

## Extending working life

Inside this issue of Acas' *Employment Relations Matters*

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*Employment Relations Matters* will appear every quarter and will be distributed free of charge by email. Copies can also be downloaded from [www.acas.org.uk](http://www.acas.org.uk).

*Employment Relations Matters* is intended to be accessible. Further reading will be suggested where appropriate, but there will be no notes or references.

Features will mostly be written by members of Acas' Strategy Unit or other Acas colleagues. From time to time, however, they may be specially commissioned externally.

We welcome your comments and opinions. These should be sent to the editor, Professor Keith Sisson, Head of the Acas Strategy Unit, at [strategy@acas.org.uk](mailto:strategy@acas.org.uk)

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The workforce is ageing. It is estimated that, by 2011, more than half the population will be 45-plus. The enactment of the new age discrimination regulations scheduled for October 2006 is a timely event: not only do they represent a big step forward in combating prejudice against older and younger workers, they are hopefully prompting employers to rethink their recruitment and retention practices.

Given the changing demographics, there is no doubt that the only sustainable resourcing strategy for UK organisations is one that embraces older workers and seeks to extend working life. A blanket approach that expects to simply extract a few years' additional toil from employees will not suffice, however. Encouraging lengthier participation in the workplace is a complex issue and one that requires a considerable degree of sophistication and sensitivity on the part of employers. To be effective, any strategy will need to take on board the diversity of people's circumstances and choices.

This article examines the main challenges and opportunities facing employers who wish to increase their appeal to this age group, not forgetting that younger workers also represent a valuable source of untapped talent.

## Opportunity age

Encouraging the extension of working life has become a key public policy imperative. It is not only that the workforce is ageing: the acute pensions crisis and ongoing skills shortages in some sectors have also helped to push the issue to the top of the employment agenda. This country may be experiencing record levels of employment but the high proportion of people who are economically inactive remains a key concern.

Under its *Opportunity Age* strategy, the Government aims to boost the post-50 employment rate and achieve an overall 80 per cent employment level, including one million additional older workers. This is considered vital if the country is to sustain its economic capacity in the future.

Other public policy and employment strategies come together to support this aim. A recent skills White Paper, for example, reinforces the attention that employers need to pay to re-skilling older workers and improving training support. Changes to the occupational pension rules from April 2006 will allow employees to claim their pension while still working for the same employer.

The forthcoming Age Regulations provide for a default retirement age of 65 and the right for an employee to request

to work beyond this age. The Government is also consulting about extending flexible working rights to those with eldercare responsibilities. It is planning an extensive reform of Incapacity Benefit and changing the focus from what people can't do due to ill health to what they can do, in line with their work-related capabilities.

These are welcome developments and will hopefully remove some of the regulatory barriers that force an early exit from the labour market. The Government is proud that it has already reversed the downward trend in older people's employment to some extent, and it claims that the employment rate of men aged between 50 and State Pension Age (SPA) is now higher than at any other time since the 1980s.

But the Government also concedes that the proportion of older people in work still falls considerably short of what is needed. Only 53% of women continue in employment by age 59 and just 42% of men by age 64. There are also significant gender differences, with far less women than men over 60 remaining in work.

### Why work longer?

These wider, regulatory changes are an important step in developing a framework that legitimises extended working, but there are significant cultural and social barriers that also need to be addressed. For example, early retirement is viewed as a sign of success in this country and many people may simply not welcome the prospect of extra years on the job.

While developing a higher aspiration to work beyond SPA will depend to some extent on a sea change in societal

attitudes to issues such as retirement, the policies and practices of employers also have a big role to play. Even those organisations that are wholly convinced of the business advantages of employing older workers need to seriously consider how they can appeal to the more mature age group and incentivise people to prolong their careers. In offering inducements to some people, however, employers need to be very careful that they do not de-motivate other groups of employees – equal treatment should be extended to the whole workforce.

There are many different approaches – some straightforward and some requiring more careful planning – that employers can adopt to retain staff. Convincing employees of the potential benefits to them is a first step: additional years in employment can improve their financial position once retired by saving more and increasing their pension contributions, for example.

### Planning ahead

How and when people decide to exit the workforce can depend on a range of complex circumstances, such as health, employment situation and income level. For those who are more financially secure and enjoy the prospect of decent pension arrangements, retirement can be a positive prospect, while for others ill health or care commitments force an early exit that is unwelcome financially. Another section of the workforce – and the proportion of people in the category is likely to increase – has no choice but to continue working due to woefully inadequate pension provision.

Providing sound and timely financial advice to employees and encouraging people to plan for their retirement while they are still in a position to influence their post-retirement income is an obvious step that employers should be taking. This practice may not directly foster extended working but it is how a responsible employer should behave, and it can open a dialogue with all employees about their future plans and options.

### Flexible retirement

The forthcoming age legislation means that if an employer wants to retire an individual before the default retirement age of 65 they will have to objectively justify it. But some employers have already gone beyond this statutory provision by removing a mandatory retirement age altogether and replacing it with phased or flexible retirement policies.

The Government is also keen to avoid the 'cliff edge' of retirement, sudden departure from the workforce being viewed as a potentially damaging event for some people. The forthcoming changes to occupational pension rules are an important step in enabling someone to carry on working for their employer while drawing a pension. Employers will still need to devise policies that take full advantage of the new regulatory framework and actively promote the more flexible retirement opportunities it opens up for employees.

Flexible retirement arrangements provide employees with the option of remaining in retirement until a date that suits them. Gradual or phased retirement enables them to work part-time and reduce their hours to a manageable

level. This approach allows people to adjust to leaving work while enabling the organisation to retain their skills and knowledge for slightly longer, at the same time planning for their transference or replacement.

### Balancing work and home life

There has been pressure for some time to widen the concept of work-life balance and flexible working beyond the current catchment group. The Government is still consulting on proposals to extend the same flexible working rights afforded to employees with young children to those with eldercare responsibilities, an obligation that increasingly affects people as they get older. The ageing population is also set to prompt a big increase in the numbers of elderly dependents.

Figures just released by the latest *Workplace Employment Relations Survey* show a marked increase in the number of people taking advantage of flexible working practices. There is a strong indication that, where employers have introduced such policies, there has been a beneficial impact on productivity – the main reason for the Government’s intention to replicate the current provision across the workforce.

There is no reason for employers to wait for a change in the law to introduce or extend flexible working practices for other employee groups, including that section of the workforce that is statistically more likely to have parents and other elderly relations to care for.

Employers can be creative in the range of working arrangements they offer, including part-time work,

jobshare, career breaks, compressed hours and working from home. Ideally, support for staff to reconcile working and eldercare commitments should form one part of an overall strategy for caregivers.

### An interesting prospect

Ultimately, employers will be in a better position to attract and retain older workers if they make the workplace a more attractive place for them to work. The above measures, together with the eradication of age discrimination in employment, go some way to addressing this.

But what about the work itself? It has long been recognised that “money is not the only motivator” and that there is the potential for people to derive the greatest satisfaction from the intrinsic quality of the job.

It therefore follows that employees will be more likely to consider an extension to their employment if they are motivated by the work they are performing. Although it is a misconception that more mature workers are necessarily less able, an organisation still needs to be prepared to adapt workstations and practices to suit changing lifestyles. People’s health and circumstances will vary according to any age group, but employers could benefit from considering a redesign of job or role if, for example, an employee is not ready to retire but would like a less challenging position.

Any policies that are developed in this respect should be age-neutral rather than age-specific, and a sensitive dialogue needs to be encouraged with staff.

### Should I stay or should I go?

People’s aspirations for retirement differ drastically. Various research studies show that not everyone is keen to retire. Some may even dread the day that they no longer have a job to go to, while others look forward to their departure from paid employment and are unlikely to be convinced otherwise. What is also evident is that significant numbers of people could be encouraged to remain on the payroll – *if* their work environment is conducive to it, and *if* they can influence how their role and working arrangements are managed.

Ultimately, it has to be the employee’s choice whether they stay or go. But it should be an informed choice and one that is made in the full knowledge that their employer was willing to be as accommodating as possible, within the confines of the business, to facilitate their extended working.

#### Further Reading

Acas. 2005. *Employing Older Workers* at [www.acas.org.uk](http://www.acas.org.uk)

Department of Trade and Industry. 2005. *Equality and Diversity: coming of age* at [www.dti.gov.uk/er/age.htm](http://www.dti.gov.uk/er/age.htm)

Department of Work and Pensions. 2005. *Opportunity Age: meeting the challenges of an ageing workforce in the twenty first century* at [www.dwp.gov.uk/opportunity-age](http://www.dwp.gov.uk/opportunity-age)

## EU procurement directives and the role of the public sector in standard setting

Ensuring the maintenance and enhancement of employment standards is an issue of increasingly concern to policy makers. It is not just a question of natural justice for employees, important though that is. Many key policy objectives – from closing the pay gap between men and women to achieving the knowledge economy objectives set down at the Lisbon 2000 summit – depend on persuading British management to shift from the ‘low road’ to the ‘high road’ in people management as well as in goods and services.

Legislation might seem the obvious route. Yet this is not without limitations. Apart from antagonising employers, it is difficult to provide for more than minimum standards. It is especially difficult to promote the continuous improvement in standards that is increasingly required.

### Supply chain significance

Experience suggests that one of the most effective ways in which standards can be maintained and enhanced is via the supply chains of large organisations. Such organisations are in a particularly strong position, both to set an example and influence other employers. Multinational companies especially have the networks and resources to learn from and implement ‘best practice’ from around the world. Most importantly, such companies have a very special relationship with SMEs in their supply chains. It is not just that many SMEs depend on supplying, sub-contracting and outsourcing from large companies, but also that the latter depend on the quality of services and supplies from the former. Furthermore, the

relationship is often embedded in the local community, which reinforces the logic of mutual support. Making more of supply chains could considerably speed up the diffusion of new working practices as well as helping organisations to improve their suppliers’, and therefore their own, performance in the process.

The potential of the leadership role of multinational companies is clearly demonstrated in a European Round Table of Industrialists’ report on the ways in which practical partnerships between large and small companies can help to stimulate job creation. The 43 case studies illustrate the benefits of such partnerships in five areas: ‘buying and selling’, ‘positive restructuring’, ‘SME support’, ‘training and education’, and ‘local focus’.

### A leadership role for public sector organisations?

Public sector organisations are in a particularly strong position to exercise a leadership role. According to the Office of Government Commerce (OGC), the public procurement market represents around 16% of the EU economy measured as gross domestic product, or €1,500 billion per annum. In the UK, according to the Equal Opportunities Commission, the Government spends some £13 billion on civil procurement and another £10 billion on defence. In England alone, local authorities spend £42.2 billion on private contractors.

Historically, public sector organisations were not only expected to set a ‘good’ example themselves, but also to use procurement to influence other employers. The long-standing ‘Fair wages’

resolution dating back to 1891 and requiring government contractors to pay wages at least the level of the relevant industry-level agreement was the most visible expression of this. It was only in the 1980s that the mood changed – ‘compulsory competitive tendering’ became the order of the day and the Fair wages resolution was repealed in 1983.

The role of public services in spreading ‘good practice’ could be back on the agenda. Two new European Directives, which come into force in the UK in January 2006, deal with the opportunities to introduce social, employment and environmental initiatives into public sector contracts. They are the Public Sector and Utilities Directives.

### The Directives’ social and environmental criteria

Technically, as the OGC reminds us, these directives are primarily concerned with clarifying matters rather than introducing new provisions. To paraphrase the OGC’s assessment, their impact is limited because:

- many of the provisions are already in place under existing Directives;
- many of the provisions are permissive – contractors may or may not choose to make use of them; and
- many of the provisions reflect best practice in the UK and are already in use.

The Directives’ clarification is nonetheless fundamentally important. The circumstances in which contracting authorities can take social and environmental criteria into account in applying the ‘most economically advantageous’ award requirement was one

of the major sticking points in the run up to the Directives being agreed. Indeed, it was principally to break the deadlock over this issue that it was necessary for the European Parliament, the Council and the Commission to invoke the EU's so-called 'conciliation procedure' to settle their differences.

Crucially, Article 26 of the Public Sector Directive states:

Contracting authorities may lay down special conditions relating to the performance of a contract...The conditions governing the performance of a contract may, in particular, concern social and environmental considerations.

Article 48 also provides for the examination and assessment of the 'educational and professional qualifications of the service provider or contractor and/or those of the undertaking's managerial staff and, in particular, those of the person or persons responsible for providing the services or managing the work.'

Recital 28 says that Member States may reserve participation in award procedures to sheltered workshops and Recital 33 spells out some of the wider considerations that the Directive is concerned with:

Contract performance conditions may, in particular, be intended to favour on-site vocational training, the employment of people experiencing particular difficulty in achieving integration, the fight against unemployment or the protection of the environment. For instance, mention may be made...of the requirements...to recruit long-term job-seekers or to

implement training measures for the unemployed or young persons, to comply in substance with the provisions of the basic International Labour Organisation (ILO) Conventions...and to recruit more handicapped persons than are required under national legislation.

Companies which have not complied with EU legislation in economic, social or environmental fields can also be excluded from tendering processes.

The important qualifications mainly relate to procedure. Any social or environmental criteria must be expressly mentioned in the contract documents or the tender notice. They must also be connected with the subject-matter of the contract and must not give the contracting authority an unrestricted freedom of choice. Crucially, they must comply with all the fundamental principles of Community law, in particular the principle of non-discrimination

against bidders from other Member States.

The Government's regulations for implementing the Directives are out for consultation. There will be further guidance from the OGC, but it looks if as the key decisions about the nature and extent to which social policies are taken into account will be up to those running public sector organisations.

### A forward look

During the negotiation of the EU Directives, trade unions and non-governmental organisations at European level campaigned to strengthen the scope for considering social, employment, disability, ethical and environmental issues throughout the public contracting procedure. All the signs are that the TUC and member unions will continue to campaign for a positive transposition of the Directives into UK law. They will be making a submission to that effect to the consultation currently taking place on the regulations that implement the Directives. They will be also raising this issue in meetings with the Treasury and DTI Ministers, and on the Manufacturing Forum.

In terms of subject matter, the demise of industry-level agreements and the introduction of the National Minimum Wage may mean that wages are not the concern that they have been in the past. More likely is the kind of 'fair employment clause' that the Greater London Authority (GLA) has been including in contracts awarded to the private sector since March 2003. The clause states that employees of contractors must be employed on terms and conditions no less favourable than those GLA employees would be employed on. This

The Office of Government Commerce has produced a suite of documents explaining the changes being introduced by the new public procurement directives comprising:

- a Powerpoint slide set and accompanying tutor notes and case studies – this is intended for presentation to experienced procurement practitioners familiar with existing EC procurement directives;
- a guide to the changes introduced by the new legislation; and
- Frequently Asked Questions concerning application of new elements of the legislation.

covers salaries, benefits, entitlements, hours of work, holiday rights and pension rights.

It might also be expected that there would be particular focus on equality and diversity – in part because of existing legislation and in part because of the recognition that women and ethnic minority groups are likely to be the largest sources of new labour for the foreseeable future.

Complicating matters here is the patchwork of existing equality duties across Britain. Public authorities have a statutory duty under the Race Relations Act 2001 to promote racial equality. Currently, there is no similar GB-wide requirement on them to promote gender equality, although it is likely that the Equality Bill and the new Disability Act will introduce equivalent duties by December 2006. The legislation setting

up the Welsh Assembly and the GLA (but not that of the Scottish Parliament) encompasses a general equality duty.

Training and skills could be further issues that figure, given Article 48 and the reference to 'educational and professional qualifications'. Raising the skills level of the workforce are key targets for many Government agencies.

It remains to be seen how far things go. Conceivably, public authorities could come under pressure to influence employment standards indirectly as well as directly. On the face of it, there is considerable scope for public sector organisations to raise the levels of service quality required as a means of encouraging their suppliers to up-skill – in much the same way as the Japanese automotive manufacturers have done to raise the game of many UK components suppliers. Taking another leaf out of their book,

there is also the opportunity to enable suppliers to reach the higher standards required by making information and advice available that would help them achieve the transition.

Further reading

Commission for Racial Equality, 2002. *Race equality and procurement in local government: a guide for authorities and contractors*

European Round Table of Industrialists, 1997. *A Stimulus to job Creation: Practical partnerships between large and small companies*. Brussels: ERT.

K. Escott and D. Whitfield, 2002. *Promoting gender equality in the public sector* at [www.eoc.org.uk/cseng/research/promoting\\_gender\\_equality.pdf](http://www.eoc.org.uk/cseng/research/promoting_gender_equality.pdf)

TUC RDA Network Briefing, July 2005, at [www.tuc.org.uk/economy/tuc-fo.cfm](http://www.tuc.org.uk/economy/tuc-fo.cfm)

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## Acas spreads its international wings

While the main focus for Acas' range of employment relations services is across England, Scotland and Wales, there is also a distinct international stream to its activities. By extending its expertise in employment relations overseas, Acas not only assists other countries with employment-related initiatives but expands its own experience and international profile. As well as imparting specialist knowledge and skills where it is needed, working with different countries and employment relations structures provides Acas staff with a valuable opportunity to bring a greater breadth to their own development.

Acas has been involved in a number of major international projects, as far flung as South Africa, Hong Kong, the Caribbean and China. The majority of these initiatives are slightly closer to home, however, and involve Acas assisting the new East European accession states to develop more robust employment relations systems. For example, Acas has set up mediation services, including training, in Hungary, Latvia, Slovakia and Slovenia and has also undertaken two study visits in Russia. In Poland, Acas was part of the EU "New Steel Industry Challenges" project under the Leonardo da Vinci programme and has also run a successful mediation skills training for the UN's International Criminal Tribunal for the former Yugoslavia (ICTY).

Acas' International Unit has also successfully bid for, and won, two further key Twinning contracts in the former Eastern Bloc. The first, in Romania, will assist the Romanian Economic and Social Council to strengthen social dialogue, while the second initiative will help

Bulgaria's Ministry of Labour and Social Policy and the Bulgarian Economic and Social Council to ensure full engagement of the social partners in the creation of a national labour market and social policy.

### The accession states

The range of initiatives that Acas has been a part of in Eastern European countries is a direct result of the EU's Twinning programme for the accession states. The programme makes available a funding stream to help these newly capitalist countries to develop the appropriate institutions and frameworks to make them capable of applying EU legislation to the same standard as the original 15 member states.

One of the EU's demands in this respect regards the quality of the social dialogue in place between the accession country's government, employers' organisations and trade unions – the so-called social partners. The social dialogue that happens within an individual state feeds into the very important role that the social partners play at a European level. The Amsterdam Treaty places heavy responsibility on the EU-level organisation of trade unions and employers who have the remit to decide on some European social policy matters as well as the opportunity to co-shape the "social dimension" of the Union.

### Building social partnership in Slovakia

Slovakia was one of 10 new accession countries to join the EU on 1 May 2004. Acas recently co-partnered a major two-year twinning project with the Dutch Ministry of Labour to develop a robust bipartite employment relations

framework in Slovakia. The project started in November 2001 and had four broad objectives:

- reinforcement of social dialogue at national, sector and company level;
- implementation of relevant European Directives on Works Councils into Slovak legislation; and
- improvement of capacity and positions of the social partners; and
- train the trainers.

The project involved the full-time presence two pre-accession advisers (PAAs): an Acas official as the UK's representative for the project and the Dutch equivalent from its Ministry of Labour. Two Slovak personnel were later recruited to make up a team of four based in an office in the Slovak capital Bratislava.

### Employment relations in Slovakia

The Dutch and UK PAAs worked closely with the Slovak social partners to carry through the aims of the project, at a time when the country was experiencing considerable change.

The fall of communism in Czechoslovakia and the subsequent formation of Slovakia in 1993 as an independent state had immense implications for the future of employment relations in the new republic. While under communism the trade unions had enjoyed 100% trade union membership, they had also served as an organ of the communist state. In its post-communist transformation, the country needed to move from a situation where all production was state-owned to one where

a newly-created entrepreneur class controlled industry. This required the creation of employers' organisations and a very different role for the unions.

Unsurprisingly, the passage to modern working relations and social dialogue in Slovakia had not been smooth and employment relations could best be described as adversarial. Globalisation and integration into Europe has brought about far-reaching change in the country that has had a big impact on employment generally. For example, there is a significant reduction in available work and there is no longer a big social security net to support people. Traditional industries have been joined by an influx of new foreign business and the growth of service industries that have also changed the employment landscape.

While collective bargaining had already been introduced by the time the EU twinning project started, there was a strong reliance on sectoral agreements as its main tier and coverage was patchier at company-level. There are between 50 and 60 different trade unions in Slovakia and around the same number of employer or sector-specific organisations.

### Managing the project

A steering group comprising senior representatives of the project leaders and social partners (MOSLAF, MSAE, ACAS, KOZ and AZZZ) was established to oversee strategic issues and monitor implementation of the

project. Senior representatives from the trade unions and employer organisations in two pilot sectors – chemicals and construction – were also invited to join this high-level steering group. A further "contact group" comprising around 150 key contacts in the employment field was also set up to involve the social partners on a day to day level.

Following initial research, key actions were identified, such as the need to build greater support for the principles and benefits of social dialogue, and to develop communication mechanisms to engage representatives at all levels within the social dialogue process. Platforms at which the social partners could meet away from the collective bargaining environment should be arranged, and training on both substantive issues and in the processes of effective negotiation needed to be set up for all those involved in social dialogue. The reasons and remedies for low membership also needed to be addressed.

### Key activities

Three high-profile conferences were organised under the project – an inaugural conference to present initial research on the state of social dialogue in the country, one focused on bipartite social dialogue at sectoral and company level, and a final conference at the end of the project that presented the main findings of the project and to highlight the challenges and opportunities facing Slovakia post-accession.

A number of training events were delivered in line with the one of the project's overarching aims, including a final "train the trainer" series. This was designed to reach a wider audience and create a core team of Slovak trainers who would be able to deliver social dialogue training in the future, after the project was concluded.

To raise the importance of communication in social dialogue – that the project team had quickly identified had been lacking in some areas of employment relations in Slovakia – a communication plan was drawn up and a specialist sub-group set up to see it through. Networks were created between the Slovak government, the employers' organisations and trade unions.

### The legacy

The two-year project in Slovakia resulted in a number of positive outcomes. A considerable amount of work to improve social dialogue and build better employment relations was carried out with the social partners, and a legacy was left behind to carry on this work. There were other tangible outputs, such as a handbook – "*The oil in the machine*" – to help managers, employees and their representatives improve social dialogue in the workplaces.

Acas, for its part, brought back a wealth of experience derived from managing such a large-scale project in a country grappling with how to build the appropriate employment relations structures to cope with accession to the EU.