

Re-employment after Retirement Consultation Responses

	B	C	D
1	Dept	General Comments	Response
2	OHR	One point that may be worth considering is, what would we do with the staff who are already employed in Gov in posts that would not meet the new criteria if the policy adopted. For instance I can think of one example where we have an ex police officer working as an AO and I suspect we will have many more. Otherwise cannot find any issues.	This Policy will not be applied retrospectively; any retired employee who is already employed by IOMG may remain in post until reaching their contractual retirement age. A note to this effect will be included in revised Draft - See 2.4
3	MEA	MEA supports the draft policy believing that it has the necessary controls in place to ensure that such re-employment is only in rare and exceptional circumstances.	Noted
4	MHK	It should be a core principle of Government not to re employ someone who has retired, unless as stated in the consultation document – for good reasons – such as skills shortage, etc. Every effort should be made to recruit from existing unemployed folk, or staff for re-location within Government / re-deployment. If we are looking at bank work, supply work, covering odd shifts for areas such as residential homes and so on then I would say the following: If this is becoming a regular occurrence, it should be monitored and then if there is a case for a part time position, or full time then this should be progressed. This should be a matter for all Government Departments and policy. I realise there is a staff cap issue with this, however in my view under such circumstances where a specific area of Government – Depts, or Boards are routinely using 'bank staff', 'supply staff' or other 'non full time staff' that can be called upon to 'fill gaps' then they should be allowed to advance a case for 'part timers' or full timers and advertise as such. Following that, then 'bringing staff back' should be viewed last. I also feel that staff who have voluntarily opted for early retirement, or redundancy payments should be viewed in the same light. We see examples of this in Social Care where staff have accepted large redundancy packages and then coming back 'part time' or on regular bank work which includes regular week end working. This is really unfair when a part time or full time position could be organised for someone who needs the work. Staff should be made fully aware that if they take early retirement, accept voluntary redundancy packages then they should not take into account of this the chance of 'coming back' part time or on an add hoc basis. It should be made clear to them in considering their calculations what Government Policy is and allows before making a decision.	Noted
5	DSC	We see the policy as helpful in that it offers a degree of clarity that was previously absent.	Noted

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6	Individual	I would like to record my very strong support and full agreement with the attached proposed Re-employment on retirement policy. We presently have a highly valued member of staff who is in effect being forced to retire against his will on his 65 <sup>th</sup> birthday. Members of our team wrote a letter of support with a view to a business case being put forward to keep him unfortunately to no effect. We stated his extensive knowledge; networks; contacts; positive working relationships; his support; excellent attendance record; that he acts up for the manager; is a male balance; is an ASW; and affords continuity and team consistency. We also pointed out how the Manx government is actively encouraging later retirement; the GUS Scheme makes provision for retiring between 55-75; and we are in favour of a government that is not supportive of age discrimination and ageism. With human beings a 'one size fits all' does not work as my colleague wants to stay on and yet I do not see myself wanting to when I reach his age. However, if choice is taken away and other people see that, it affects morale in the rest of the team seeing a colleague treated as they do not want to be treated. Of course they can also see that they are likely to be treated the same when the time comes for them. So a policy such as this is a great addition to treating people as individuals and not just numbers on the pay roll. Loyalty should work both ways, and if an employee is fit to do their job I think there should definitely be provision to stay on. We are at risk of making people old before they are ready, yet there appears to be a period of hypocrisy where people like my colleague may just miss the boat with things like this simply because of their date of birth. Will this policy enable retirement to be postponed or suspended, and can it be retrospectively used or will it be activated soon? I thought consultations such as this were sent round all the government departments on a general e-mail but I saw this one by accident when I looked up another consultation advertised in the paper. Just one point if I may, on 2. should it mean including and not excluding for hard to recruit jobs? I would have thought if they were hard to recruit it would make sense to keep the person until further recruitment could be achieved rather than not having anyone in the position at all.	Noted. Refer to IOM Government Retirement Policy <a href="http://www.gov.im/lib/docs/hr/HR_Policies/isleofmangovernmentretirementpo.pdf">http://www.gov.im/lib/docs/hr/HR_Policies/isleofmangovernmentretirementpo.pdf</a>
7	GOA	The aim of the new document to clarify and standardise approaches to this issue across the public sector is welcomed.	Noted
8	DBC	Douglas Borough Council has no comment on the proposed policy, other than that it supports the principle that retired public service staff should only be considered for re-employment in circumstances where no suitable alternative existed.	Noted
9	DOI	I have now had the opportunity of seeking views from officers in the Department and the Minister. As I am sure you will appreciate there are a number of diverse views on the proposals in the policy and at this point we are unable to give a Departmental view on the matter. Individuals have been asked to submit their views directly in response to the consultation.	Noted - no responses received

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10	MLC	Makes sense to me – in Lloyds Banking Group you are allowed to apply for roles when retired after 2 years but as always exceptions can be made. The important aspect is clarity of policy. The IOMFSC will not approve a NED position in the organisation you worked for until after 5 years.	Noted
11		<b>Comments relating to specific sections of the Draft Policy</b>	
12	IOM Post	<u>Section 1</u> of the consultation document, index <sup>1</sup> notes that “for the purpose of this policy, employment will mean appointment in respect of civil servants”. As IOMPO is not part of this group (or part of the Government Unified Pension Scheme) and is a separate employing body which determines its own terms and conditions and maintains its own employee pension arrangements through a funded pension scheme, it concludes that it is outside the scope of this draft policy.	Footnote referred to the fact that technically civil servants are not 'employed' but are 'appointed'. This draft policy is applicable to all staff employed by all public service staff regardless of their terms and conditions, with the exception of those identified under Section 2. Footnote has been clarified.
13	DED	The policy should define the meaning of “Public Service”. “Employment” is defined in a footnote as meaning “appointment in respect of civil servants” so that it might be implied that the public service means civil service. However, the meaning should be made explicit and clear.	See above
14	GOA	Under <u>Section 2 Scope</u> there is mention of 'hard to recruit staff' in several places, but no explanation of how this be defined, reviewed and revised.	See Glossary at No 5
15	MNH	<u>Scope</u> : In respect of this consultation here at Manx National Heritage we would support the position that the policy exempts seasonal, casual and members of staff reaching their contractual retirement age while engaged on a key project where they have particular expertise that is crucial to its success. MNH have developed a casual heritage bank which utilises the expertise and skills of local people whose assignments are on a non-pensionable basis. The flexibility, skills and knowledge afforded by this casual bank is an essential part of MNH heritage services. We recognise the draft policy in its current form will permit this to continue. Any changes to this may affect the cost and effectiveness of delivering attractive heritage site services to the local and visitor economy.	Noted
16	DHA	<u>Section 2 Definitions</u> : A view has been expressed that the terms set out in (v), (vi) and (vii) are not specific enough and may provide loopholes for the circumvention of this policy and its intended effect. It may be useful for clarification to be given to these terms, for example a time limit on employment for those specified in (v) and (vi).	Glossary has been included at the back of the Policy to clarify terms.

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17	OHR	<u>Scope</u> : It should be made clear that hard-to-recruit posts are not required to follow the recruitment processes set out within the Draft Policy.	Noted - See new 2.3
18	CSO	It is assumed that this policy would not apply to any corporatized entities or executive agencies that may result from current assessment of Alternative Means of Service Delivery.	Point 3.2 clarified.
19	DED	The exceptions in <u>Section 2</u> where re-employment is to be permitted (including employment on a consultant basis) might usefully include persons acting as business advisers acting for DED on an independent contractor basis. DED runs a number of schemes (e.g. the Small Business Start Up Scheme) where experienced, often retired, persons advise businesses or persons starting businesses. Contractors are hourly paid and total payments made are not significant.	Noted - additional exclusion inserted at Section 2
20	DHA	<u>Section 2 Scope Exceptions</u> : Another concern with regard to the scope of the policy is the issues which may arise when the IoM Constabulary is looking to “buy-in” expertise on a short-term basis for specific investigations. Without this ability it is anticipated that, with projected budget reductions, it may otherwise be difficult to conduct complex investigations	Noted - Additional exclusion under Section 2
21	DHA	<u>Section 2 Exceptions</u> : In addition, given the confidential nature of such investigations and the occasional need for people to be quickly hired, the policy as presently drafted may be too restrictive. Given the above, the policy may thus interfere with the operational independence of the IoM Constabulary. It is therefore suggested that staff employed by the IoM Constabulary be added to the list set out in section 2 (Scope) of the draft policy.	Noted - see above.
22	GOA	<u>Section 3</u> places discretion for varying 3.1 by the Accounting Officer - is there no plan to provide for Civil Service Commission approval in the case of appointments and if not why not?	This policy will apply to Public Sector employees appointed under all Terms and Conditions, not only Civil Service. Therefore, in the interests of consistency Accounting Officers will have discretion for varying 3.1.
23	DHA	<u>Section 3.1</u> It has been highlighted that it would be useful to clarify what a “retirement scheme benefit” is for the purpose of this policy. For example, police officers have a separate retirement scheme and may wish to seek a new job with the IoM Government following retirement from the Constabulary. Allowing for the retention of the services of such skilled and experienced officers would, it is suggested, be of benefit to the IoM Government.	Glossary has been included at the back of the Policy. If a police officer wished to apply for a new job in IOMG, they would need to apply subject to satisfying criteria in Section 3.

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24	DHA	Furthermore, it would be helpful to make it clear how this policy would apply (or not) to persons in receipt of pensions from outside of the IoM Government (e.g. from the private sector or a personal pension scheme) and the consistency of how such persons are treated in comparison with persons in receipt of pension payments from the IoM Government. It would seem unfair for former IoM Government employees to be treated differently to persons in receipt of pensions from outside of the IoM Government in these circumstances.	Persons in receipt of pensions from outside of IOMG would be eligible to apply for IOMG positions advertised externally.
25	CSO	<u>Section 3.2:</u> refers to restrictions in re-hiring as either an independent consultant or under a company name or partnership. It is assumed that this is in order to capture sole traders or incorporated individuals, however this may also capture individuals who go on to contract for larger mainstream corporate partnerships or consultancies on which Government may rely.	3.2 reworded to clarify
26	GOA	Under 3.3 some of the criteria seem to be more suited to decisions on the extension of retirement age/employment? Eg 3.3b and c they seem to provide for a person choosing to retire only to be subsequently re-employed almost immediately? Would these scenarios not be resolved by delaying retirement or extending the retirement age?	<u>This is outside of the remit of this Policy - See 'Retirement Policy' 6.</u>
27	GOA	Overall, the existence of the MARS and VRS schemes is bound to cause confusion for individuals here, especially given the blanket ban on re-employment in those cases. This policy could be extended to provide for those individuals who exit under such schemes, and who draw their pension via such an exit (effectively retiring) to be employed on a non pensionable and non permanent basis also - given the concerns driving the policy would be identical. We would therefore urge these schemes to be included and the policy redrafted to extend in a more comprehensive way to people exiting under these schemes.	There are numerous exit schemes under which individuals may leave IOMG employment. Individuals are bound to comply with restrictions imposed by these schemes or contained within settlement agreements. This Policy would only apply once these terms had been met.
28	DHA	<u>Ill health retirement:</u> It has been suggested the policy should give greater clarification on the treatment of ill-health pensions of re-employed employees. It may be useful to highlight that, as per the ill-health provisions in the Government Unified Scheme, if a person is on a full ill-health retirement pension and is re-employed by Government then the level of retirement benefit reduces to a lower tier. Likewise, if a re-employed person is on a partial ill-health retirement pension, the pension is suspended for the duration of the employment.	Noted - See above
29	DHA	<u>Application of the policy to those required to retire early:</u> The question also arises as to how the scheme is intended to apply to those who are required to retire early (in the case of redundancy or after 30 years service in the case of IoM Fire and Rescue Service officers). Such a person has not retired voluntarily and would likely be of benefit to the IoM Government if re-employed in the future.	Noted - See above

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30	IOM Post	The draft proposals seek to create a link between employment and eligibility to "Company" pensionable benefits. IOMPO does not believe that there is legal link between employment being required to cease and the eligibility of an employee to receive pension benefits. IOMPO believes legal clarification should be sought to ensure that the grounds for termination of employment (through the receipt of their "Company" pension benefits) is capable of being implemented within the current framework of employment law, specifically whether such action could lead to claims for unfair dismissal. IOMPO would also have concerns over whether any decision to force someone to leave their job purely as a result of drawing pension entitlements would be held to be discriminatory.	Noted - Additional exclusion under Section 2
31	IOM Post	There is a clear distinction to be made between an employee's statutory entitlement to draw pension benefits and ceasing employment. The IOMPO pension scheme allows defined groups of employees (and are cover by transitional arrangements contained within the 2010 scheme benefit changes) to draw their IOMPO pension benefits at the previous retirement age (normally 60) or to continue to accrue pensionable service up to the new retirement age (65). The proposal policy is not compatible with these arrangements (and other provisions with the IOMPO pension scheme), and therefore could not be implemented in the IOMPO without a further renegotiation with staff.	See above
32	IOM Post	IOMPO believes that any attempt to impose this policy on its staff (irrespective of the other difficulties outlined in this response) would be strongly resisted by staff and their representative bodies. This would be viewed as going back on the agreement reached in 2010 which significantly changed the benefit structure of the IOMPO pension scheme.	See above
33	IOM Post	There is real reduction in employment costs through retaining employees who have elected to drawn pension benefits. The employer saves on pension contribution costs, currently 12.3% of salary which is offset by a margin increase in national insurance contributions as the employee no longer qualifies for the Contracted Out reduction.	See above
34	IOM Post	<u>Section 3:</u> In the circumstances of clear re-employment (once the above point is clarified), sections 3 & 4 of the consultation document are absolutely reasonable.	Noted
35	MEA	Our only minor suggestion is regarding paragraph 4.3: it may be worth emphasising the timescale that constitutes a statutory break in continuity of service to ensure clear understanding of this stipulation.	See Clarification at new point 4.5

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36	DED	The wording of <u>section 4.3</u> concerning “a statutory break in continuity of service and re-employment with a new contract of employment” do not necessarily reflect the reality of what may be a complex legal situation. The rules of computation of an employee’s period of employment which are contained at Schedule 5 of the Employment Act 2006 are a statutory creation and cannot be varied by agreement of the parties. Further, only a court or Tribunal could decide whether in a particular case continuity was or was not broken. There could be a danger that either one or both parties considered there was an entirely new contract of employment whereas this might not be the case.	See Clarification at new point 4.5
37	DED	You will be aware that in the UK a decision not to recruit someone because of their age potentially constitutes age discrimination. Further, since the revocation of the national default retirement age of 65 any retirement dismissal is unlawful unless it can be objectively justified. Accordingly, “a dismissal at any age will constitute a potentially age discriminatory act unless it can be objectively justified by showing that the decision was a proportionate means of achieving a legitimate aim” (Tolley’s Employment Handbook). Your proposed policy would be unlikely to be compatible with the Equality Act 2010 and may not be compatible with the age discrimination strand of the Equality Bill, which is to be based on that Act, though policy in respect age discrimination has yet to be determined. In particular I would suggest that should the IOM follow the UK stance it is likely that your policy would constitute unlawful indirect age discrimination unless an exception were to be made to the protection against age discrimination.	If the Equality Act is brought in to the IOM, Corporate Policies will need to be reviewed in order to ensure that they are compliant with the new legislation.