

UK RETIREMENT AGE TO REMAIN 65

High Court decision on Heyday case

The High Court today handed down its judgement in the Heyday challenge. The case had been brought by Age Concern and Help the Aged, now merged as Age UK. The case challenged the default retirement age introduced by the Government in 2006. The current law states that an employer can fairly dismiss a member of staff on or after their 65th birthday, provided they follow the correct procedure. As part of the process the employees do have the right to request to continue working beyond this retirement age and the employer has a duty to consider this requests. However the employer does not need to provide a valid reason for rejecting an employee's request.

The challenge by the two charities was based upon the argument that the default retirement age was in its itself age discriminatory and incompatible with the EC Equal Treatment Framework Directive. When the case went to the European Court of Justice earlier in the year, it was found that a default retirement age was capable of justification and thus not necessarily discriminatory.

The case was then referred back to the High Court to decide if the present UK default retirement age could be objectively justified. Mr Justice Blake confirmed that the default retirement age was justified and therefore did comply with the EC Directive against age discrimination. He felt the default retirement age was "legitimate and proportionate". However, he also went so far to say that he may have ruled differently had the Government not announced plans to bring forward a review of the UK retirement age next year.

The review of the UK default retirement age will be undertaken by the year 2010. We can expect further debate during this review and perhaps movement from the current position. In the meantime the default age of 65 will remain the basis for all retirement dismissal.

NEED SOME GUIDANCE? PLEASE CONTACT US ...

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