



Intergenerational Futures All Party Parliamentary Group



**Government response to the IGF inquiry report:
*Achieving intergenerational fairness in employment policies and practice.***

**3.30-4.30pm Wednesday 17 March
Committee Room 2, House of Lords**

Minutes

Introduction

Baroness Greengross welcomed members to the meeting and introduced the Equalities Minister, Michael Foster. She thanked the Minister for fulfilling his promise to return to speak to members of the Group about the Government's response to the IGF inquiry report, launched last December. The report made nine recommendations, which we urged the Government – and Opposition Parties – to consider carefully because we believed there was a strong ethical and business case to support them. We concluded that, if accepted, they could pave the way for much more intergenerational fairness and a better work-life balance for people of all ages.

We recommended: increased provision of apprenticeships for people aged over 25 and improved financial support for adult education and training for people of all ages; an extension of the legal right to request flexible working to all employees; that the Government, employer and employee organisations should campaign to raise awareness of the right to request and of the substantial business benefits of flexible working; that the Government, as a major employer, should provide a good example by offering flexible working throughout the public sector at the earliest opportunity, advertising all new appointments as available on flexible working terms unless there is a strong reason for not doing so. We strongly supported the view that we should increasingly move from our current system of maternity and paternity leave to a more gender neutral system of parental leave because of the social and economic benefits it would deliver. We recommended that the next Government should implement the EHRC proposals on parental leave. We recommended that the default retirement age should be abolished; that employers should be required to make "reasonable adjustments" to enable an older worker to remain in his job; that where it continues to apply, the equivalent or lower qualifications rule, as an anachronistic and indirectly discriminatory policy, should be abolished; and that employers and other training providers should offer more flexible training models to meet the needs of trainees of all ages.

Michael Foster DL MP, Parliamentary Under Secretary of State, Government Equalities Office

Michael Foster said he was very pleased to return to speak to the Group about the Government's response to its recommendations. The Government Equalities Office (GEO) is grateful to Baroness Greengross and the Group for raising awareness of these issues. Intergenerational policy often focuses on older people but, particularly in the present climate, young people feel badly affected. In this recession, older people have been holding their jobs better than young people and young people are finding it difficult to get into the jobs market.

Equality and fairness at work is integral to individuals and to society, which works better if we can achieve these objectives, but it is also important to the economy. Only by ensuring that the potential of all individuals is used to the full will we achieve what we are capable of as a nation.

Chairman: Baroness Greengross OBE
Vice-Chairmen: John Leech MP
Treasurer: Tim Boswell MP
Secretary: Baroness Howe of Idlicote

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The age profile of our nation demonstrates that longevity is an opportunity as well as the great challenge of our times. It comes with a cost and employment for a longer period is a necessity for some and an opportunity for all. Longevity is increasing at a remarkable rate and cannot be ignored, if we do try to ignore it, it will be at our peril.

It is against this background, that the GEO has considered your recommendations. Michael Foster emphasised that he spoke as an Equalities Minister, although he does liaise closely with BIS Ministers and officials.

The Group recommended increased provision of apprenticeships for people aged over 25 and improved financial support for adult education and training for people of all ages. That must be right because apprenticeships and training are important for everyone. The Government abolished the upper age limit for apprenticeships in 2006 and it is now looking to see what the impact of that decision has been. Some 56,000 people aged over 25 are now entering apprenticeships, which is a clear move in the right direction. The Government believes this is important and it wants to see more over 25 year olds having the opportunity of an apprenticeship. The Government hopes employers will recognise the benefits that experienced older workers can bring to their businesses.

The Group recommended an extension of the legal right to request flexible working to all employees. This does create a problem. The Government does believe flexible working is important for parents and carers and it wants to see it extended across the workforce. But there is a difference between needing flexible working in order to meet caring responsibilities and wanting flexible working to pursue leisure activities. At present the Government's approach has been to concentrate on the two groups – parents and carers – it thinks need flexible working most. It is encouraging employers to offer flexible working to other employees, but it does not want to go down the statutory route on this. The Government is encouraged that 92% of all employers said they would consider a request for flexible working. Michael Foster acknowledged that this did not go as far as the Group might wish and said he would look forward to hearing what members thought about this approach.

The Group recommended that the Government, employer and employee organisations should campaign to raise awareness of the right to request and of the substantial business benefits of flexible working. The Government agrees absolutely about the importance of this. The Government does think there is a good business case for flexible working and wants to raise awareness of it. It is being promoted by Carers UK and the trade unions, which the Government welcomes. BIS has also run a campaign to raise fathers' awareness of their right to request flexible working. The Government wants to see flexible working extended on a voluntary basis because it is good for the individual and for the economy.

The Government agrees absolutely that as a major employer, it should provide a good example by offering flexible working throughout the public sector at the earliest opportunity, advertising all new appointments as available on flexible working terms unless there is a strong reason for not doing so. The Government Equalities Office already offers the right to request flexible working to 100% of its employees. Across Government, other Departments are looking to improve their position. Most Departments now operate on core hours and Civil Service jobs are becoming more flexible, including offering more job share opportunities. The GEO thinks the Government is doing OK overall, but could do better in some Departments.

The Government supports more gender neutral parental provision and it believes it is right that there should be as much flexibility for parents as possible. BIS colleagues are concerned about the terminology of shared parental leave for technical reasons, but the Government has legislated so that from 1 April 2011 it will be possible, where mothers return to work in under a year, for the period of unused maternity leave to be transferred to fathers. This is a big step forward and it's an important equality issue. If employers do not know which parent will take parental leave, they are less likely to discriminate against women of child-bearing age.

The Group recommended that the default retirement age should be abolished. There are three possible options on this issue: do nothing; change the default retirement age (DRA); or abolish it completely. The Government has completed its review of the default retirement age and it is now considering the responses received to the consultation paper. Age lobbies want the Government to abolish the DRA. Others have suggested there should be a new, higher DRA set at 68-70 years. Michael Foster said his guess is that the Government will either raise the DRA or abolish it completely. His personal opinion is that if the Government abolishes the DRA it will have to look at other changes. As a former employment lawyer, he is aware that when people reach the age of around 70 they may sometimes really have reached the end of their effective working lives. If employers cannot stop employing these people because they have reached the DRA, we will have to consider how this will be dealt with. Perhaps there should be an “employment MOT” or an interview at which phased retirement or more flexible working is considered. It would need to be handled sensitively and Michael Foster expressed interest in members’ views on the stage at which we end employment. It would be preferable perhaps if appraisals were conducted throughout the working life so it was not just at a certain age that it occurred.

Michael Foster said he thought that any review of employment should be linked to a discussion about reasonable adjustments, as described in the Group’s seventh recommendation, to enable an older worker to remain in his job.

The Group recommended that where it continues to apply, the equivalent or lower qualifications rule, as an anachronistic and indirectly discriminatory policy, should be abolished. There is no “mission” to hold to this rule, but abolishing it would be a low priority. When resources are scarce, the Government does want to focus resources on those with no or minor qualifications.

The Government does believe that training should be flexible and it certainly agrees with the Group’s ninth recommendation that employers and other training providers should offer more flexible training models to meet the needs of trainees of all ages.

Michael Foster expressed the hope that the Government’s response to the inquiry report would be seen as broadly supportive and invited comments on it.

Questions and comments

Elizabeth Gardiner of Working Families asked the Minister if the Government has any evidence that by offering the right to request flexible working to all employees it will impede the provision of flexible working for parents and carers, because all the evidence accumulated by Working Families shows the opposite and extending flexible working to all employees also prevents any backlash against parents and carers. Working Families is also concerned about the position of grandparents, who at present have no right to request flexible working, although many of them are caring for their grandchildren. **Michael Foster** said it seems to BIS self evident that extending the right to request flexible working to all employees will restrict employers’ ability to operate their businesses (for example by making it difficult for them to open at unpopular hours). The Government is also concerned that it would diminish the opportunities for flexible working for the groups – parents and carers – which it believes need it most. The Government does want to encourage employers to offer flexible working and it is encouraged that 92% of employers say they would consider a request for flexible working, but it thinks that extending the right as proposed would militate against flexible working for parents and carers because employers would feel they need to treat all their employees equally.

Chris Ball of The Age & Employment Network said that as far as older people are concerned the decision about when to retire is taken in the light of possibilities at work. If work can be made more flexible it will have a big impact on the ability of older workers to carry on working. There seems to be a wide recognition across the political spectrum of the desirability of encouraging older workers to carry on working – for their own well-being and for the sake of the economy – so we need to create the conditions that will enable this to happen, including extending flexible working. Extending the right to request flexible working need not be a blunt instrument. Employers

could treat employees differently and have a code that would enable them to give priority to certain workers in the light of the number of requests they receive, the requirements of their business and the competing needs of their employees. This sort of decision is managed in a practical way now, for example in dealing with competing requests for holidays. Chris Ball said he was surprised to hear the Minister say that the DRA review was complete having just come from a meeting at which officials had told him they are still evaluating the responses. **Michael Foster** interjected to agree that all the evidence was in, to clarify that the consultation period was finished, and the responses are now being evaluated. **Chris Ball** suggested that singling out people by virtue of their age for an “employment MOT”, say at the age of 70, would be a negative step, but the discussion could be a valuable if employers were encouraged to hold regular reviews, perhaps at different life stages. Career appraisals of this sort would be very valuable and could lead to career plans for individuals, as happens in Holland. However, if we only operate the “MOT” at an older age, older workers could feel under pressure to leave the workforce.

Baroness Greengross said that American employers have had to deal with this issue since the 1960s and they have a lot of experience which we could learn from. She suggested it is ludicrous to think that an older worker will necessarily have the same job as he or she held as a young person. A significant problem in the UK is the quality of middle management. We need to be able to stop people working if they are no longer competent and this is a management issue. **Michael Foster** agreed and said all good employers should be carrying out regular appraisals. Most public sector employers and large public companies do this, but most people work in smaller companies and we need to consider their needs. He agreed that we need to deal with people in a sensitive way and emphasised that he did not want to see a series of disputes about competency reviews. He said that employment revolves around respect and trust and where this breaks down it can lead to very bitter and hurtful disputes. He would like to find a formula that prevents 70 year olds being subjected to a lot of stress. On the general right to request flexible working, he suggested that if we want to benefit a particular group of people with the most pressing needs – parents and carers – it is incontrovertible that their claims will be down graded if everyone has the right to request flexible working. He acknowledged Chris Ball’s point that this might not necessarily cause practical problems and that employers could treat employees differently, but suggested that employers would actually treat the right to request flexible working as an equal legal right for all employees. If employers tried to enshrine a prioritised right to flexible working in a code there would be pressure for the list of workers entitled to priority treatment to be expanded and it is possible that those at the bottom of the list would feel more dissatisfied than they do now. If employers were more flexible in their thinking, it might be possible to resolve this. There are lots of jobs in every industry and profession where flexibility could be introduced at no disadvantage but he expressed doubt that flexibility could work well every where.

Anna Wallace of the Chartered Institute of Personnel & Development said that as the HR profession’s professional body it does not accept that the DRA is necessary. The CIPD thinks that employers should be able to manage incompetent workers and it should be a life-long process. If people are not performing it is an important issue that needs to be dealt with because it matters in terms of productivity and the well-being of the workforce. Abolishing the DRA would send out an important message. She suggested we could probably all agree that it will go in the near future and we need a mature discussion about what will replace it and work to develop best practice in this area. Businesses need to understand that managing without a DRA is possible. **Michael Foster** said he agreed with everything that Anna had said. It would be possible to create codes, but we need to think about the management skills available in SMEs and the need for support there because they may not have the resources to manage this as well as larger companies and the public sector.

Nikki Soyz of Opportunity Links said their experience is that flexible working is not a zero sum game. There are businesses that require 24 hour working, but if a culture is developed where different working patterns are acceptable everyone benefits. She concurred with Elizabeth Gardiner’s comment on the evidence accumulated by Working Families on flexible working and said she could provide lots of examples where flexible working is operating successfully for all employees. She suggested that presentee-ism is actually very damaging for everyone. On the

DRA, she agreed with what had been said by Chris Ball and Anna Wallace and emphasised that health and safety issues arise before the age of 65 and need to be addressed. Employment policies need to adapt to reflect the fact that people can no longer retire at 65 and may soon need to work a lot longer. **Michael Foster** agreed that we certainly need to deal with the present DRA and offered the assurance that the state pension would remain even if the DRA is abolished.

Baroness Greengross thanked the Minister for speaking to members about the inquiry report recommendations and thanked members for their comments and questions. She ended by noting that many SMEs are very flexible because the employers and employees understand each other's needs very well and that it is on the medium sized companies, where personal relationships are not so strong and they do not benefit from HR departments, where we should focus more attention.

CLC, March 2010