RETIREMENT AGE

Amendments to Irish employment equality legislation were made by the Equality (Miscellaneous Provisions) Act 2015 to bring it into line with judgments emanating from the Court of Justice of the European Union. Under the legislation a compulsory retirement age is not prohibited as long as objective and reasonable justification exists.

(i) Equality (Miscellaneous Provisions) Act 2015

The Equality (Miscellaneous Provisions) Act 2015 amends Section 34(4) of the Employment Equality Act 1988 so that it now provides as follows:

Section 34(4) of Employment Equality Act 1988

"(4) Without prejudice to subsection (3), 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”

Legal advice indicates that according to this test, a measure will be objectively justified where it:

(a) corresponds to a real need on the part of the undertaking (often described as a “legitimate justification”) and

(b) is both:

- appropriate; and
- necessary for achieving the objective pursued.

The words “appropriate” and “necessary” have since been interpreted by the Labour Court. In relation to whether the measure was “appropriate”, the Court said that “this aspect of the test requires that the means chosen be appropriate to the objective which they are intended to achieve”.

In relation to whether the measure was “necessary”, the Court said that the “requirement here is for the employer to demonstrate that there were no alternative means, having a less discriminatory effect, by which the objective in view could have been achieved”.

(ii) Examples of objective justification (Report of the Interdepartmental Group on Fuller Working Lives, 2016)

- To create opportunities in the labour market for those looking for work¹
- To encourage recruitment and promotion of young people and prevent possible disputes on the fitness of employees to work beyond a certain age²
- To ensure better distribution of work between the generations³
- To ensure quality of service provision and address an age imbalance within a workforce⁴
- To ensure motivation and dynamism through the increased prospect of promotion due to senior staff being retired⁵

8. IN SUPPORT OF WORKING LONGER

As is the case in all European countries, Irish citizens are living longer. Existing provisions regarding compulsory retirement ages for employees recruited pre-Single Scheme are perceived to be outdated and inconsistent with the wishes of some Public Service employees as evidenced by the legal challenges in support of working longer referenced in Section 5(iii).

¹ Felix Palacios de la Villa v Cortefiel Servicios SA – Case C-411/05 – Judgment of the Court (Grand Chamber) of 16 October 2007

² Fuchs v Land Hessen – Gerhard Fuchs (C-159/10) and Peter Köhler (C-160/10) v Land Hessen – Judgment of the court (Second Chamber) of 21 July 2011

³ Rosenblatt – Gisela Rosenblatt v Ollerking Gebäudereinigungsges mbH – Case C-45/09 – judgment of the Court (Grand Chamber) of 12 October 2010

⁴ Georgiev – Georgiev v Technicheski Universitet – Sofia, filial Plovdiv (C-250/09; C-268/09) Second Chamber November 18 2010

⁵ Donnellan v Minister for Justice, Equality & Law Reform, High Court, McKechnie J 25 July 2008

Revising the compulsory retirement age supports the Government's objectives regarding long term financial sustainability by fostering a longer term engagement by older people in the economy. Internationally, for the most part, employees are already being afforded the opportunity to work longer (Appendix 2). Ireland was advised to explore this policy direction by the OECD in 2014.

(i) Living longer, healthier lives

The expectation in raising the State Pension age is that people, who are living longer and healthier lives, will work to that increased age, thereby alleviating pressure on the social protection system by moderating public expenditure (Report of the Interdepartmental Group on Fuller Working Lives, 2016).

A report on health and life expectancy in Ireland noted that life expectancy 'at age 65 in Ireland was 21.1 years for women and 18.1 years for men' (EHLEIS, 2013). This has risen considerably compared to a life expectancy at age 65 of 15 years for women and just 13 years for men in 1962 (CSO, 2000).

(ii) Encouraging longer working lives in Ireland

In recent years Government policy has been moving towards identifying and developing sustainable policy options that will support public financial stability over the longer term. One of those options is to enable longer working lives. This is evident in the commitment given by the National Strategy for Positive Ageing to securing the right of an older person to engage in the economy.

National Strategy for Positive Ageing (2013-2023)

The National Positive Ageing Strategy, published by the Department of Health, sets out the following vision: "Ireland will be a society for all ages that celebrates and prepares properly for individual and population ageing. It will enable and support all ages and older people to enjoy physical and mental health and wellbeing to their full potential. It will promote and respect older people's engagement in economic, social, cultural, community and family life, and foster better solidarity between generations. It will be a society in which the equality, independence, participation, care, self-fulfilment and dignity of older people are pursued at all times."

The strategy contains four national goals, the first of which is to:

"Remove barriers to participation and provide more opportunities for the continued involvement of people as they age in all aspects of cultural, economic and social life in their communities according to their needs, preferences and capacities."

An external review of the pensions systems in Ireland carried out by the OECD (2014) strongly supports the approach of the National Strategy for Positive Ageing.

OECD Reviews of Pensions Systems Ireland 2014

The OECD Report in 2014 noted that "the more immediate concern for Irish policy-makers should be to increase the effective retirement age by encouraging working longer and to address the situation of those workers who, for health reasons or related to the specific physical requirements of their occupations, may not be able to continue working up to age 68. The decision to retire or to stay in employment at a given age depends on a number of individual and contextual factors. In particular, some features of the welfare system can be significant determinants of retirement decisions: the tax treatment of incomes, pension wealth and the possibility to access other social benefits." (OECD, 2014)

(iii) Intergenerational fairness

“Considerations of longer working need to be balanced against ensuring adequate employment opportunities for young adults and preserving pathways for career advancement and progression. That said, the argument is frequently made that the amount of work in an economy is fixed so therefore one more job for an older person means one less job for a younger person (‘lump of labour’ theory) – the belief that older persons are crowding out younger workers from jobs. However, research has shown this theory to be a fallacy and observes that the number of jobs in an economy is elastic and not finite, labour markets are dynamic and economies adapt to labour force changes.” (Report of the Interdepartmental Group on Fuller Working Lives, 2016)

9. POSSIBLE FINANCIAL IMPACT OF AMENDING THE RETIREMENT AGE

This section seeks to outline the financial outcomes for employees and for public expenditure of extending participation in the public service workforce up to and including the current and planned age of entitlement to the Contributory State Pension.

(i) Employee outcomes

For the purposes of this section, the descriptors in Table 4.1 will be used to identify the employee cohort in question.

- **Group A (Pre '95):** In the Civil Service alone, approximately, 12,000 pre '95 Civil Servants will retire over the next ten years and start to draw down a pension. Most of this category of pensions are non-contributory and as such are not linked to the award of the Contributory State Pension. Making a policy change at this time will have no impact on this group except in the case of employees who do not have full service who would be in a position to accrue additional pension benefits as a result (subject to paragraph 9(ii)).
- **Group B (1995 – 2004):** With integrated pensions and a compulsory retirement age of 65, this cohort will continue to experience a retirement income gap until they reach the age of entitlement to the Contributory State Pension (CSP) if no action is taken. To increase the compulsory retirement age to 70 or to coincide with CSP age will allow this group to continue to work to a stage where they can receive their occupational pension and their CSP without having to claim Jobseeker's Benefit.
- **Group C (2004- 2012):** Introducing a compulsory retirement age for this group will limit the ability of individuals to accrue years of pensionable service which, given the variations of career profile within the group, could impact on their ability to gain the traditional 40 years' service. If no increases are implemented then this cohort may continue working indefinitely. It should be noted that there is no requirement to have ceased working in order to draw the CSP. Subject to having made the necessary contributions you qualify for the CSP on reaching the age of eligibility (currently age 66). This means that, if no action is taken, employees in Group C will be able to draw the CSP at age 66 while continuing to work indefinitely.
- **Group D (Jan 2013):** The scheduled increases in the age of entitlement to the CSP will have no significant financial impact on members of the Single Scheme as their minimum pension age is already linked to the Contributory State Pension. Under the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 the Minister for Public Expenditure and Reform imposed a compulsory retirement age of 70 as a 'reasonable' target age for retirement and pointed to the necessary setting of a retirement horizon for the purposes of workforce planning. As is the case in relation to Group C above, subject to having made the necessary contributions, employees in Group D will be able to draw the CSP at age 66 (rising to age 67 in 2021 and 68 in 2028) while continuing to work until age 70.

(ii) Management outcomes

- **Performance management:** As the workforce ages, performance management will play a key role in managing employee and employer expectations. The cultural, behavioural and leadership changes required to ensure that our approach to performance management in the Public Service is robust enough to be in a position to assess suitability for continuation in employment beyond age 65, are significant. It is not intended that the assessment would be focussed on those reaching the age of 65 but would need to flow from a long practice of effective and meaningful management of performance throughout an officer's career.

- **Skills renewal:**

- **New recruits:**

- Extending the retirement age will enable skills retention but arrangements must be put in place to ensure that such expertise and corporate knowledge is transferred to younger employees. Otherwise, the benefit of retention will only be temporary.

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- Extension of the compulsory retirement age will also slow down the hiring of new recruits and as a consequence the introduction of contemporary skill sets. It may be that skillsets that can be learned by an older workforce and skillsets that require the recruitment of younger staff will need to be identified with recruitment policies taking account of this.

Continuous Professional Development (CPD): Investment in CPD will also be required to support an older workforce with specific skills renewal.

- **HR issues:**

- Possible increased uptake of sick leave by older workers will result in greater expenditure by employers.
 - More flexible working patterns may be more in demand by an older workforce.
 - Effect of longer career progression pathways on HR strategy.
 - Grievance procedures will need to be age proofed.

- **Savings:**

- **Pension:**

- ✓ Postponement of Group A pensions for those opting to stay post 65. Pre '95 employee pensions are mainly non-contributory and the most expensive for the State to pay. Increasing the retirement age would therefore be cost saving.
 - ✓ Standardisation of payroll processing. Increasing the compulsory retirement age in line with the age of eligibility for the CSP will standardise the payroll processing by removing the need for the payment of supplementary pensions where Jobseeker's Benefit is being paid. It will also reduce the involvement of DSP. However, there are occasions when a public service pensioner's CSP is paid at a low rate, or not payable at all due to low contributions, and in those cases supplementary pensions will continue for life.

- **Pay roll:** If the compulsory retirement age is increased and employees are permitted to continue working longer, then the Exchequer will continue paying an existing salary value for longer rather than the value of the pension plus a replacement salary post recruitment.

▪ Pension Accrual

If a decision is taken to allow for an increase from age 65 in the compulsory retirement age, consideration will need to be given to whether any period of service beyond age 65 should qualify for pension accrual. One of the main drivers in the move to increase the retirement age from 65 is to plug the gap between compulsory retirement age and the age of eligibility for the CSP for employees with integrated pensions, so that they can synchronise their date of retirement from work with their date of eligibility for the State pension, should they wish to do so.

The beneficiaries of any decision to increase the compulsory retirement age from 65 will be employees recruited prior to 2004. The terms of the new Single Public Service Pension Scheme (SPSPS) introduced in 2013, while still reflective of a “good employer”, are less favourable than those applying under the pre-existing schemes. The new Scheme is based on career average pay, not final salary as previously applied. Under the new arrangements, post-retirement pensions will also be indexed to the CPI instead of pay. These are significant changes and raise the question as to whether employees on the earlier more favourable pension terms should be permitted to accrue pension benefits under any new arrangement while new recruits are subject to the terms of the new SPSPS. The choice to stay at work beyond age 65 will be entirely voluntary so employees who would not be prepared to work beyond 65 unless they were accruing additional pensionable service will not be obliged to do so.

The Civil Service Regulation Act 1956 already provides that civil servants retained beyond the age of 65 do not qualify for further pension accrual.

10. ISSUES THAT NEED TO BE CONSIDERED

The Department of Public Expenditure and Reform wishes to engage with Public Service Employers to seek their views on how best to proceed in relation to existing retirement ages in the public service. An illustrative list of some of the issues that need to be considered are detailed below and the views of public service employers would be welcome. This list is not exhaustive.

What statutory provision currently exists?

1. What statutory provisions apply in individual sectors that need to be looked at in context of changing compulsory retirement ages?

What groups should be subject to an adjustment of the compulsory retirement age?

2. Should a new compulsory retirement age be established for public servants? If so, what should that age be? Age 70 or link to age of entitlement to the Contributory State Pension?
3. Do current compulsory retirement ages for atypical public service groups (Garda/Defence Forces/Prison Officers/Firefighters) require reconsideration also?
4. Are there other atypical public service groups working in physically demanding areas for which a later compulsory retirement age may not be appropriate?
5. Should a compulsory retirement age be introduced for the group recruited between 2004 and 2013 who currently have no compulsory retirement age?
6. Would a dual approach be appropriate? Allow all pre-2004 staff to stay until the age of entitlement to the Contributory State Pension? Allow ‘new entrants’ recruited between 2004 and 2012 to retire at 65

as at present but introduce a compulsory retirement age in line with that for Single Scheme members i.e. 70 years?

Subject to equality proofing, is an assessment of suitability required to continue working beyond 65?

7. Should agreement to stay beyond 65 be subject to a medical?
8. Should same medical requirements apply for “standard” (non-Gardai, etc.) employees in all sectors (Nurses/Teachers/Civil Servants/Local Authority workers)?
9. Should agreement to stay beyond 65 be subject to suitability? If so, what kind of criteria should be put in place to ensure fairness and transparency?
10. Should more selective measures for certain staff to remain beyond the age of 65 be introduced rather than a blanket increase? How might this be achieved in individual sectors?

Are there on-the-job factors that would influence this decision?

11. Given experience gained since 2004, what workforce planning/performance management issues have arisen in the context of allowing more people to work beyond age 65?
12. What additional costs might arise in the context of allowing people to work beyond age 65, e.g. possible need for renewal of skillsets, potential for higher level of sick leave, death in service payments for late recruits, etc.?
13. Should shorter working year or other supports be promoted for those between 65 and the new compulsory retirement age?

What other factors need to be taken into account?

14. Should provision be made to prevent individuals from qualifying for the CSP while still in employment e.g. Group C and Group D employees as described in Section 9(i)?
15. In the event of an increase in the compulsory retirement age, should service beyond the age of 65 qualify for pension accrual?
16. Are there other policy changes in the Irish Public Service or elsewhere, which will impact on retirement age policy over the next 10 years e.g. introduction of the ‘Total Contributions’ approach to the State Pension (Contributory) in 2020?
17. What other issues can be identified by Public Service employers?

11. POSSIBLE APPROACHES TO IMPLEMENTATION

There are two main options that could be considered in an effort to extend participation in the public workforce up to and including the current and planned age of entitlement to the Contributory State Pension. In addition, there may be other options not identified below that will help us achieve the same goal, increased financial sustainability for pension expenditure, as well as offering a wider choice of pathways into gradual retirement for public servants.

(i) Implementation by legislation

The most direct policy option available is to amend the existing legislation. In practice, this may mean amending a range of legislative provisions to effect a change to the retirement ages of all public servants recruited prior to 1 Jan 2013.

This would involve identifying all primary legislation which addresses retirement ages for public servants from any sector. Once identified, legislation could be drafted amending each of those legislative provisions to provide a retirement age consistent with the age of entitlement to the CSP or to age 70 if that is the chosen new retirement age for all public servants (other than fast accrual groups which would have to be considered separately). While this would increase the compulsory retirement age for all pre 2004 employees, it would introduce a retirement age for the 2004 to 2012 group for the first time.

(ii) Fixed term contracts

The possibility of retaining or re-engaging public servants on a case by case basis by way of fixed term contract was proposed in some quarters as a solution to the problem posed by existing compulsory retirement ages. It is considered, however, that such an ad-hoc arrangement would not be appropriate in the public service context. Neither would it represent a solid basis for tackling the issues raised by the current compulsory retirement ages as addressed in this paper.

APPENDIX 1 - SUMMARY OF POINTS RAISED BY THE INTERDEPARTMENTAL REPORT ON FULLER WORKING LIVES

1. **Social Insurance Fund.** There are concerns regarding the future financial sustainability of pension expenditure.
2. **Ensuring sustainability by raising the State Pension Age for all.** The expectation in raising the State Pension age is that people, who are living longer and healthier lives, will work to that increased age, thereby alleviating pressure on the social protection system by moderating public expenditure.
3. **Effect of the abolition of the State Pension (Transition) Payment in 2014.** Increases in claims of payments, such as Jobseekers Benefit and various disability and illness payments are projected. Along with further increases of the State Pension age in 2021 and 2028, projected net savings of €500m are expected.
4. **Bridging the income gap.** If increases in the State Pension age are not matched by longer working, a gap arises between in-work income and income from the State Pension. While those who retire at 65 may avail of Job Seekers until they reach the State Pension age, there is still an income gap experienced. Top up is usually by way of supplementary pension.
5. **Private Sector seeking guidance from Public Service policy.** There is no statutory retirement age for private sector employees but the equality legislation does not prohibit the imposition of a compulsory retirement age in a company. The decision on a fixed retirement age is made at recruitment and forms part of the contract of employment. However, on reaching retirement the employer can decide, rather than reopening the original contractual term, or invalidating the reasoning that led to its inclusion in the employment contract, nonetheless decide to offer a fixed term contract.

An employer would have to take into account the principle of fairness in terms of equal treatment for other employees who do or do not want to continue to work after their contractual retirement age and have a legitimate and objective justification for different approaches in relation to different employees or different classes of employees.

6. **Primary legislation required to change Public Service retirement ages.** The rules governing the ages at which public servants may be compelled to retire vary across sectors and by reference to the date of recruitment of the individual. Due to the legislation, there is very little flexibility to allow people to stay on beyond normal retirement age on an ad hoc basis. While there is currently some leeway for retention of certain staff beyond normal retirement age, this is limited and subject to strict criteria.

Any general change to compulsory retirement age in the public service would need to be introduced by way of amending primary legislation. This would have to apply consistency across the public service, other than in respect of Gardai, Prison Officers, Defence Forces and Firefighters for whom separate arrangements apply.

7. **Objective and reasonable justification** The EU Framework Employment Directive, which outlaws age discrimination in employment, was transposed into law in Ireland by the Equality Act 2004. While the Directive is without prejudice to national provisions, those same provisions might be considered discriminatory unless 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.' Section 34 of the Equality (Miscellaneous Provisions)

Act, 2015 brought Irish equality legislation into line with the judgements of the Court of Justice of the European Union.

Circumstances which allow for the setting of retirement ages. Protection of health of others, availability of adequate alternative income in retirement, collective agreements, inter-generational fairness.

Examples of objective justification

- To create opportunities in the labour market for those looking for work
- To encourage recruitment and promotion of young people and prevent possible disputes on the fitness of employees to work beyond a certain age
- To ensure better distribution of work between the generations
- To ensure quality of service provision and address an age imbalance within a workforce
- To ensure motivation and dynamism through the increased prospect of promotion due to senior staff being retired

8. **National Positive Ageing Strategy.** National Goal 1 calls for the removal of barriers to participation and the development of a wide range of employment options (including options for gradual retirement) for people as they age and the identification of any barriers (legislative, attitudinal, custom and practice) to continued employment and the provision of training opportunities for people as they age.

APPENDIX 2 - CURRENT PRACTICE INTERNATIONALLY

(i) A brief overview of Public Service practice

This section seeks to outline approaches to setting compulsory retirement ages in the public sector internationally.

Australia

- Australian Public Service employees participate in a number of public sector superannuation schemes. The two main schemes, which are now closed to new employees, are known as the Commonwealth Superannuation Scheme (CSS) and the Public Sector Superannuation Scheme (PSS). Both the CSS and the PSS are defined benefit superannuation schemes. They do not pay any “related old age benefits”. These are paid separately by the Australian government through a means tested pension benefit. Qualifying ages for the government’s age pension is 65, however effective retirement age is approximately 55. (OECD, 2007)
- However, from 1 July 2005 all new public sector recruits join the Public Sector Superannuation accumulation plan (PSSPap). The PSSap is a fully-funded, defined contribution plan that pays lump-sum benefits (OECD, 2007).
- From December 1999, when the new Public Service Act 1999 commenced operation, compulsory retirement on the ground of age was abolished for Commonwealth public servants employed under that Act.
- Compulsory retirement was abolished for groups that weren’t captured by the Public Service Act 1999 by the Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001. It should be noted that the Act did not abolish all compulsory retirement ages in Commonwealth legislation e.g. defence force personnel, judiciary etc.
- There is now no compulsory or normal retirement age. CSS, PSS, and PSSap benefits are typically paid on retirement (usually on or after age 55) and must be paid by age 75 in accordance with SIS (Superannuation Industry Supervision Act, 1993). SIS prevents lump-sum benefits being paid on retirement before the individual has reached their preservation age. (OECD, 2007) In addition, superannuation contributions cannot be made by employees working past this age.
- In terms of minimum retirement age, Section 30 (2) of the Public Service Act (1999) refers: “The **minimum retiring age** is 55 years, or such higher or lower age as is prescribed by the regulations.”

Canada

- In 2012, amendments to the Canadian Human Rights Act and the Canada Labour Code were brought into force to prohibit federally regulated employers from setting a compulsory retirement age.
- However, it should be noted that public sector employees cease contributions and accumulation of pensionable service starting January 1st of the year following their 71st birthday. Any additional salary earned by an employee who works after age 71 is not considered in calculating the 5 consecutive years of highest average earnings used in the calculation of superannuation benefit entitlements. (Public Service Alliance of Canada)
- Members participating in the Public Sector pension plan can retire and take their pension (without reduction) at age 60 (35 years’ service) or at age 55 with at least 30 years of service, and their pension

Review of Barriers to Extended Participation in Public Service Workforce

benefits will be based on their years of service and their final average salary (as defined in the Public Service Superannuation Act). (Canada, 2012)

- Changes made to the Public Sector Pension Plans in 2013 mean that the age in which a plan member will be eligible to receive an unreduced pension benefit under the public service pension plan is increased by five years for employees who begin to participate in the plan on or after January 1, 2013. (Canada, 2012)

UK

- In April 2011, the default retirement age was abolished by the Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011. There is currently no maximum compulsory age for retirement in any sector.

France

- Public pension reform mainly took place with the introduction of the Pension Reform Act 2003. This legislation did not amend the legal retirement age, which is 60 (with an age limit of 65 years) with many exceptions. The cornerstone of the reform was to increase the minimum length of the contribution period. The minimum period of activity necessary to receive a full pension will thus rise from 160 quarters (40 years) to 168 quarters (42 years) by 2020. (OECD, 2007)
- The age limit for the three civil services is fixed in principle at 65 (Article 7 of Law n° 84-834 of 13 September 1984), but other legal conditions have been set up to allow retirement from the age of 60 (Article 124 of the Civil and Military Pensions Code). However, there are different age limits for the various categories of the civil service: for instance, 60 is the general retirement age for teachers and nurses, 55 for police officers, 65 for judges. As a result, on average, there is a difference between the system applicable to public and private sector workers, since for many civil servants and military personnel the legal age of retirement is less than 60 years. In addition, there are many exceptions relative to individual conditions: in practice, the retirement age may be moved forward under the conditions set out in Article 24 of the Civil and Military Pensions Code; civil servants may retire earlier under certain specific conditions (education of children, disability) or later (deferrals for family reasons or in the interest of the service). (OECD, 2007)

(ii) A brief overview of Private Sector practice

- **UK** - The default retirement age was abolished in 2011 and compulsory retirement equates to unlawful age discrimination except where the application of the objective justification principle can be applied. Consequently, the majority of employers have dropped compulsory retirement as a practice altogether. (Eversheds, 2014)
- **France** - It is possible to retire employees at 65 (from November 2016 gradually increasing to 67) but only in strict accordance with set regulations. Moreover, if the employee does not wish to retire they may legally remain until age 70. (Eversheds, 2014)
- **Spain** - Compulsory retirement is illegal. (Eversheds, 2014)
- **US** – Compulsory retirement is largely illegal except in some States for specific senior posts. (Eversheds, 2014)

Canada – The use of compulsory retirement is lawful but similar to the UK, employers find it difficult to justify and as such do not adopt it as a practice. (Eversheds, 2014)

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APPENDIX B: OUTCOME OF CONSULTATION WITH PUBLIC SERVICE EMPLOYERS

On foot of the Report of the Interdepartmental Group on Fuller Working Lives, the Department of Public Expenditure and Reform (D/PER), with Public Service employers, was tasked to review the current statutory and operational considerations giving rise to barriers to extended participation in the public service workforce up to and including the current and planned age of entitlement to the Contributory State Pension (CSP).

D/PER, Pensions Policy Section, held meetings in March and April 2017 with the following Departments in the context of their role as Public Service employers. The discussion focussed around a Discussion Document circulated to public service employers in February 2017.

PUBLIC SERVICE EMPLOYERS

- Civil Service - Civil Service HR Policy Division (CSHR), D/PER
- Health Sector - Department of Health and the Health Service Executive
- Education Sector - Department of Education and Skills
- An Garda Síochána - Department of Justice and Equality and An Garda Síochána
- Defence Sector - Department of Defence
- Local Government Sector - Department of Housing, Planning, Community and Local Government
- Non Commercial State Sponsored Bodies (NCSSB) - consulted via their parent Departments

CIVIL SERVICE

CIVIL SERVICE HR POLICY DIVISION, DPER

- The views of the Chief Medical Officer and the Irish Prison Service were forwarded separately by e-mail from CSHR dated 21/3 at 13.02;
- In terms of the Prison Service, Pensions Policy Section explained that the outcome of the current review was expected to recommend one compulsory retirement age for the majority of public service employees. It was not expected that the review would cover groups of employees who had a compulsory retirement age which, for operational reasons, was earlier than normal e.g. Prison Service, firefighters, etc. At earlier meetings, employers in the sectors concerned had undertaken to provide an objective justification for the early retirement ages for those groups of employees. CSHR were asked to provide such a case in relation to the Prison Service employees if they felt that a continuation of the current earlier retirement age regime was necessary and appropriate for that cohort;
- In general, CSHR welcomed the review of the compulsory retirement age which they considered would bring clarity to a difficult area of policy;
- D/Finance (now D/PER) Circular 13/75 sets out the principles governing retention of civil servants beyond retirement age in certain limited circumstances. This Circular, which is the responsibility of CSHR, required updating and the outcome of this review into compulsory retirement age would assist in that regard;

Review of Barriers to Extended Participation in Public Service Workforce

- It was unlikely that the use of an updated Circular 13/75 would provide for an interim arrangement for the retention of staff beyond age 65, consistent with the recommendations arising from this review. There may be legal issues with using Circular 13/1975 to bridge the gap between mandatory retirement age and the payment of the CSP;
- The importance of effective performance management throughout an employee's career and not just approaching retirement age was emphasised;
- The possibility of introducing a health and well-being assessment, including cognitive assessment, for all staff at regular periods throughout their career was suggested as a potential positive development. This could be done on an administrative basis by the individual sectors;
- CSHR agreed that the introduction of a compulsory retirement age for the 2004 - 2012 cohort would be a positive development;
- In terms of whether the pre-2004 cohort should be offered a new compulsory retirement age of 70 or an increase in line with the age of eligibility for the CSP, CSHR favoured an increase to age 70 both for consistency reasons and also as a mechanism to reduce the effect of the projected 10,000 approx retirements in the civil service over the next 10 years;
- The question of pensionability of any service beyond age 65 for pre-2004 employees was discussed. CSHR's main concern in this area was in the context of equality. Reference was also made to the natural cap of 40 years' service for pensionability which would continue to exist and act as a natural ceiling. It was agreed, however, that as any increase to the compulsory retirement age was a positive concession to this cohort of employees, to declare this service as non-pensionable would be sustainable;
- CSHR mentioned that they were considering the introduction, by legislation, of a new maximum recruitment age for the civil service. The AG's had advised that the introduction of such a provision should apply to the civil and public service;
- CSHR agreed to provide copies of any legal advice in their possession in relation to the imposition of compulsory retirement ages.

HEALTH SECTOR

DEPARTMENT OF HEALTH (D/HEALTH)

- Due to the ongoing shortage of health workers, D/Health was, in principle, in favour of an upward adjustment in the compulsory retirement age in the interests of workforce planning for the health sector. In this regard, ongoing Continuing Professional Development (CPD) in the health sector would assist with any problems relating to keeping an older employee's skills up to date;
- D/Health agreed that the introduction of a compulsory retirement age for the 2004 - 2012 cohort would be a positive development and was of the view that a compulsory retirement age of 70 would be appropriate in that regard;
- In relation to the pre-2004 cohort, D/Health also considered that a compulsory retirement age of 70 would be appropriate for that cohort, rather than an increase in line with the age of eligibility for the CSP. A retirement age of 70 would have the benefit of consistency of

treatment and would cater for the employees whose desire was to continue working rather than merely to co-ordinate their retirement age with the age of eligibility for the CSP;

- D/Health raised the question as to whether an increase in the compulsory retirement age would require a related change to the method of calculation of the added years awarded in the event of retirement on ill health grounds. D/PER undertook to explore that issue;
- The question of different compulsory retirement ages for different categories of employees was discussed. D/PER explained that as a general rule, the outcome of the current review was expected to recommend one compulsory retirement age for the majority of public service employees, rather than a range of compulsory retirement ages. The review was not expected to include recommendations in relation to groups of employees who had a compulsory retirement age which, for operational reasons, was earlier than normal e.g. firefighters, Gardaí, etc. At earlier meetings, employers in the sectors concerned had undertaken to provide an objective justification for the early retirement ages for those groups of employees. Subject to the provision of an appropriate objective justification, D/Health could seek to provide an exemption from the higher compulsory retirement age for certain categories of health workers if they felt it was necessary and appropriate;
- The importance of effective performance management throughout an employee's career was emphasised;
- The question of pensionability of any service beyond age 65 for pre-2004 employees was discussed. It was agreed that, as this was a positive concession to this cohort of employees, to declare this service as non-pensionable would be sustainable. It would also be administratively efficient. The importance of consistency of treatment was, however, emphasised;
- D/Health undertook to provide details of any legislation (both primary and secondary) in the health sector that might address compulsory retirement ages. In terms of pension schemes that were made by way of Statutory Instrument (S.I.), D/Health pointed out that where the individual pension schemes made reference to age 65, it was in the context of membership of the pension scheme, rather than in the context of the employee's compulsory retirement age. This was relevant in the context of the legislation that would require to be amended in the context of increasing the compulsory retirement age.

HEALTH SERVICE EXECUTIVE TOGETHER WITH DEPARTMENT OF HEALTH

- There is a need to increase the maximum retirement age to retain certain specialist grades in the case of a recruitment deficit;
- While there are risks to retaining everyone who wants to continue working longer, it is preferable to apply a common standard retirement age across the Health sector rather than to make retention decisions on a case by case basis;
- A compulsory age of 70 would be operable;
- Performance management should be normal practice throughout a career. It is not possible to objectively justify an age-based medical or performance assessment at 65 years. It was noted that Single Scheme members can retire at 70 and are not subject to any kind of separate medical or performance assessment;

- In relation to workforce planning issues, there are instances of medical assessment being applied in the Health Sector e.g. on-call grades;
- The proposed changes will result in a difference in treatment for Section 38 and Section 39 bodies. While only Section 38 staff are public servants, the terms and conditions of those staff are followed closely by Section 39 bodies;
- The HSE is to deliberate further on whether it considers that the additional service should be pensionable;
- If properly administered, a fixed term contract as an interim arrangement until legislation is introduced would be welcomed. Sessional or fixed term contracts are already in operation in the Health Sector. However, to address any associated risk concerning mismanagement, a shared service model for contract administration and oversight should be explored;
- While D/Health and the HSE are aware of policy developments, they will provide objective justification for the decision not to review the retirement age for any grade at this point based on unique sectoral considerations including operational matters.

EDUCATION SECTOR

DEPARTMENT OF EDUCATION AND SKILLS (DES)

- DES is in favour of the extension of the compulsory retirement age in principle. A number of requests to work beyond age 65 had already been made but had been resisted. It was noted, however, that of the approx. 1,000 retirements per annum in the education sector, 95% of those retirees would not have reached the age of 65;
- DES considers that a new compulsory retirement age of 70 for all would be appropriate, rather than allowing pre-2004s to stay at work only until the age of eligibility for the CSP. The imposition of a compulsory retirement age of 70 for the 2004 "new entrants" was also supported by DES;
- The main area of concern for DES was that any policy should be clearly articulated and be capable of operating consistently across the education sector. Case by case decisions were not considered workable. This concern would apply equally to any interim arrangement that might apply between the making of a decision by the Government and the commencement of the necessary legislation;
- Timing is a major issue for the education sector. Uniquely, the vast majority of retirements in the education sector occur on 31 August with notifications of retirements required by the end of May of the year in question. This would need to be taken into account in terms of the introduction of any new policy, given the workforce planning issues that could arise;
- When considering strategic workforce planning in the education sector, it is better if the system has a balance between the number of newly qualified teachers coming into the system and the anticipated numbers of teacher retirements. Any change in the compulsory retirement age is likely to result in a mis-match of those numbers and a possible surplus of newly trained teachers in the early years of the new policy;
- On the question of whether or not the additional service would be pensionable, DES was open to either option. If the service was to be non-pensionable, it would be necessary for this to

be consistent with equality legislation. In favour of making the service pensionable, DES indicated that in the education sector, it would be very common for teachers to work as substitutes/part-time in the early part of their career. In those cases, the reason for wishing to stay beyond 65 would be to accrue additional pensionable service. It was also considered that for employees to continue working on a pensionable basis would be easier from an administrative point of view.

JUSTICE SECTOR (AN GARDA SÍOCHÁNA)

DEPARTMENT OF JUSTICE AND EQUALITY & AN GARDA SÍOCHÁNA

- The minimum pension age for a member of An Garda Síochána with 30 years' service is 55 years with a compulsory retirement age of 60 years. D/Justice considers that a new compulsory retirement age for An Garda Síochána would not be appropriate and were asked to provide a note which would detail the objective justification for their exclusion from the ambit of this review for operational reasons;
- The income gap between the mandatory retirement age and the age of entitlement to the CSP is becoming an issue of concern in the sector. Compulsorily exiting at 60 means that members will experience a minimum income gap of 6 years, due to increase in 2021 and 2028 respectively, regardless of any general increase in the compulsory retirement age introduced in the context of the current review. D/PER undertook to arrange for the relevant officers in D/PER to make contact with D/Justice and Equality to pursue this issue;
- It is noted that due to the physically demanding nature of the role, all officers who joined An Garda Síochána after 1 April 2004 who, having attained the age of 55, wish to continue to serve as members of An Garda Síochána until a maximum of 60 years of age, do so subject to the Garda Commissioner being satisfied that "the member is fully competent and available to undertake, and fully capable of undertaking, the duties of his or her position as a member of the Garda Síochána" as set out in section 4 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004.

DEFENCE SECTOR (PERMANENT DEFENCE FORCE)

DEPARTMENT OF DEFENCE

- Historically, retirement ages in the Defence sector have differed when compared to Public Service norms in order to address particular needs in that sector;
- However, a number of issues are currently being raised by staff in relation to retirement age in light of recent Public Service pension developments;
- In particular, the gap between the compulsory retirement age and the age of entitlement to the State Pension is a concern;
- While it was likely that there would be a need to reconsider compulsory retirement ages for this sector in the future, it was considered that a standalone review to be carried out in the context of the operational considerations of the Defence Forces would be the appropriate way to proceed;

- D/Defence will provide objective justification for the decision not to include the Defence Forces in the review at this point based on unique sectoral considerations including operational matters.

LOCAL GOVERNMENT SECTOR

DEPARTMENT OF HOUSING, PLANNING, COMMUNITY AND LOCAL GOVERNMENT (D/HPCLG)

- A collective agreement exists in relation to the retirement age of firefighters. While this agreement may be subject to review in the future, D/HPCLG did not consider that it would be appropriate for this review. D/HPCLG were asked to provide a note which would detail the objective justification for the early retirement ages for the firefighters and the reason for their exclusion from the ambit of this review;
- Each Local Authority is an employer in its own right. D/HPCLG are setting up a working group of CEOs of the Local Authorities to examine pensions issues in tandem with this Review;
- The officers of a Local Authority have a statutory pensionable age of 65 under the Local Government Superannuation Scheme set out in S.I. 455/98;
- General operatives, who are manual outdoor workers, currently have no statutory retirement or pensionable age but many would have a retirement age of 65 specified in their contract;
- D/HPCLG considered that General Operatives would need particular consideration in the context of this review due to the nature of their work. D/HPCLG was of the view that if General Operatives were to be covered by the new policy, subject to equality proofing, special considerations would need to be built in e.g. an assessment would be required because of the physically demanding nature of the work;
- D/HPCLG was of the view that a standard retirement age should be considered for the group recruited between 2004 and 2013 who currently have no compulsory retirement age. For consistency purposes, a standard retirement age e.g. 70 years across all groups could be considered in that regard;
- D/HPCLG suggested that the implications for additional costs in relation to retirement on medical grounds should be assessed;
- D/HPCLG agreed that working supports, such as shorter working year etc., should be explored and promoted for individuals who continue to work between 65 and 70; and
- D/HPCLG undertook to provide a complete list of the pension schemes for which they are responsible. There are a number of pension schemes in the Agencies under the Department's remit which have the status of an S.I. but which have an exemption from the AG's Office from the formal S.I. making process.