BIS | Department for Business Innovation & Skills

PHASING OUT THE DEFAULT RETIREMENT AGE : GOVERNMENT RESPONSE TO CONSULTATION

IMPACT ASSESSMENT

JANUARY 2011

Impact Assessment

Title: Phasing out the Default Retirement Age (DRA) **Lead department or agency:** Department for Business Innovation and Skills **Other departments or agencies:** Department for Work and Pensions	**Impact Assessment (IA)** **IA No:** BIS0119 **Date:** 8/1/2011 **Stage:** Final **Source of intervention:** Domestic **Type of measure:** Other **Contact for enquiries:** Tim Harrison/Jane Carr/Simon Rowley

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The Employment Equality (Age) Regulations came into force on 1 October 2006 to prohibit discrimination in employment on the grounds of age and included the introduction of a national Default Retirement Age (DRA) of 65 (subject to a review and possible removal after 5 years) and the prohibiting of compulsory retirement below 65 unless objectively justified. A review of the DRA carried out in 2009-10 has shown a minority of employers using a compulsory retirement age and most requests by employees to stay on in work are accepted. For the majority of employers the right to request procedure is an unnecessary cost and represents a regulatory failure. Intervention is also justified on equity grounds to reduce the number of older employees forced to retire against their will. The Government's Coalition Agreement also states that "the parties agree to phase out the Default Retirement Age (DRA)". This supports the wider Government policy interventions related to demographic change and the economic and other benefits of extending working lives. People are living longer and healthier lives, and increasing numbers want to stay in the workforce beyond age 65. The Government wants to both facilitate this and correct the regulatory failure.

What are the policy objectives and the intended effects?

The Government proposes to remove the Default Retirement Age from 6 April 2011. This aims to provide greater opportunities for people to participate in the labour market at age 65 and beyond. Not only does this increase productive potential in the economy but there are issues of equity and fairness for those older employees who would otherwise be forced to retire. At the same time by removing the administrative burden of the current DRA right to request retirement procedure employers will avoid the unnecessary costs associated with this. As a minority of employers use a compulsory retirement age and as the majority of requests to remain in work are accepted this represents a regulatory failure that would be corrected by phasing out the DRA and its associated retirement procedure.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

The options considered in the Government's consultation were:

Option 1: do nothing
Option 2: phase out the default retirement age, including the removal of all associated statutory retirement procedures, including the duty on employers to give a minimum of six months' notice of retirement to employees and the right for employees to request to work beyond the DRA.

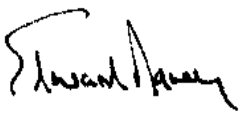
Following consultation the Government will proceed to phase out the default retirement age from April 2011.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed 2016
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

Ministerial Sign-off

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy and (b) the benefits justify the costs.

Signed by the responsible Minister:



Edward Davey
Date: 10 January 2011

Summary: Analysis and Evidence Policy Option 1

Description: To phase out the Default Retirement Age of 65 from April 2011

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 1,919	**High:** 3,886	**Best Estimate: 2,898**

COSTS (£m)	Total Transition (Constant Price)Years		Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low	Optional	1	**Optional**	Optional
High	Optional		**Optional**	Optional
Best Estimate	51.3		**9.2**	130.0

Description and scale of key monetised costs by 'main affected groups'

Identified costs are mainly transitional and are mostly incurred by the employer through a) familiarisation with the change in legislation (estimated at £18.1m) and b) the introduction of a performance and appraisal system in some of those firms that don't currently have them (estimated at £33.2m). In addition to this we estimate that both employers and the Government will incur ongoing costs of around £3m and £2m respectively as a result of an increase in ET claims for unfair dismissal. Employers will also incur costs of up to £5m per annum resulting from conducting performance appraisals for older employees.

Other key non-monetised costs by 'main affected groups'

None identified

BENEFITS (£m)	Total Transition (Constant Price)		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	N/A	236.8	**2,022**
High	0		473.3	**4,042**
Best Estimate	0		354.6	**3,029**

Description and scale of key monetised benefits by 'main affected groups'

Total benefits in year 1 are estimated at £229m, of which individuals benefit by £105m through increased earnings. Employers will benefit directly by around £5.5 as a result of admin burden savings as well as in policy cost savings resulting from the removal of the right to request procedure. There will also be wider benefits to business of around £39m due to an increase in operating surplus resulting from the increase in labour supply. The Exchequer is estimated to benefit by £79m (mainly from increased tax receipts). By year 10 total benefits are estimated to rise to around £381m.

Other key non-monetised benefits by 'main affected groups'

Increased savings by older employees and later draw down of their retirement savings.
Health and social benefits older employees can gain from working later in life.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

Benefits derived from assumed growth in labour supply, itself based on population projections, estimated increase in employee rate for older workers and estimated range of proportions of older workers who choose to stay in work. This has been modelled using three broad scenarios and further sensitivity analysis to allow for variations in outcomes. Main cost-benefit estimates presented in this IA are based on central scenario, though estimates from baseline and high growth scenarios also available in annex 2. The benefit range figures given above reflect the estimates from these 3 modelling scenarios.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):	In scope
New AB: 0	**AB savings:** 3.8	**Net:** - 3.8	**Policy cost savings:** 1.9	Yes

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			UK		
From what date will the policy be implemented?			6/04/2011		
Which organisation(s) will enforce the policy?			Tribunals Service		
What is the annual change in enforcement cost (£m)?			0		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)			**Traded:** N/A	**Non-traded:** N/A	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:** 0%	**Benefits:**	
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on…?	**Impact**	**Page ref within IA**
Statutory equality duties[1]	No	39-41
Economic impacts		
Competition	No	37-38
Small firms	No	39
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	N/A	N/A
Wider environmental issues	N/A	N/A
Social impacts		
Health and well-being	No	N/A
Human rights	No	N/A
Justice system	No	N/A
Rural proofing	No	N/A
Sustainable development	No	N/A

[1] Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base

	Legislation or publication
	BIS Consultation Phasing Out the Default Retirement Age – July 2010 http://www.bis.gov.uk/assets/biscore/employment-matters/docs/p/10-1047-default-retirement-age-consultation.pdf
	Review of the Default Retirement Age: Summary of Research Evidence, BIS URN 10/1080; www.bis.gov.uk/assets/biscore/employment-matters/docs/r/10-1080-retirement-age-summary-research
	Metcalf H and Meadows P (2010) Second Survey of Employers Policies, Practices and Preferences Relating to Age, BIS URN 1008, DWP Research Report No 682; www.bis.gov.uk/assets/biscore/employment-matters/docs/s/10-1008-second-survey-employers-age
	Barratt C (2010) The Fair Treatment at Work Age Report: Findings from the 2008 Survey, BIS URN 10/813; www.bis.gov.uk/assets/biscore/employment-matters/docs/10-813-fair-treatment-work-age
	Thomas A and Pascall-Calitz, J (2010) Default Retirement Age - Employers Qualitative Research , DWP Research Report No 672, London: Department for Work and Pensions; http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep672.pdf
	Wood, A; Robertson, M and Wintergill, D (2010) A comparative review of International approaches to Mandatory retirement DWP Research Report No.674, London: Department for Work and Pensions; http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep674.pdf
	Sykes W; Coleman N and Groom C (2010) Review of the Default Retirement Age: Summary and Evaluation of the External Evidence. Independent Social Research, 2010, BIS URN 1018, DWP Research Report No 675, London: Department for Work and Pensions; http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep675.pdf
	Morrell, G and Tennant R (2010) Employer Practices and Retirement Decision Making, DWP Research Report No.673, London: Department for Work and Pensions; http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep673.pdf
	Employment Equality (Age) Regulations 2006 - Retirement Ages IA; www.bis.gov.uk/files/file38874.pdf

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant 2010 prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs	51.3	0	0	0	0	0	0	0	0	0
Annual recurring cost	9.1	9.1	9.0	8.8	8.9	9.1	9.3	9.3	9.5	9.9
Total annual costs	60.4	9.1	9.0	8.8	8.9	9.1	9.3	9.3	9.5	9.9
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	229.2	334.1	376.2	378.6	367.4	366.5	371.5	370.2	372.0	380.7
Total annual benefits	229.2	334.1	376.2	378.6	367.4	366.5	371.5	370.2	372.0	380.7

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

A. Background and problem under consideration

The Employment Equality (Age) Regulations came into force on 1 October 2006 and were introduced in order to prohibit discrimination in employment on the grounds of age and, in doing so, implement the age strand of the EU employment framework Directive. The Directive prohibits discrimination in employment and occupation on the grounds of disability, sexual orientation, religion or belief and age. The Age Regulations transpose into UK law that part of the Directive concerned with age discrimination: other Regulations are in place dealing with the other protected characteristics covered by the Directive. All these Regulations, including the Age Regulations, have been subsumed into the new Equality Act 2010, the relevant parts of which came into force in October 2010.

The Age Regulations apply to all employers, vocational training providers, trade unions, professional organisations, employer organisations and trustees and managers of occupational pension schemes. They cover recruitment, terms and conditions, promotions, transfers, dismissal and training.

Introduction of a national Default Retirement Age (DRA) of 65

One of the key features of the Age Regulations was the introduction of a national Default Retirement Age (DRA) of 65 and the prohibiting of compulsory retirement below 65 unless objectively justified. The DRA is an exception from the general principle of equal treatment created by the Directive: it means that it is lawful for an employer to discriminate against an employee on the grounds of their age when it comes to retirement. The exception relating to the DRA has in effect been objectively justified by the Government, thus removing the need for individual employers to objectively justify a DRA of 65 or higher. The employer can therefore compulsorily retire an employee at the age of 65 or above without that being deemed to be unfair dismissal or age discrimination, provided they follow a set retirement procedure. The procedure means that employees have a statutory right to six months' notice of retirement and a right to request to work longer, which the employer has a duty to consider. Use of DRA is not mandatory for employers.

B. Rationale for intervention and Policy objectives

Age Review

At the time of introduction of the Age Regulations the Government was committed to a review of the DRA five years after implementation. This was subsequently brought forward, and the Department for Business, Innovation and Skills (BIS) and the Department for Work and Pensions (DWP) commenced the review in February 2010. To inform the review of the DRA, BIS and DWP commissioned large scale, representative surveys of employers and employees, qualitative studies of employers and employees and a review of evidence from relevant other countries. These aimed to capture the experience of employers and employees of operating with retirement ages, and assess how widespread the use of various retirement practices was. As part of the review, BIS and DWP also issued a call for evidence, which invited interested parties to submit evidence for consideration in the review.

Key to the review was the Second Survey of Employers' Policies, Practices and Preferences Relating to Age (hereafter referred to as SEPPP2)[2]. Taken together,

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[2] Metcalf H and Meadows P (2010) Second Survey of Employers Policies, Practices and Preferences Relating to Age, BIS URN 10/1008, DWP Research Report 682. This was a

these sources provide an insight into employers' age-based practices, in particular the use of the DRA. Reports of all the research undertaken, an overall summary and a summary of the evidence submitted by external stakeholders and individuals have been published and are available online.

In short, some of the key findings of the review were:

- 32% of establishments use retirement ages for at least some staff. Therefore the majority of employers, employing over half the workforce, operate without compulsory retirement ages.
- Fewer than half the employers surveyed felt it was important to be able to compulsorily retire employees. 39% felt it was important to a greater or lesser degree to be able to legally retire employees. 53% felt it was not very important or not at all important.
- More than a third of businesses using compulsory retirement ages said this was for historical reasons (for example 'we have always had a retirement age'). Just under a third said it was for manpower planning purposes.
- The large majority of employers said they had accepted all requests they had received to work past retirement age. A small minority did not accept any requests.
- The proportion of employers who do not have retirement ages for any staff increased from 57% in 2005, to 62% in 2010.
- Retirement ages are more commonly used in the public sector than the private sector. 46% of public sector establishments had a compulsory retirement age for at least some staff, compared to 30%in the private sector.
- There were mixed opinions about the need for retirement ages. While some employers believe they are useful in workforce management or in providing a compassionate way of asking under-performing staff to move on, others believe there are benefits from not having retirement ages. For example, reduced costs of recruitment, retention of valuable skills, and improved morale.
- While some employers were concerned about managing performance of older workers if the DRA were removed, those who do not have retirement ages often felt performance issues should be identified at an early stage and dealt with accordingly.
- Most employees do not want to work beyond 65, although around a third of individuals want to work longer. Reasons for wanting to work longer include financial reasons, and wanting to retain 'softer' benefits of working such as keeping active and because they enjoy their work.
- Independent evidence from the NIESR (How to pay for the Crisis, 2009) shows the potential benefits to the economy of extending working lives. It shows that one year extension of working life increases real GDP by around one per cent (around £13bn) about six years after its implementation. A one year extension of working life increases the level of employment by around 1.6 per cent (467 thousand), about four years after implementation.

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follow-up to the first Survey of Employers' Policies, Practices and Preferences Relating to Age conducted in 2006.

Use of a compulsory retirement age

As the key findings from the SEPPP2 research suggest only a minority - less than a third - of firms use a compulsory retirement age and in most cases this was set at age 65. Furthermore of those requests from older employees to stay in work the vast majority – over 80 per cent – were accepted. If in the majority of cases employers are happy for older employees to stay on in work, then this suggests that the costs of the right to request procedure for all these firms is inefficient and unjustified. Removal of this procedure would result in savings in administrative burden costs for these firms and enable more older employees to remain in work if they wish to. This would help boost labour supply and in turn lead to increases in GDP, tax revenue and firms' profits.

Distinguishing between macro and firm-level benefits of an increase in labour supply

It is important to distinguish here between general and specific benefits that accrue respectively to the economy and to individual firms. In macro-economic terms removal of the DRA will lead to an increase in labour supply by allowing some of those who would otherwise have been retired (mostly at 65) to remain in work. In assessing the impact of this policy we have recognised a variety of reasons for retirement, both voluntary and involuntary, and have been careful to identify only that aspect that could be due to employer discrimination.

Based on the detailed analysis we present below we estimate this will affect around 6,000 older employees in the first year, rising to 9,000 to 10,000 – a relatively small amount (around 1% of the number currently working past 65) because most employers are already choosing to retain older staff if they wish to stay on.

Once age-related mean wages are considered[3], our analysis shows their increased earnings alone exceed £100 million. As the evidence shows no loss in productivity among workers of this age we can assume a further and proportionate increase in economic output[4].

At the micro level, this may not necessarily be the case for each and every firm but those currently using the DRA procedure will still benefit from administrative burdens savings with its removal, alongside some potential transitional costs and costs related to employment tribunal cases.

Furthermore, although there is a persistent assumption that older people in work 'block' younger people from finding work, evidence suggests this is incorrect. The number of jobs in the economy is not fixed, but depends on Government and private spending (when spending increases the number of jobs increases). Evidence suggests the employment rate of older people has little effect on the employment of younger people, and if anything a higher employment rate of older people tends to slightly *increase* the employment rate of younger people. Gruber et al. (2009)[5] considered a variety of evidence from 12 countries and follows a number of analytical estimated techniques, coming to the conclusion that "the overwhelming weight of the

[3] For those aged 60+ over £26k for men and around £14k for women

[4] As wages account for around 60 per cent of total gross value added in the economy

[5] Gruber J, Milligan K, Wise D (2009) Social Security Programs and Retirement Around the World: The Relationship to Youth Employment, Introduction and Summary, National Bureau of Economic Research Working Paper No. 14647, January 2009

evidence, as well as the evidence from each of the several different methods of estimation, is contrary to the fixed job theory. We find no evidence that increasing the employment of older persons will reduce the employment opportunities of youth" (Gruber et al., 2009). The same paper found that attempts in Denmark to raise youth employment by encouraging older employees to retire had the opposite effect – youth employment fell and unemployment rose.

Employer-justified retirement ages

There may be a minority of employers who may want to set an employer justified retirement age (EJRA) for some or all staff on health or safety grounds or other objectively justified grounds. The numbers of employers who decide to have their own EJRA may depend on a number of factors:

- Concerns over health and safety, or work performance, for some workers may persuade employers to set an EJRA for some or all staff.
- Survey data shows that the ability to be able to retire individuals may be regarded as desirable to some businesses or sectors more than others, e.g. larger establishments, public administration/defence and health and social work.[2]
- The cost and uncertainty of being taken to an Employment Tribunal – justifying objective criteria for an EJRA could be difficult and have an uncertain outcome.

It is difficult to estimate how many firms are likely to set an EJRA on the basis of health and safety or concerns over performance. We have not quantified this in this impact assessment.

Therefore the main focus of the policy change is the phasing out of a Default Retirement Age and the impact this will have on those firms (and their employees) that currently operate a compulsory retirement age. This intervention is based both on equity grounds - to allow those who would otherwise have been forced to retire against their will to remain in work – and to correct a regulatory failure as the cost burden of the right to request procedure seems unnecessary in light of the evidence that compulsory retirement ages affect only a minority of employers and employees and that the vast majority of requests to stay on are accepted anyway.

Other dismissal

In the absence of a DRA employers will still be able to dismiss employees under existing legislation. Under the Employment Rights Act 1996, dismissal of an employee requires an employer to follow a fair procedure and rely on one of the reasons set out in section 98 (capability, conduct, redundancy, illegality or some other substantial reason).

Coalition agreement on phasing out DRA

In addition to this the Government's Coalition Agreement states that "the parties agree to phase out the Default Retirement Age (DRA)". The reasons for the Government's policy intervention are demographic change and the economic and other benefits of extending working lives. People are living longer and healthier lives, and increasing numbers want to stay in the workforce beyond the traditional retirement age of 65. The Government wants to facilitate this.

Wider aims of Government policy

This measure is one of the steps that the Government is taking to enable and encourage people to work for longer, alongside raising the State Pension Age (SPA) to 66 faster than currently scheduled and ensuring there is effective support for those out of work to find work. There are a wide variety of reasons for pursuing these policies, including demographic change; the financial benefits to both the individual and the wider economy; and the health and social benefits many gain from working later in life.

The Government announced on 3 November 2010 that the State Pension Age for men and women will be increased to 66 between April 2018 and April 2020, following equalisation of women's state pension age with men's in 2018 (Command Paper: *A sustainable State Pension: when the State Pension age will increase to 66* www.dwp.gov.uk/spa-66-review.

The Government proposes to remove the Default Retirement Age from 1 October 2011, following a transitional period commencing on 6 April 2011. This aims to provide greater opportunities for people to participate in the labour market at age 65 and beyond. Not only does this increase productive potential in the economy but there are issues of equity and fairness for those older employees who would otherwise be forced to retire. At the same time by removing the administrative burden of the current DRA right to request retirement procedure employers will avoid the unnecessary costs associated with this. As a minority of employers use a compulsory retirement age and as the majority of requests to remain in work are accepted this represents a regulatory failure that would be corrected by phasing out the DRA and its associated retirement procedure.

C. Description of options considered

Consultation

The earlier and comprehensive review of evidence on the operation of the DRA, taken together with political commitments made in the Coalition Agreement, allowed Ministers to reach a considered view on a single option on which to consult. The consultation undertaken was therefore on the detail of implementing the agreed option. Where new evidence emerged through the consultation process this has been taken into account in both the Government Response and this IA. For example, evidence presented has informed the decision to provide an exception for insured benefits. In addition, our assessment of the costs of implementing a performance management system was informed by the EEF's submission to the consultation process.

Within Government

BIS and the Department for Work and Pensions have worked together to develop these proposals with the involvement of HM Treasury and the Government Equalities Office.

Public consultation

The Government conducted a public consultation entitled *Phasing out the Default Retirement Age* from 29 July 2010 to 21 October. Over 600 responses to the consultation were received, of which around 50 per cent were from individuals, about 30 per cent from businesses and their representative organisations and the remainder from trade unions, Government agencies, charities, legal representatives and others.

This impact assessment accompanies the Government Response to the DRA consultation and considers the two policy options presented in that consultation:

- Option1: Do nothing – retain the Default Retirement Age of 65
- Option 2: Phase out the DRA from April 2011 with transitional arrangements for retirements that have been notified prior to April 2011 and where the date of retirement falls before 1 October 2011.

The Government's preferred option is option 2 for the reasons outlined in section B above. As stated above phasing out the DRA would also remove all associated statutory retirement procedures, including the duty on employers to give a minimum of six months' notice of retirement to employees and the right for employees to request to work beyond the DRA.

D. Costs and benefits

Economic context

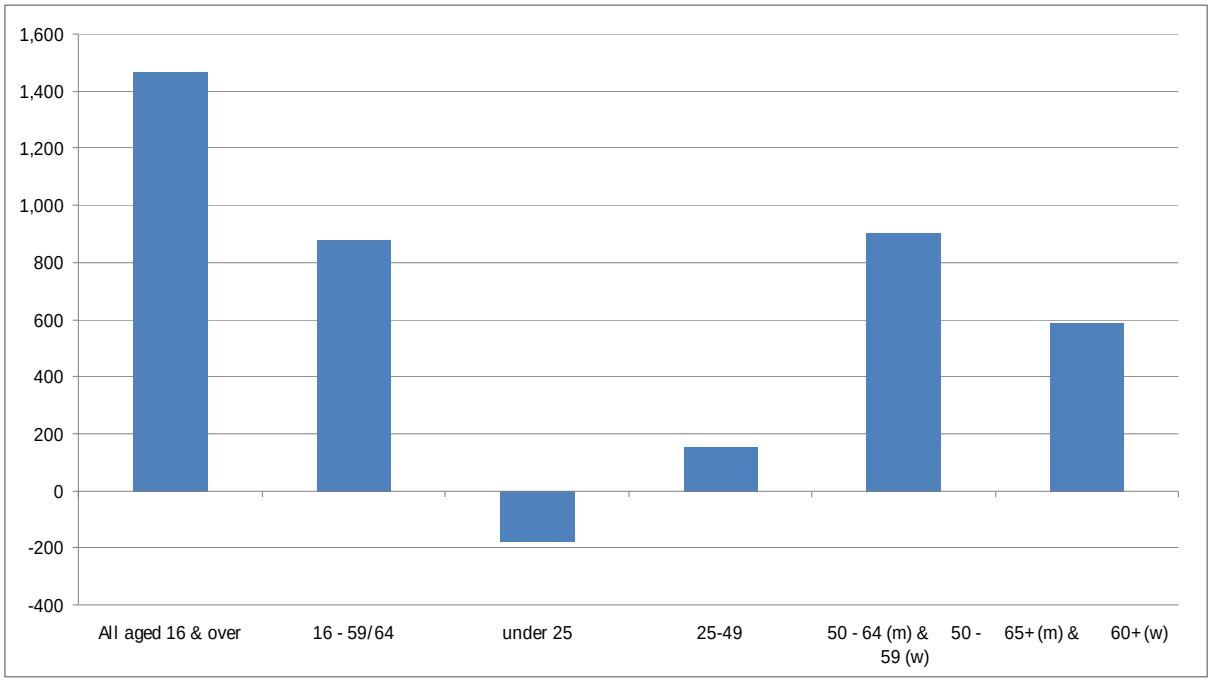
The UK labour market has enjoyed relatively high employment rates in recent decades. Working age[6] employment rates have been above 70 per cent since the early 1990s and exceeded 74 per cent between mid-1999 and early 2009. Although employment rates have fallen back since then, due to the recession, they were still at 72 per cent by Q1 2010.

In the last decade total employment rose from 27.3 million in Q1 2000 to 28.8 million by Q1 2010, an increase of just over 1.4 million persons in work[7]. As Chart 1 demonstrates around 60 per cent of this increase in total employment was among working-age adults, with practically all of this among those aged between 50 and State Pension Age.

A key source of additional labour supply though came from those of state pension age (SPA) or above, which added almost 600 thousand to total employment.

[6] Those aged over 16 but under State Pension Age. For men this is 16-64, for women 16-59.
[7] Total employment peaked at just over 29.5 million in spring 2008.

Chart 1 – Absolute change in employment by broad age group, Q1 2000 – Q1 2010



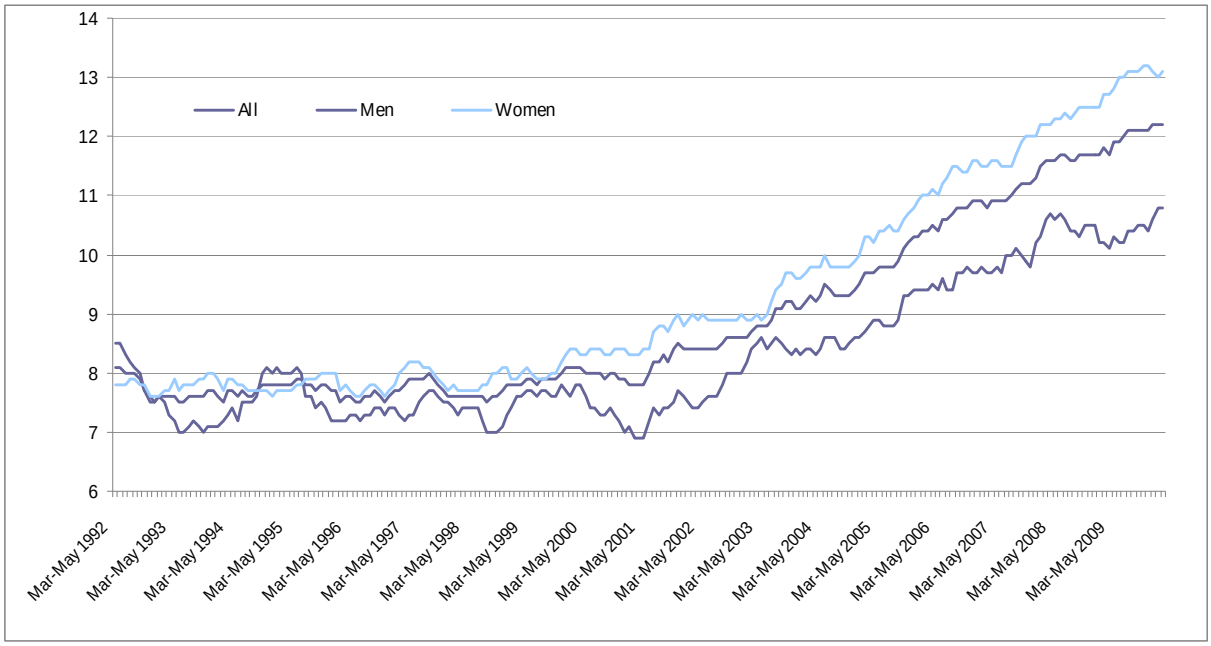
Source: BIS analysis based on Labour Force Survey

As a result employment rates among those aged SPA+ have risen by over half in the last decade, from around 8 per cent at the start of the period to over 12 per cent by Q1 2010. This compares with the 1990s when the rate was stable at around 7.5 per cent (Chart 2).

The DRA would affect employees rather than all those in employment[8], but here again employee rates[9] have risen for older male and female employees alike since 1999 (Chart 3). Employee rates for both men and women aged 59 averaged above 50 per cent in 2009, but then decline markedly with each successive age such that by their late 60s male and female employee rates are around 10 per cent or less. By the time they reach their early 70s employee rates are around 5 per cent or less. As we might expect employee rates fall fastest for women around the age of 60 – the current State Pension Age for women – and for men between 64 and 65. Although employee rates have increased for most single older ages over the decade, most of this has happened before the age of 70. Thereafter changes are marginal.

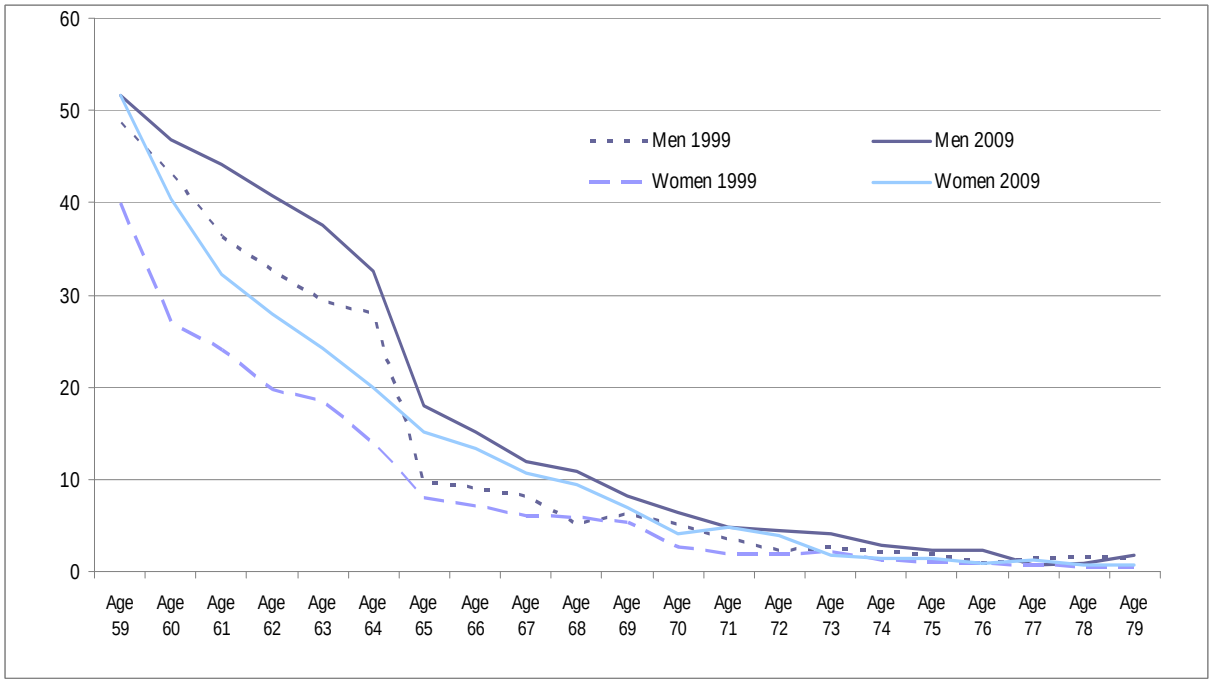
[8] Total employment is comprised mainly of employees and the self-employed. In Q1 2010 total employment was 28.8 million of which 24.8 million were employees.
[9] An employee rate is simply total employees by age divided by total population by age.

Chart 2 – Employment rates by gender among population aged SPA+, Q2 1992 – Q1 2010



Source: BIS analysis based on Labour Force Survey; NB SPA+ denotes those aged above State Pension Age (60 for women; 65 for men)

Chart 3 – Employee rates by gender, 1999 and 2009 (% by single year of age)



Source: BIS analysis based on Labour Force Survey

The Retirement decision

Many employees will not choose to make a request to stay on. Data on retirement shows that the average age of withdrawal, whilst having increased over the last decade remains below 65 at 64.5 for men and 62.4 for women. Similarly attitude surveys show that the average expected retirement age, again having risen over recent years, remains below age 65 (63 for men and 62 for women)[10].

Expected retirement age rises with age such that older employees, if they remain in work at age 60 and over, have a higher likelihood of expecting to remain post 65 and a higher likelihood of saying they want to remain in work. Attitude data[11] show that 3 per cent of employees aged 50-59 expect to retire between age 66 and 70 (with 89 per cent expecting to retire at or before age 65). This rises to 21 per cent of employees aged 60+, with 60 per cent expecting to retire at 65 or before. A very small proportion of both age groups expect to retire above the age of 70.[12]

Attitudinal data on desire to stay on may provide a better estimate of intentions to remain in work. Fifty seven per cent of those aged 60+ agree they would want to work past the age of 65. This compares with 26 per cent of those aged 50-60 and 35 per cent overall of those aged 50+.[13]

Reasons for retiring

Recent survey findings show that the reasons employees currently aged 50+ are planning to retire later are mostly financial in nature. Fifty one per cent say that they cannot afford to retire. Others mention savings and pensions not being high enough or still supporting children financially.[14]

In the same way that financial necessity is the main reason for wishing to retire later, financial reasons are the most commonly mentioned explanation for retiring at or before 65.[15]

Despite the high demand for staying on work it is unlikely that all who intend or would like to continue working will do so. Research shows that for some it may be blocked by ill-health. Studies show that this is the primary reason for leaving the labour market before State Pension Age[16, 17].

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[10] McKay S (2010) Never too old? Attitudes towards longer working lives in Park et al (Eds) British Social Attitudes 26th Report, Sage, London; Smeaton D, Vegeris S & Sahin-Dikmen M (2010) Older workers: employment preferences, barriers and solutions, Equality and Human Rights Report 43. Manchester: EHRC

[11] British Social Attitudes Survey 2008 data

[12] Caution is needed as these estimates are based on a small sample (n=115)

[13] British Social Attitudes Survey 2008 data

[14] Smeaton D, Vegeris S & Sahin-Dikmen M (2010) Older workers: employment preferences, barriers and solutions, Equality and Human Rights Report 43. Manchester: EHRC

[15] McKay S (2010) Never too old? Attitudes towards longer working lives in Park et al (Eds) British Social Attitudes 26th Report, Sage, London

[16] Meadows P (2003) Retirement ages in the UK: a review of the literature on key issues, DTI Employment Relations Research series No 18.

[17] Smeaton D, Vegeris S & Sahin-Dikmen M (2010) ibid

In addition, given the choice between having a period of good health in retirement, even with a smaller pension, or remaining in work with a higher pension but with poor health in retirement the vast majority of people would opt for the former (85 per cent) rather than the latter (13 per cent).[18]

Finally it should be noted that most people who can no longer cope with the job they are doing will self-select to leave.

Modelling approach

The cost-benefit analysis presented below builds on the methodology used in the 2006 Retirement Ages regulatory impact assessment[19]. The premise for the 2006 analysis was that participation and employment rates for older workers were far lower than for younger age groups and that some of this was due to older workers being forced to retire by their employer. Enabling them to continue in work would therefore add to effective labour supply in the economy, resulting in increased earnings for the individuals involved and increased profits for business and tax revenue for the Exchequer.

A more detailed description of the underlying methodology is given in Annex 2, but can be summarised as follows:

- Using Office for National Statistics population projections we estimate the population changes over a 10-year period 2011 to 2020 (with 2011 being the first year of implementation of the proposed phasing out of the DRA).

- We develop 3 scenarios for employee participation to estimate employment levels over this 10-year period[20], ranging from current employee participation rates (baseline case) to rates experiencing similar growth to that of the preceding decade (high growth case)[21]. An intermediate central case scenario[22] is the one used in the analysis below though overall results from the baseline and high growth scenarios are included in Annex 2.

- We then focus on those establishments that currently use a compulsory retirement age (CRA) and estimate the effect on increased labour supply if their CRA were removed[23]. Evidence from SEPPP2 showed that even in these organisations it is still the case that the vast majority of requests to remain in work were accepted. The potential labour supply effect is then derived from those requests that are rejected.

Further assumptions

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[18] McKay S (2010) Never too old? Attitudes towards longer working lives in Park et al (Eds) British Social Attitudes 26th Report, Sage, London

[19] Employment Equality (Age) Regulations 2006 - Retirement Ages IA; www.bis.gov.uk/files/file38874.pdf

[20] The model does not explicitly take into account the proposed increase in State Pension Age to 66 in 2018, mainly because this will occur towards the end of the period under analysis and will therefore have a marginal effect on the overall cost-benefit estimates.

[21] As the Default Retirement Age applies to employees we calculate an employee rather than overall employment rate. Both have risen over the past decade and have continued to do so even during the downturn.

[22] This assumes an increase in employee rates among older employees equivalent to half that experienced during the preceding decade.

[23] Specifically this relates to those employees approaching their 60th, 65th or 70th birthday. See Table 1 below.

Further specific modelling assumptions are then used to reflect:

- the proportion of employers with a CRA and the ages at which these operate
- the proportion of employees who wish to stay on and who submit a request to the employer
- the proportion of requests otherwise rejected
- the proportion of these requests that would otherwise result in dismissal

Compulsory retirement and the right to request

All employers will be affected by changes to the legislation but those who have a compulsory retirement age (CRA) will be affected most. This is currently estimated to be 32 per cent of all establishments. Most of these (25 per cent of all establishments) have a CRA of 65, 2 per cent of which have a CRA below age 65 and 2 per cent of which have a CRA over the age of 65[24]. Retirement ages below 65 are clustered at age 60 and retirement ages above 65 are clustered at 70 and 75.[25] See table 1 below.

The direct effect on workers will be to allow those who have reached the default retirement age of 65 to continue working. Overall forty five per cent of employees are currently affected by employers' compulsory retirement age.

Table 1. Establishments and employees affected by compulsory retirement age

Employers' Compulsory Retirement Age	Establishments affected (%)	Employees affected (%)
Age 65	25	34
Under age 65	2	2
Over age 65	2	7
Age unknown or not specified	2	2**
Total	32	45

Source: SEPPP2 Table 8.3. NB: *Clustered at age 70 and 75 **Assumed to be not less than 65 in view of EE(Age) Regulations that sets a Default Retirement Age at no less than 65 unless objectively justified.

For modelling purposes we simplify[26] the information from table 1 above to focus on 3 age groups of employees who would potentially be affected by removal of the DRA. Specifically this relates to those approaching their 60th, 65th and 70th birthdays and who would otherwise be contacted by employers with a CRA about their retirement plans in the year leading up to their birthday. Therefore we focus on those aged 59, 64 and 69 respectively.

[24] 3 per cent were unspecified ages or unknown.
[25] Metcalf H and Meadows P (2010) Second Survey of Employers Policies, Practices and Preferences Relating to Age, BIS URN 10/1008, DWP Research Report 682
[26] For the 2 per cent of employees affected by a DRA but where the CRA age is unknown we group these with the mode, i.e. those facing a CRA of 65.

Table 2 below illustrates the potential volumes of employees from 2009 who would be affected under this approach. Of the approximately 600 thousand employees in the relevant age cohorts, around 73,000 might be affected by a compulsory retirement age.

Table 2: Older employees potentially affected by compulsory retirement age, 2009

Compulsory Retirement Age	Employee age cohort affected	Total employees in age cohort*	Share of cohort affected by CRA (%)	Total Employees affected by CRA*
60	59	388,400	2	7,800
65	64	174,300	36	62,800
70	69	35,700	7	2,500
Total		598,400	45	73,000

Source: BIS analysis using Labour Force Survey; SEPPP2; * NB rounded to nearest hundred

Employees who wish to stay on

Although there are older employees potentially affected by a firm's compulsory retirement age, not all employees will wish to work or will be able to work beyond an employers' compulsory retirement age. On the basis of information from the retirement decision section above we assume for modelling purposes 3 levels of sensitivity for the proportion of older employees who would wish to stay on with a range of 25 per cent to 50 per cent, but assume a central estimate may be closer to 33 per cent[27].

Furthermore we assume that where older employees do wish to stay on, then all of them will submit a right to request. However, this may be an overestimate as some employees may be put off from making a request to work longer because they think they may be turned down or indeed lack of awareness of their right to request.

Employees who are allowed to stay on

Whilst a large proportion of employees reaching retirement age are working for employers with a compulsory retirement age analysis of employer data shows that most requests to stay on are being accepted where these have been received. According to the latest employer data 83 per cent of employers said they granted all requests received, 12 per cent had granted some and 3 per cent had not granted any[28]. Similarly employee survey data show that individuals reported that their requests were accepted in 85 per cent of cases[29].

These data relate to accepted requests across all establishments. Evidence from SEPPP2 shows that employers who operate with a compulsory retirement age accept fewer requests to stay on in work compared with all employers. Sixty nine per

[27] Source: British Social Attitudes Survey data 2008.
[28] Source: SEPPP2, Table 8.11. NB: Just under 2% did not know if the request had been granted.
[29] Smeaton D, Vegeris S & Sahin-Dikmen M (2010) Older workers: employment preferences, barriers and solutions, Equality and Human Rights Report 43. Manchester: EHRC.

cent of employers with a CRA accepted all requests, 23 per cent accepted some and 6 per cent accepted none[30].

Proportion of requests rejected

While this data is very useful, it is not possible to determine precisely the degree of acceptance in those cases where some requests were accepted. For the modelling we have made a simplifying assumption that the proportion of requests that are accepted ranges between 80 per cent and 90 per cent. Hence the assumption is that 10 per cent to 20 per cent of requests are ultimately rejected.

Proportion of employees who would otherwise be dismissed by other means

It will not necessarily be the case that all those older employees whose requests are currently rejected will remain in work after removal of the DRA. Data from SEPPP2[31] suggests that of those firms operating a CRA nine per cent viewed the CRA as important as it was easier than dismissal. Therefore for the model we have assumed that this proportion of previously rejected requests will instead result in dismissal by other means, such as on the grounds of performance appraisal.

The effect on labour supply

The estimated effects of all of these factors on increased labour supply – using the central case scenario – are given in table 3 below. Thus, in 2011 employment is estimated to increase by around 6,200. This is equivalent to 0.02 per cent of total employment in Q1 2010, and less than 0.1 per cent of all those aged 50+ currently in work. The economic context section above describes the scale of the increase in employment during the past decade – an overall rise of over 1.4 million, of which almost 600 thousand was among those aged SPA+. As the additional labour supply resulting from removal of the DRA is a small proportion of this we assume this will be absorbed by the UK labour market.

Some of these will then choose to remain in work into the second year (in 2012) but will be supplemented by another cohort of older workers who would otherwise have been forced to retire, together amounting to just under 9,200 extra employees in work. By 2013 this is estimated to have risen to around 10,400 and so on.

Table 3: Estimated impact of removing DRA on labour supply (central scenario)

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Men	3,700	5,500	6,200	6,300	6,100	6,000	6,100	6,100	6,100	6,200
Women	2,400	3,600	4,100	4,200	4,100	4,100	4,200	4,200	4,200	4,300
Total	6,200	9,200	10,400	10,500	10,100	10,100	10,300	10,300	10,300	10,600

Source: BIS analysis based on Labour Force Survey and ONS Population Projections; * NB: rounded to nearest hundred

The estimates for labour supply growth will be affected by underlying variations in population projections[32] as well as assumptions about how long those older workers who choose to stay on actually do remain in work.

[30] Source: SEPPP2, Table 8.11. NB: Just under 2% did not know if the request had been granted.
[31] See table 8.5 of SEPPP2.
[32] Population estimates for these age groups are projected to fall mid-way through this period before rising again later.

It is not certain how long after the retirement age employees are continuing in work, although recent qualitative work with employers shows that employees stay on average no more than a further two years, with a few exceptions.[33]

Current survey data shows that for those for which this was applicable (i.e. firms with an experience or a clear policy on what happens post retirement age) 42 per cent said employees continued on an indefinite contract, 26 per cent moved them to a fixed term contract and 7 per cent said it depends, varies or reviewed at the time. Twenty-five per cent didn't know[34].

Therefore for the purposes of estimating labour supply effects we have assumed that 50 per cent of those who choose to remain in work in the first year will still be in work in the second year, that a further quarter will still be working after two years, 15 per cent after three years and 10 per cent after 4 years.

Productivity assumptions

The evidence on the productivity of older workers shows that they are no less productive than younger workers, except in a limited range of jobs. The findings from a review of the literature[35] were:

- The evidence suggests that, except in a very limited range of jobs, work performance does not deteriorate with age, at least up to the age of 70. Since few people are employed beyond that age, there is virtually no evidence about work performance after the age of 70.
- The positive effects on performance of experience, interpersonal skills, and motivation, generally offset the adverse effects of loss of speed, strength and memory.
- Where performance does decline with age, the falling average scores for older people seem to be driven by the marked deterioration of a small number of individuals rather than by a decline across the whole cohort.
- Older workers have the same ability as younger workers to master new skills but they learn more slowly and can be helped by different training methods.
- The effect on our national productive potential of any changes in mandatory retirement arrangements is likely to be very small.

There is also further evidence that those who stay on in full-time work suffer no productivity loss as they become older[36].

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[33] Thomas A and Pascall-Calitz J (2010) Default Retirement Age: Employer qualitative study, DWP Research Report 672, Department for Work and Pensions London.
[34] BIS analysis of SEPPP2.
[35] Meadows P (2003) Retirement ages in the UK: a review of the literature, DTI, URN 03/820
[36] Barrel B, Hurst I, Kirby S (2009) How to Pay for the Crisis or Macroeconomic implications for pension reform, National Institute of Economic and Social Research Discussion Paper No. 333. www.niesr.ac.uk/pdf/EWLfin.pdf; Robinson, H (2003) Are you experienced? Recent British Evidence on Age-Earnings Profiles, *Applied Economics,* Vol 35, No.9

Cost-Benefit Analysis

Costs

Business

Costs involved in removal of the Default Retirement Age are assumed to arise from three main sources, namely:

- Familiarisation costs as firms read and absorb the legislative changes (one-off cost)
- The introduction of performance and appraisal systems in some of those organisations that do not currently have them (one-off cost), plus the ongoing costs of conducting appraisals for those employees nearing retirement
- Increased employment tribunal claims for age discrimination (ongoing cost)

These are discussed in turn below.

(i) Familiarisation costs

Employers will incur one-off familiarisation costs as they will need to read and absorb the changes, but given this is a deregulatory measure we assume that firms will be able to do so reasonably quickly. To estimate cost impact we distinguish between small and medium/larger firms and recognise the difference in personnel and their time input. Following the methodology used in previous employment relations impact assessments we estimate that *on average* it will take half an hour of a senior manager's time in a small company or an hour of a human resource manager's time in a medium or large organisation[37]. Aggregated across the 1.3m businesses with employees this amounts to £18.1m (Table 4). These are the basic familiarisation costs. Where firms are currently using the DRA and do not currently have performance management systems in place, we estimate further transitional costs below.

Table 4: Estimated employer familiarisation costs

	Time Input per firm (Hours)	Wage rate	Unit cost	Number of firms affected (000s)	Total Cost (£m)
Small Firms	0.5	£26.87	£13.44	1,260	16.9
Medium & Large Firms	1	£29.62	£29.62	38	1.1
Total					18.1

Source: BIS analysis

(ii) Introducing performance and appraisal systems

Under the option of removal of the retirement age employers will only be able to dismiss workers on fair grounds such as incompetence or misconduct. This may necessitate a review of performance management systems. Currently 85 per cent of

[37] The hourly wage rate (including 21 per cent mark-up for non-wage labour costs) is £26.87 for senior managers and £29.62 for human resource managers. Source: Annual Survey on Hours and Earnings (ASHE) 2009, ONS

employers with a compulsory retirement age have performance appraisal management for all or some staff. This compares with 76 per cent of those without a compulsory retirement age. In the absence of a DRA some of those currently using compulsory retirement may introduce a formal appraisal system.

Table 5: Establishments with a performance appraisal system

% by type of retirement policy	Performance appraisal for some or all staff	All	With 5-9 employees	With 10-49 employees	With 50-199 employees	With 200+ employees
With CRA	Yes	85	81	83	89	98
	No	15	19	17	11	2
Without CRA	Yes	76	65	79	91	97
	No	24	34	21	8	3

Source: Second Survey of Employers Policies Practices and Preferences relating to Age (SEPPP2), 2010

Using data from SEPPP2 we have updated our estimates of the number of firms who may introduce a performance appraisal system. In doing so this takes greater account of the differential effects by firm size and hence the costs involved.

Table 6 below provides an overview of these estimates. Although the proportion of firms using a CRA increases with the number of employees, so too does the likelihood of them already having a performance appraisal system (PAS) already in place[38]. As such 98% of larger organisations (200+ employees) already operate a PAS[39].

We then estimate the proportion of firms without a PAS who might now introduce one and to reflect the uncertainty involved provide our assumptions as a range. Again we assume the likelihood of introduction increases with the number of employees in the organisation. So, for example, we assume between a quarter and half of those larger firms without a PAS will introduce one. This compares with just 5 to 10 per cent of smaller establishments (less than 10 employees)[40].

Our analysis suggests that between 7,200 and 13,300 organisations are likely to introduce a PAS and that the majority of these will be smaller firms.

[38] SEPPP2 covers establishments with 5 or more employees. For smaller establishments we have made assumptions on the proportion with a CRA and operating a performance appraisal system.

[39] Data on firm size SEPPP2 is not available by the standard breakdowns where medium-sized firms are those with 50-249 employees. Instead medium here refers to those with 50-199 employees.

[40] Based on proportions of establishments which made some changes in respect of recruitment or employment practices in response to introduction of age legislation (The impact of Age discrimination legislation on small and medium sized enterprises, Acas Research 04/06):

Table 6: Estimated number of firms introducing performance appraisal by firm size

Firm size (no. of employees)	No of firms*	% with CRA	% already with PAS	% estimated to introduce PAS		Firms affected	
				Low	High	Low	High
All employers							
2 to 4	629,900	12%	66%	5%	10%	1,285	2,570
5 to 9	240,000	24%	81%	5%	10%	556	1,112
10 to 49	181,800	33%	83%	15%	25%	2,962	4,937
50 to 199	29,000	47%	89%	25%	50%	1,585	3,169
200+	10,000	56%	98%	25%	50%	777	1,553
Total	1,090,700	32%	85%			7,164	13,341

Source: BIS analysis based on SME statistics 2009 and SEPPP2; NB * rounded to nearest hundred; ** includes non-wage labour costs

Unit cost of introducing a performance appraisal system by firm size

Following feedback from the consultation we have revised our estimates of the costs firms may incur in setting up performance appraisal systems. The consultation responses suggested that these costs had been underestimated in the earlier impact assessment. However, at the same time, consultation responses resulted in very little quantified evidence to suggest what the true costs might be.

The unit cost approach we are following here is therefore based on one response which provided a detailed breakdown of the process and the time involved. This was based on a firm with 400 employees and we have estimated variants of this to reflect differential unit costs by firm size. Table 7 below presents these unit cost estimates[41]. From this it can be seen that unit costs for smaller firms are estimated to be around £900 as introduction of a PAS is estimated to require 33½ hours of input. For larger firms the unit cost is much greater to reflect the processes and staff input involved.

Table 7: Unit cost estimates for setting up performance appraisal systems by firms size

	Small (<50 employees)			Medium (50-199)			Large (200+ employees)		
	Hours	No. Of staff	Total Hours	Hours	No. Of staff	Total Hours	Hours	No. Of staff	Total Hours
Research & develop appraisal procedure	24	1	24	24	1	24	24	1	24
Obtain feedback	1	3	3	1	5	5	1	80	80
Negotiate with trade union	Na	Na	Na	2	2	4	4	16	64
Run pilot exercise	Na	na	Na	1	2	2	2	32	64
Amend policy	1	1	1	1	1	1	2	1	2
Communicate final policy	1	1	1	1	5	5	1	80	80
Train managers	1.5	3	4.5	1.5	8	12	3	120	360

[41] Using SME statistics we estimate that on average small firms employ 6 employees, medium firms just under a hundred employees and larger firms around 1,600 employees.

Total	33.5	53	674
Ave unit cost per firm	£900	£1,570	£19,964

Source: BIS analysis based on consultation feedback; NB: hourly labour cost incl non-wage labour costs assumed to be £26.87 for small business and £29.62 for others

One-off costs of introducing a performance appraisal system

On the basis of the estimates from tables 6 and 7 above we estimate that introducing performance and appraisal systems will result in **costs for employers of between £22.8m and £43.7m**[42]. Of this we estimate that costs for employers in the private sector will amount to between £17.4m and £33.2m (table 8)[43].

Table 8: Estimated cost of introducing performance appraisal by firm size

	Firms – low case	Firms – high case	Hourly rate**	Total hours per firm	Total Cost – low case (£m)	Total cost – high case (£m)
All Employers						
Small firms	4,803	8,619	£26.87	33.5	£4.8	£7.8m
Medium firms	1,585	3,169	£29.62	53	£2.5	£5.0m
Large firms	777	1,553	£29.62	674	£15.5	£31.0m
Total	7,164	13,341			£22.8m	£43.7m
Private Sector						
Small firms	3,834	6,758	£26.87	33.5	£3.8	£6.1m
Medium firms	1,389	2,779	£29.62	53	£2.2	£4.4m
Large firms	571	1,142	£29.62	674	£11.4m	£22.8m
Total	5,795	10,678			£17.4m	£33.2m

Source: BIS analysis based on SME statistics 2009 and consultation feedback; NB * rounded to nearest hundred; ** includes non-wage labour costs

Ongoing costs of operating a performance appraisal system

Performance appraisal systems are not mandatory or essential following the removal of the DRA. However, we have assumed that the removal of the DRA will act as a trigger for some firms to put in place a performance appraisal system and hence considered the cost of this to be a transitional cost attributable to the DRA's removal.

Dealing with the absence of the DRA will not be the sole purpose of a performance appraisal system, which will in fact be concerned with managing the performance and productivity of staff of all ages. Performance appraisal can only be considered 'an alternative' to the former use of the DRA for those employees who might otherwise have been subject to compulsory retirement (i.e. those aged 64 years and

[42] This represents an increase in the estimate presented in the consultation stage impact assessment. This is as a result of the higher unit cost estimates used in this IA.
[43] SEPPP2 found that 30 per cent of private sector establishments had a compulsory retirement age. This compares to 32 per cent across all employers.

over). Performance appraisal of other staff is not directly connected to the removal of the DRA. Therefore, in terms of the ongoing costs of performance appraisal, the relevant portion of these considered in this Impact Assessment is that which arises from applying performance appraisal to staff aged 64 years and over.

With this in mind we estimate below the additional ongoing costs to employers of conducting performance appraisals for employees aged 64 and over.

The proportion of workplaces undertaking performance appraisal appears has risen in recent years[44]and although appraisals are carried out for a variety of reasons[45], those based on improving individual and corporate performance and identifying training needs seem to predominate.

However, in terms of improving individual and corporate performance the evidence tends to be mixed. For instance, a survey conducted by CIPD in 2009 suggested that overall performance management did not have a positive impact on either individual or organisational performance[46].

These results help determine the analytical approach for estimating the ongoing costs for those firms that introduce performance and appraisal systems. Had there been a clearer impact on individual or corporate performance then it could be argued that the cost of holding regular appraisals could at least be partially offset by productivity improvements. As the evidence doesn't support this the estimates presented below therefore focus on the actual costs of preparing for and holding appraisal meetings.

Using data from table 6 above on the number of firms likely to introduce performance appraisal following removal of the DRA and identifying the average number of employees by firm size we estimate the number of employees aged 64+. On this basis we estimate that between 36,400 and 72,500 older employees would now undergo performance appraisal (table 9).

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[44]Reaching 78 per cent in 2004 from 73 per cent in 1998 (WERS 2004). Similarly the two SEPPP surveys also showed an increase from 68 per cent of establishments in SEPPP1 to 79 per cent in SEPPP2.

[45] Other reasons include "*to encourage communication between managers and staff*", "*to set targets*", "*for succession planning and to assess potential*" , "*to change organisational culture*" and "*to determine performance-related pay*". See for instance IRS Employment Trends 676 March 1999.

[46] Performance Management in Action Current Trends and Practice, CIPD, November 2009, http://www.cipd.co.uk/NR/rdonlyres/AC5B3F1D-CA83-4CB2-AD97-9B2333411133/0/Performance_management_in_action.pdf

Table 9: Estimated number of employees undergoing appraisal

Firm size	Firms introducing PAS		Ave number of employees per firm	Ave number of employees aged 64+	Total employees aged 64+ affected	
	Low	High			Low	High
Small firms	4,800	8,600	6	0.2	800	1,400
Medium firms	1,600	3,200	91	2.4	3,700	7,500
Large firms	800	1,600	1589	41.0	31,800	63,700
Total	7,200	13,300			36,400	72,500

Source: BIS analysis based on SME statistics 2009; NB * rounded to nearest hundred;

We then adjust this by the frequency of appraisals per year to estimate the total number of meetings that are likely to take place[47]. Just under two-thirds of appraisals are carried out on an annual basis, with a further 16 per cent twice a year and 10 per cent quarterly. The remaining 10 per cent are conducted on a less frequent basis. The estimated number of appraisals is therefore between 53,000 and 106,000 (table 10).

Table 10: Estimated number of appraisals conducted

Appraisal frequency	% Distribution	Appraisals per employee per year	Total Appraisals per year	
			Low	High
Annual	64%	1	24,100	48,100
Half yearly	16%	2	12,100	24,100
Quarterly	10%	4	15,100	30,100
Bi-annually	10%	0.5	1,900	3,800
Total	100%		53,100	106,000

Source: BIS analysis based on the Workplace Employment Relations Survey (WERS) 2004; * NB rounded to nearest hundred

Currently around 2½ per cent of all employees are aged 64 or over and this has grown from around 1½ per cent a decade ago. We assume therefore that both the number of employees affected and the number of appraisals conducted will continue to increase over the next ten years. Therefore by year 10 the number of additional appraisals will have risen to between 70,000 and 140,000. These effects are summarised in table 11.

[47] See Workplace Employment Relations Survey 2004 Chapter 4 for information on frequency of appraisals.

Table 11: Estimated increase in employees affected and number of appraisals conducted

Firm size	Year 1		Year 5		Year 10	
	Low	High	Low	High	Low	High
Total employees affected	37,700	75,200	43,000	85,800	49,600	99,000
Total number of appraisals	53,100	106,000	60,600	121,000	70,000	139,600

Source: BIS analysis; NB * rounded to nearest hundred;

Assuming each appraisal lasts 1 hour on average and costing employee time at around £16 an hour (including non-wage labour costs)[48], the total employee cost is estimated to range between £0.9m and £1.7m in year 1(table 12).

Table 12: Estimated employee cost of holding appraisals in year 1

Case	Number of appraisals*	Unit wage cost (£/hour)*	Time per appraisal (hours)	Year 1 total cost (£m)
High	106,000	£16.07	1	£1.7
Low	53,100			£0.9

Source: BIS analysis; * NB rounded to nearest hundred; ** includes non-wage labour costs of 21%

In addition to this we assume one hour of a manager's time for each appraisal meeting plus half an hour for preparation. Manager costs are therefore estimated to be between £1.6m and £3.1m in year 1(table 13).

Table 13: Estimated manager's costs of preparing for and conducting appraisals

Case	Number of appraisals*	Unit wage cost (£/hour)*	Time per appraisal (hours)	Year 1 total cost (£m)
Small Firms				
High	2,100	£26.87	1.5	£0.02
Low	1,100			£0.01
Medium & Large Firms				
High	104,000	£29.62	1.5	£3.08
Low	52,000			£1.54
Total Costs				
High	106,000			£3.10
Low	53,100			£1.55

Source: BIS analysis; * NB rounded to nearest hundred; ** includes non-wage labour costs of 21%

Overall we estimate the aggregate cost of both employee and manager time to be between £2.4m and £4.8m in year 1, rising to £2.7m to £5.5m in year 5 and £3.2m to £6.3m by year 10 (table 14).

[48] This is based on mean hourly wage for those employees aged 60+, uprated by 21 per cent for non-wage labour costs. Source: Annual Survey on Hours and Earnings, Table 6a, 2009

Table 14: Best estimate of ongoing costs to employers of holding appraisals (£m)

	Year 1		Year 5		Year 10	
	Low	High	Low	High	Low	High
Total cost to employers	£2.4	£4.8	£2.7	£5.5	£3.2	£6.3

Source: BIS analysis

(iii) Employment tribunal claims

There is the possibility of unintended consequences of removing the right to request procedure in terms of increased Employment Tribunal claims for unfair dismissal. Some older employees who are dismissed may perceive this to be unfair and hence seek redress through the ET system. Although international evidence[49] suggests that, despite fears beforehand, there were not any increase in costs in relation to tribunal cases in those countries where a DRA was removed we include here an estimate of possible impact, at least in the first years following the removal of the DRA.

Tables 15 and 16 below set out the estimated cost impact for both employers and the Government resulting from a possible increase in unfair dismissal claims. Only those employees whose requests to stay on are rejected would be affected and we assume that 10 per cent might go on to pursue an ET claim on the basis of unfair dismissal. On this basis we estimate this could amount to between 400 and 800 additional ET claims per year. The average cost of an ET application for unfair dismissal jurisdictions for employers is taken at £3,000 and at £1,900 for the Government.[50] However it is likely that most if not all of these claims would also be brought under an age discrimination jurisdiction[51]. As these cases tend to be lengthier and costlier we have used the associated costs of an age discrimination claim as our unit cost, namely £5,400 for employers and £3,400 for the Government.

In year 1 we estimate the overall additional cost of ET unfair dismissal claims to be £5.5m of which £3.4m is incurred by employers and £2.1m by the Government. Because of variance in the underlying population cohorts these costs are estimated to fall to £4.7m by year 5 before rising again to £5.1m by year 10.

Table 15: First year estimated costs resulting from increase in unfair dismissal claims (£m)

	Low sensitivity	Medium sensitivity	High sensitivity
Cost to employers	2.2	3.4	4.5
Cost to Government	1.4	2.1	2.8
Total	3.6	5.5	7.3

[49] Wood, A; Robertson, M and Wintergill, D (2010) A comparative Review of International Approaches to Mandatory Retirement: DWP Research Report 674.

[50] Findings from the Survey of Employment Tribunal Applications 2008. Mark Peters, Ken Seeds, Carrie Harding and Erica Garnett. BIS Employment Relations Research Series No 107, March 2010.

[51] Retirement decisions that were perceived as unfair were also seen to be age discriminatory. Morrell, G and Tennant R (2010) Employer Practices and Retirement Decision Making, DWP Research Report No.673, London: Department for Work and Pensions

Source: BIS analysis; NB figures may not sum due to rounding

Table 16: Best estimate costs resulting from increase in unfair dismissal claims (£m)

	Year 1	Year 5	Year 10
Cost to employers	3.4	2.9	3.1
Cost to Government	2.1	1.8	2.0
Total	5.5	4.7	5.1

Source: BIS analysis; NB figures may not sum due to rounding

Benefits

Benefits to individuals

The clearest direct financial benefit to individuals will be an increase in earnings as older workers stay on in work. Table 17 below sets out illustrative estimates of these extra earnings (net of tax and National Insurance contributions). Average gross earnings estimates are based on ASHE data on mean earnings of men and women aged 60-64[52].

We estimate that individuals will benefit by around £105m in increased earnings in year 1 to £177m in year 10.

Table 17: Benefits to individuals from higher earnings (£m)

Sensitivity	Year 1	Year 5	Year 10
High	140.4	228.3	236.5
Medium	105.3	171.2	177.4
Low	70.2	114.2	118.3

Source: BIS analysis

[52] Calculated using increases in labour supply by gender from table 3 above and then multiplying by annual earnings. For male employees annual gross earnings averaged £26,505 in 2009. For female employees the equivalent figure was £13,662. Applying standard income tax and national insurance rates for 2011 the effective tax rate for male employees is 23 per cent, while for women it is 15 per cent.

Benefits to employers

The abolition of the DRA is likely to result in benefits to employers. Our assessment of the benefits presented below distinguishes between:

1. *The direct cost savings following removal of right to request procedure*
2. *the wider benefits from increased operating surplus resulting from an increase in labour supply*

These benefits are discussed and quantified in further detail below. In terms of assessing the effect on business in terms of One In One Out (see table 31 below) it should be noted that only the first of these is included in that calculation.

(i) Direct savings from abolition of right to request procedure

Under the current DRA legislation employers incur costs when they retire an individual and when they receive a right to request to stay beyond the retirement date. The employer is obliged to take requests seriously, although no reason need be given to the employee if the request is turned down. The number of requests received is calculated on the basis of the assumptions discussed above. Where requests are not accepted there is provision for an appeal stage and ultimately recourse to an external dispute resolution mechanism which could be an Employment Tribunal.

We only include here savings in those organisations with a compulsory retirement age. Although there is evidence from SEPPP2 that firms without a CRA have chosen to use the right to request procedure our focus here is on those firms that are likely to be directly affected by the abolition of the DRA. In the absence of a DRA and the statutory procedure for retirement there will be administration cost reductions for employers. In summary the procedure is as follows:

- The employer writes to the employee at least 6 months before they reach compulsory retirement age and informs them that they have a right to request to work beyond this age
- For employees wishing to stay on a meeting is held between the employer and the employee
- Following this meeting the employer writes to the employee stating the outcome of their request
- If the request is turned down the employee can appeal and another meeting is held between employee and employer
- Following the appeal meeting the employer again writes to the employee stating the outcome
- If the request is still unsuccessful the employee may pursue the matter with an application to an Employment Tribunal

Table18 below sets out the estimated cost savings to employers in the first year from the removal of the right to request procedure. This is based on the estimated number of employees who would otherwise be able to remain in work in the absence of a DRA. Furthermore we distinguish between the savings in terms of administrative burdens (the time and cost associated with the employer's obligations to write letters and hold meetings) and Employment Tribunal costs.

Employer time is costed on the basis of the average hourly wage of a manager/senior manager of £28.25[53] and employee time on an average hourly wage of an employee aged 60+[54]. A proportion of rejected requests will go to internal appeal but no data is available on this. We assume for this purpose that 33 per cent of rejected requests are appealed against by the employee.

Finally we estimate that in 5 per cent of cases older employees might have procedural grounds to make an Employment Tribunal (ET)[55] claim. The average cost of an ET claim for discrimination jurisdictions for employers is taken at £5,400.[56] From the model we anticipate that there are between 230 and 450 ET cases resulting from rejected requests.

Table 18: First year cost savings for employers following removal of right to request procedure (£m)

	Low sensitivity	Medium sensitivity	High sensitivity
Procedural cost savings (Admin burdens)	3.0	3.8	5.6
Savings from fewer Employment Tribunals	1.1	1.7	2.2
Total savings to employers	4.1	5.5	7.9

Source: BIS analysis

Table 19: Best estimate cost savings for employers following removal of right to request procedure

	Year 1	Year 5	Year 10
Procedural cost savings (Admin burdens)	3.8	3.3	3.6
Savings from fewer Employment Tribunals	1.7	1.5	1.6
Total savings to employers	5.5	4.8	5.2

Source: BIS analysis

[53] To simplify we have averaged the hourly wage rate (including non-wage labour costs for senior managers in small firms and human resource managers in medium and larger firms.
[54] These rates take account of non-wage costs.
[55] This is a BIS estimate based on the estimated number of stayed tribunal cases and the known small proportion of retirement related cases on the Survey of Employment Tribunal Applications.
[56] Findings from the Survey of Employment Tribunal Applications 2008. Mark Peters, Ken Seeds, Carrie Harding and Erica Garnett. BIS Employment Relations Research Series No 107, March 2010.

(ii) Wider benefits to business from increase in labour supply (increased operating surplus)

We have estimated that the increase in labour supply resulting from removal of the DRA will amount to between 6,000 and 10,000. We further assume that this extra labour supply will be fully integrated into employment. As was demonstrated earlier in this impact assessment the labour market has exhibited dynamic growth since 2000 where additional jobs have been created. It is important to note therefore that there isn't a fixed number of jobs in the economy and hence it is not an issue of older workers staying on in work at the expense of others[57].

The increase in labour supply will not only impact on increased earnings for individuals but will also affect overall Gross Value-Added. Earnings - or the compensation of employees – accounts for around 60 per cent of GVA[58] . Assuming a constant capital-labour ratio[59] this implies a mark-up factor of 1.67. As we have set out elsewhere in this impact assessment neither sectoral distribution nor the productivity of older workers is estimated to differ from the rest of the workforce as a whole.

Contributing to this increase in GDP are an increase in operating surplus (profits) as well as an increase in incomes and taxes. Estimates of the increase in post-tax profits are given in table 20 below. This does not necessarily represent a change in profit margins nor a change in total factor productivity[60].

As set out earlier in this impact assessment we distinguish between the overall and firm-level benefits of an increase in labour supply. As such the benefits estimates presented here are taken to be wider, macro benefits. We recognise that at the micro level this may not necessarily be the case for each and every firm affected by the removal of the DRA procedure.

Table 20: Estimates of increases in operating surplus resulting from increase in labour supply (£m)

Sensitivity	Year 1	Year 5	Year 10
High	52.5	85.2	88.0
Medium	39.4	63.9	66.0
Low	26.3	42.6	44.0

Source: BIS analysis

[57] The most recent labour market statistics from ONS show that despite the fall in employment during the recession total employment has risen by around 300,000 in the year to July-September 2010 and that around a third of this was among those aged 65+.
[58] See ONS Blue Book, Section 2
[59] See productivity assumptions discussed further above
[60] This assumes that for each unit of increased labour there is a corresponding increase in capital and that there are constant returns to scale.

Non-monetised benefits to employers

Employers will benefit from lower recruitment costs from more people staying on in work, particularly if there are special skills involved. For each worker the recruitment effort will be deferred until they eventually decide to retire. In each year there will be those who will be staying on from previous years, plus a new cohort who will be benefiting from the legislation. However, the benefit to employers is to postpone these recruitment costs, but, as stated above, workers generally do not seem to stay for more than around 1 or 2 years (with a few exceptions). This benefit has not been quantified.

Benefits to the Exchequer

(i) Increase in tax revenues

Increased output should also benefit the public finances as those older workers who stay on in work will pay more in taxes. Tax receipts should also increase from the wider impact on GDP growth. Using the ratio of tax receipts to GDP of 0.35[61] the effect on tax receipts is estimated and presented in table 21 below.

Table 21: Estimates of increases in tax revenues resulting from increase in labour supply (£m)

Sensitivity	Year 1	Year 5	Year 10
High	103.9	168.8	174.8
Medium	77.9	126.6	131.1
Low	52.0	84.4	87.4

Source: BIS analysis

(ii) Savings from fewer Employment Tribunal applications

It was set out above how the removal of the right to request procedure should result in fewer applications to an Employment Tribunal. It was estimated this could be between 200 and 400 ET applications in 2011. As well as cost savings for employers, the Exchequer will also benefit as the Tribunals Service should experience a reduction in the costs of administration as well as the operational costs of tribunal hearings. The average cost of an ET application for the Government is estimated at £3,400 for discrimination cases. For the first year the overall saving for Government is estimated to range between £0.7m and £1.4m, with a best estimate of £1.1m.

It should be noted that these benefits are derived from claims that may have arisen as a result of the DRA process. In the costs section above we have estimated that after the removal of the DRA there may be cases where older employees are dismissed but view this as unfair and so pursue the matter to an Employment Tribunal. Although the savings identified here will be offset by the additional costs estimated earlier, it is important to be clear about the sources for each.

Non-quantified costs and benefits

Insured benefits

Following concerns raised by employer associations, the insurance industry and the legal community during consultation on phasing out the default retirement age, consideration has been given to providing an exception in legislation which relates to insured benefits. In light of the responses to consultation we consider that, once the DRA is removed, there is a real risk that employers may cease to provide relevant benefits, or significantly reduce cover, (income protection, life insurance and sickness and accident cover, including private medical cover) if there is no clear exception in legislation. We will therefore recommend an exception which makes it lawful for such

[61] See chapter 1 of HM Treasury Annual Report 2008-09, www.hm-treasury.gov.uk/d/ara_chapter_1.pdf

benefits to cease at 65 or at state pensionable age (whichever is the higher). It should be noted that as these benefits are provided voluntarily by the employer, and as such, are not included in the impact assessment.

Impact on benefits and state pensions

(i) Income-related benefits

We assume there would no substantial savings to the state through paying less income-related benefits. DWP analysis mainly around benefit receipt in the 60-64 age group indicated that a large proportion of those are already receiving disability benefits prior to claiming pension credit, which suggests they would be getting pension credit irrespective of the change in DRA.

(ii) Impact on state pension

The impact of changes to the DRA on State Pension expenditure is broadly cost neutral as although working longer may mean some people may choose to claim State Pension later, State Pension deferral rules mean that these people would receive either a lump sum payment or extra State Pension payment when they do eventually claim State Pension. There is clear evidence that those who intentionally defer tend to be higher income earners. These might be less affected by the phasing out of the DRA.

Table 22: Estimated quantifiable costs and benefits of abolishing DRA under central case scenario (£m)

	Year 1			Year 5			Year 10		
Sensitivity	Low	Medium	High	Low	Medium	High	Low	Medium	High
COSTS (total)	46.9	60.4	73.9	5.9	8.9	11.8	6.6	9.9	13.2
Employers (one-off)	40.8	51.3	61.8	na	na	na	na	na	na
Familiarisation	18.1	18.1	18.1	na	na	na	na	na	Na
Appraisal systems	22.8	33.2	43.7	na	na	na	na	na	Na
COSTS (ongoing)	6.1	9.1	12.1	5.9	8.9	11.8	6.6	9.9	13.2
Employers: Appraisals	2.4	3.6	4.8	2.7	4.1	5.5	3.2	4.7	6.3
Employers: ET claims	2.2	3.4	4.5	1.9	2.9	3.9	2.1	3.1	4.2
Government: ET claims	1.4	2.1	2.8	1.2	1.8	2.4	1.3	2.0	2.6
BENEFITS (ongoing)	153.3	229.2	306.2	245.3	367.4	490.4	254.2	380.7	508.1
Individuals	*70.2*	*105.3*	*140.4*	*114.2*	*171.2*	*228.3*	*118.3*	*177.4*	*236.5*
Higher earnings	*70.2*	*105.3*	*140.4*	*114.2*	*171.2*	*228.3*	*118.3*	*177.4*	*236.5*
Employers	*30.4*	*44.9*	*60.4*	*46.2*	*68.7*	*92.0*	*47.9*	*71.2*	*95.4*
Right to request	*4.1*	*5.5*	*7.9*	*3.6*	*4.8*	*6.8*	*3.9*	*5.2*	*7.4*
Increased profits	*26.3*	*39.4*	*52.5*	*42.6*	*63.9*	*85.2*	*44.0*	*66.0*	*88.0*
Government	*52.7*	*79.0*	*105.3*	*85.0*	*127.5*	*170.0*	*88.0*	*132.1*	*176.1*
Fewer ET cases	*0.7*	*1.1*	*1.4*	*0.6*	*0.9*	*1.2*	*0.7*	*1.0*	*1.3*
Increased tax revenue	*52.0*	*77.9*	*103.9*	*84.4*	*126.6*	*168.8*	*87.4*	*131.1*	*174.8*
NET BENEFITS	106.4	168.9	232.3	239.4	358.6	478.6	247.6	370.8	494.8
..of which admin burden savings	*3.0*	*3.8*	*5.6*	*2.6*	*3.3*	*4.9*	*2.8*	*3.6*	*5.3*

Source: BIS analysis

E. Risks and assumptions

The Age Review research has provided key insights into the impact of the Default Retirement Age since its introduction in 2006 and this information has played an integral part in constructing a model to estimate the effect of removal of the DRA.

Inevitably, though, there will be risks and uncertainty surrounding the modelling as it looks ahead to 2020, not least due to differing outcomes relating to population projections, labour market participation of older employees and the rate of economic growth. We have attempted to deal with this to some extent in the model by employing three main scenarios: baseline, central and high growth. The results presented in this IA relate to the central case scenario, although the estimated broad cost-benefit impacts from the baseline and high growth scenarios can be found in Annex 2.

In addition to this sensitivity analysis has been used to provide further variation in the possible behavioural responses of employers and employees. Aspirations to work longer may also change independently over time, as may the duration of stay for those who decide to remain in work.

Furthermore the retirement decision can be affected by a number of factors, in particular in relation to access to a pension, and this will have consequences for when older employees choose to exit the labour market. The model used for this impact assessment does not factor in the effects of changes in State Pension Age or equalisation of State Pension Age for men and women[62].

Although this impact assessment shows that the numbers affected are relatively low, little is known about the performance and productivity of those employees aged over 70. At the same time the model focuses only on those older employees approaching the milestone compulsory retirement ages of 60, 65 and 70 and it is possible there may be further dynamic effects in other age groups leading up to these ages with consequent effects on labour supply and hence output.

F. Administrative burden and policy savings

Abolition of the DRA will mean that there will no longer be any requirement for employers to offer the right to request to continue working. This will result in a simplification of employment law and a reduction in administrative burdens to employers. Estimates of these cost savings were discussed in the benefits to employers section above (see table 14 above). In the first year of the change in policy we estimate a reduction in administrative burdens for employers of between £3m and £5.6m, with a best estimate of £3.8m.

G. Wider impacts

As set out in section D above the impact of phasing out the DRA is estimated to increase labour supply among older employees initially by around 6,200 rising to around 10,600 in year 10. This represents 0.02 per cent of current total employment and less than 0.1 per cent of those aged 50+ currently in work. We therefore assume that overall the wider impacts will be minimal. However specific assessments have been made relating to competition, the effect on small firms and on equalities and these are presented below.

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[62] The Government announced on 3 November 2010 that State Pension age for men and women will be increased to 66 between April 2018 and April 2020, following equalisation of women's state pension age with men's in 2018 (Command Paper: A sustainable State Pension: when the State Pension age will increase to 66 www.dwp.gov.uk/spa-66-review.

(H) Competition Assessment

The initial analysis of the competition filter is that a detailed competition assessment is not considered necessary (see table 23 below). The proposed legislation will apply to all firms and is unlikely to affect the competitiveness of any particular sector.

Table 23. Competition assessment.

Question: *In any affected market, would the proposal..*	Answer
..directly limit the number or range of suppliers?	No
..indirectly limit the number or range of suppliers?	No
..limit the ability of suppliers to compete?	No
..reduce suppliers' incentives to compete vigorously?	No

Source: BIS

Considering the distribution of employees by age across industrial sectors (table 24), there are no major differences comparing between employees aged 60 to 64 or 65+ to those aged below 60. Where there are differences these are relatively small and can mainly be found in he public sector (*education* and *health)*, where the share of older employees is likely to be higher and in *information and communication* and finance *and insurance*, where the shares are lower.

Table 24: Sectoral distribution of employees by age, 2009

% employees by age	Aged under 60	Aged 60-64	Aged 65+
Agriculture, forestry and fishing	0.5	0.6	1.1
Mining and quarrying	0.4	0.6	0.4
Manufacturing	10.5	11.3	9.1
Electricity, gas, air cond supply	0.6	0.7	0.2
Water supply, sewerage, waste	0.8	1.1	0.7
Construction	6.0	7.0	5.1
Wholesale, retail, repair of vehicles	14.6	14.3	15.8
Transport and storage	4.8	6.8	5.8
Accommodation and food services	5.1	3.2	3.9
Information and communication	3.6	1.6	1.9
Financial and insurance activities	4.9	1.9	1.2
Real estate activities	0.8	1.1	1.9
Prof, scientific, technical activities	5.7	4.8	5.3
Admin and support services	4.2	4.8	6.9
Public admin and defence	7.9	6.9	5.9
Education	10.9	12.4	12.0
Health and social work	13.9	15.8	15.1
Arts, entertainment and recreation	2.4	2.2	3.7
Other service activities	2.1	2.7	3.2
Households as employers	0.1	0.2	0.6
Extraterritorial organisations	0.2	0.1	0.2
Total	100	100	100

Source: Labour Force Survey, average of quarters 1-4, 2009

There are differences overall between industry groups who operate with a compulsory retirement age. Compulsory retirement age was highest in establishments in manufacturing, public administration and defence, education and financial intermediation and lowest in construction, wholesale and retail trade, hotels and restaurants.

(ii) Small Firms Impact Test

Throughout this impact assessment we have aimed as far as possible to present the analysis separately by broad firm size. The information presents below supplements this and taken together these constitute an overall assessment of the estimated impact on small firms.

Although there is clearly a higher proportion of older employees working in smaller establishments (table 25), data from SEPPP2 suggests that larger establishments are more likely to have a CRA compared with smaller ones (5-9 employees: 22 per cent, 200+ employees 54 per cent).[63], [64] In addition the private sector is less likely to have a CRA (30 per cent) compared with the public sector (46 per cent of public sector employers operate with a CRA).

In addition there were differences in perceived importance of compulsory retirement age. Larger establishments were more likely say it was important to be able to compulsorily retire employees compared with smaller establishments (rising from 35 per cent of small establishments (with 5-9 employees) to 56 per cent of establishments (with 200+ employees).

Table 25: Share of employees by age and by number of employees at workplace, 2009

% employees by age	Aged under 60	Aged 60-64	Aged 65+
1-10 employees	18.3	24.8	34.1
11-19 employees	8.5	8.3	10.1
20-24 employees	4.5	4.6	4.9
Don't know but under 25 employees	2.2	2.1	3.0
Total under 25 employees	33.5	39.8	52.0
25-49 employees	13.5	13.6	13.5
50-249 employees	23.6	22.7	17.9
250-499 employees	7.6	6.8	4.9
Don't know but between 50 and 499 employees	3.3	2.8	2.4
Total 50-499 employees	48.0	46.0	38.7
500 employees or more	18.5	14.2	9.3
Total	100	100	100

Source: Labour Force Survey, average of quarters 1-4, 2009

(iii) Equality Impact Assessment

The data presented below are an initial assessment of the distribution of employees by gender, disability and ethnicity comparing those under the age of 60 with those aged 60 to 64 and those aged 65+. In addition phasing out the DRA is a positive step itself in combating age discrimination. The DRA is an exception to the general principle of equal treatment, which has been objectively justified by the Government. It has meant that it is lawful for an employer to discriminate on the grounds of age

[63] BIS analysis of SEPPP2 data.
[64] Although in very largest of establishments, i.e. those with 10,000+ employees, this falls to 33 per cent.

when it comes to retirement. Removing the DRA means that such discrimination is no longer generally permissible.

In the absence of relevant data from the Age Review research – due to the fact that some of this was employer-based as well as due to small sample sizes in the employee surveys - this data is taken from the Labour Force Survey. Removal of the DRA is likely to affect older employees as follows:

- Older male employees are slightly more likely to be affected than female employees. The proportion of male employees rises especially in the 60 to 64 age group, though this probably is mostly a reflection of the effect of the State Pension Age of 60 for women, as the male share declines among those aged 65+ (i.e. at the current State Pension Age for men)
- There is a higher proportion of disability among older employees and especially so in terms of disability as defined under the Disability Discrimination Act (DDA), but also for those with both a DDA disability and a work-limiting disability.
- There are differences in the ethnic distribution of older employees by age group, where from age 60 onwards there is a lower proportion of employees from non-White ethnic groups.

Table 26: Distribution of employees by age by gender, 2009

% employees by age	Aged under 60	Aged 60-64	Aged 65+
Male	50.4	56.9	53.2
Female	49.6	43.1	46.8
Total	100	100	100

Source: Labour Force Survey, average of quarters 1-4, 2009

Table 27: Distribution of employees by age by disability, 2009

% employees by age	Aged under 60	Aged 60-64	Aged 65+
DDA disabled and work-limiting disability	4.6	9.0	7.5
DDA disabled	5.0	11.4	12.6
Work-limiting disabled only	2.5	3.9	4.8
Not disabled	87.9	75.6	75.2
Total	100	100	100

Source: Labour Force Survey, average of quarters 1-4, 2009

Table 28: Distribution of employees by age and by ethnicity, 2009

% employees by age	Aged under 60	Aged 60-64	Aged 65+
White	90.3	98.2	96.9
Mixed	0.8	0.2	0.2
Asian or Asian British	4.7	0.9	1.5
Black or Black British	2.3	0.7	1.2
Chinese	0.5	0.0	0.0

Other ethnic group	1.5	0.0	0.1
Total	100	100	100
White	90.3	98.2	96.9

Source: Labour Force Survey, average of quarters 1-4, 2009

I. Summary and implementation plan

(i) Summary of quantifiable costs and benefits

Table 29 below summarises the quantifiable costs and benefits

- Costs are assumed to be mostly transitional where one-off costs are estimated at £51.3m for employers for year 1 only.
- There will be small ongoing costs for both employers and Government of around £7m and £2m respectively.
- Total benefits are estimated at £229m in year 1, rising to £367m by year 5 and £381m in year 10.
- Total direct benefits to employers resulting from the removal of the DRA procedure are estimated at around £5.5m in year 1, falling to around £5m in years 5 and 10.
- There will be wider ongoing benefits to business resulting from the increase in labour supply of around £39m in year 1, rising to £64m by year 5 and to £66m by year 10.

Table 29: Estimated quantifiable costs and benefits of abolishing the DRA (central scenario)

£m (Constant 2010 prices)	Year 1	Year 5	Year 10
Costs (one-off)	51.3	0	0
Employers	51.3	0	0
Costs (ongoing)	9.1	8.9	9.9
Employers	7.0	7.0	7.8
Government	2.1	1.8	2.0
Benefits (ongoing)	229.2	367.4	380.7
Employers	44.9	68.7	71.2
Of which admin burdens/fewer ET claims (direct benefit)	*5.5*	*4.8*	*5.2*
Of which wider benefits from increased labour supply	*39.4*	*63.9*	*66.0*
Individuals	105.3	171.2	177.4
Government	79.0	127.5	132.1
Total Net Benefit	168.9	358.6	370.8

Source: BIS analysis

(ii) Implementation plan

The Government is proposing to remove the DRA from 1st October 2011 with a transitional period from 6 April 2011. This also covers removal of all associated statutory retirement procedures including the duty on employers to give a minimum of six month's notice of retirement to employees and the right for employees to request

to work beyond the DRA.

There will also be transitional arrangements for retirements that have been notified prior to April 2011 and where the date for retirement falls before 1 October 2011.

Equivalent annual costs and benefits over ten years

Table 30 shows the total impact (direct and indirect) of removal of the DRA. The equivalent annual cost is £15.1 million and the equivalent annual benefit is £351.9 million. Therefore, the net annual total benefit is £336.8 million.

Table 30: Summary of Equivalent Annual Cost and Benefit (Total impact)

	Equivalent annual cost (£m)	Equivalent annual benefit (£m)	Equivalent net cost (£m)
Removal of DRA	£15.1	£351.9	£336.8

Source: BIS estimates. Figures have been rounded

J One in, one out Rule

Under the 'One In, One Out' rule, whereby a measure that has a net cost to business must have a measure or measures of equivalent cost removed in order to be implemented, the removal of this measure will be classified as a One In. The equivalent annual net cost to business of repealing Default Retirement Age legislation is £8.0 million (table 31).

As discussed above this is disproportionately due to the transitional costs but also includes direct ongoing costs. The latter results from additional performance management and a potential increase in unfair dismissal claims. As this is a deregulatory measure business will benefit from a reduced administrative burden following removal of the DRA procedure as well as any associated ET claims. Wider benefits resulting from the increase in labour supply are not included.

This will be offset against the saving from using the Consumer Prices Index to set the minimum revaluation and indexation increase which pension schemes must pay. This provides a saving well in excess of the cost of the removal of the DRA.

Table 31: Summary of Equivalent Annual Cost and Benefit (Direct impact on employers)

	Equivalent annual cost (£m)	Equivalent annual benefit (£m)	Equivalent annual net cost (£m)
Removal of DRA	£13.1	£5.1	£8.0

Source: BIS estimates. Figures have been rounded.*

Annex 1: Post Implementation Review (PIR) Plan

Basis of the review: The phasing out of the Default Retirement Age will be reviewed in 5 year's time in the context of the broader aims of the Employment Equality (Age) Regulations prohibiting discrimination on the grounds of age. We will also undertake interim monitoring and, where appropriate, evaluation as the policy is implemented to ensure timely feedback to policymakers.
Review objective: The overriding objective is to provide greater opportunities for people to participate in the labour market at 65 and beyond and to remove unnecessary costs, and especially the administrative burden on employers of the current retirement procedure. It will be difficult to isolate the effects of removing the DRA on labour market participation of older workers given the wider economic factors and the increase in State Pension Age. The review will examine specific impacts on employers and employees and any unintended consequences arising from the policy objective. This will include the impact on performance management systems and levels of dismissal disputes (via Employment Tribunal claims), use of employer justified retirement age and other barriers restricting individuals working longer. Other consequential effects, both positive and negative for employers and employees will be examined including the positive benefits of retaining skilled staff and changes in attitudes and perceived discrimination levels in the workplace and in the labour market.
Review approach and rationale: We will develop the methods that are most appropriate to the evaluation questions noted above. In terms of data collection methods, we will seek to a) provide comparable data to the baseline data where possible and appropriate b) use existing sources of data where possible (e.g. Labour Force Survey and Employment Tribunal data) and c) reflect both the employer and employee perspective. We should look not only at whether impacts were achieved but why they were (or not).
Baseline: The 2nd Survey of Employers Policies Practices and Preferences Relating to Age (SEPPP2) provided a baseline of employers operating with a compulsory retirement age in 2009/10 and other age-based practices. The Fair Treatment at Work Survey 2008 measured perceived discrimination in the workplace and age groups affected. Data on aspirations to work beyond the age of 65 were measured by the British Social Attitudes Survey 2008/09.
Success criteria: We will measure if the policy objectives noted have been achieved, although any increase in labour market participation of those post 65 is likely to be a part of but not entirely attributable to the phasing out of the DRA.
Monitoring information arrangements: Monitoring will be an on-going process using available resources such as the Labour Force Survey, particularly for data on employment rates and participation of older workers in the labour market. Other resources will be sought for the purposes of measuring impacts on employers and employees.

Annex 2 – Modelling assumptions and alternative scenarios

Methodology

Introduction

As described in the main impact assessment the analytical approach used to estimate the impact of removing the DRA is based on that developed in the 2006 Retirement Ages Regulatory Impact Assessment (RIA). This involved estimating the number of employees who were forced to retire against their will by their employer when they are still capable and willing to do a good job. Allowing these – or some of these – employees to remain in work would result in an increase in labour supply which in turn would lead to increased earnings for the individuals involved and increases in GDP, company profits and tax revenues for the Exchequer.

The preferred option in the 2006 RIA was to introduce a Default Retirement Age of 65, while also allowing employers to set an employer-justified retirement age and also giving employees a right to request to work beyond their employers' retirement age (if they had one) or 65 (if the employer chose to make use of the DRA).

Estimates of the impact were made for those employees reaching their employer's compulsory retirement age and then further assumptions were made as to how many would wish to stay in work and whose requests to stay on would be accepted.

The data from SEPPP2 and other sources now allow us to test to some extent those assumptions and estimates such that it is possible to arrive at revised figures for assessing impact of the 2006 changes.

The Model

Employment and population growth

Phasing out the DRA will affect older employees (rather than the self-employed) and as this would be implemented from 2011 the model estimates the effect over a 10-year period to 2020[65]. To derive projections of employees by gender over this period we need to consider changes to both population and the number of employees.

In the case of population change ONS produces projections of population based on gender and single year of age[66].

For employees we have made assumptions about growth in the number of employees based on trends over the decade 1999-2009. Using data from the Labour Force Survey we have calculated employee rates by gender and single age for 2009 as well as the percentage point change in employee rates between 1999 and 2009. From this we construct three scenarios for the number of employees by age and gender for 2011 to 2020:

- Baseline case: this assumes no increase in employee rates for 2011-2020, i.e. they are the same as they were in 2009.
- High Growth case: this assumes the increase in the employee rate is the same as that experienced during the period 1999-2009. The total percentage

[65] 10 years is the standard period used for impact assessments
[66] www.statistics.gov.uk/statbase/Product.asp?vlnk=8519

point change averaged over 10 years is then applied incrementally each year to 2020.
- Central case: this assumes a mid-way point between the baseline and high growth cases.

The cost-benefit analysis used in this impact assessment is then based on the estimates from the central case scenario.

These derived employee rates are then applied to the population projection data to produce estimates of the volumes of male and female employees for each year to 2020.

Further assumptions

In order to derive the labour supply effect resulting from the phasing out of the DRA we focus on those establishments that currently use a compulsory retirement age (CRA) and estimate the effect on increased labour supply if their CRA were removed. Evidence from SEPPP2 showed that even in these organisations it is still the case that the vast majority of requests to remain in work were accepted. The potential labour supply effect is then derived from those requests that are rejected. More specifically the steps are as follows:

- The proportion of employers with a CRA and the ages at which these operate
- Proportion of employees who wish to stay on and who submit a request to the employer
- Proportion of requests otherwise rejected
- Proportion of these requests that would otherwise result in dismissal
- The assumptions for the first of these are presented in tables 1 and 2 of this impact assessment.
- For the second and third steps sensitivity analysis has been used to estimate a range of possible outcomes and these are summarised in the table below.

Results from baseline and high growth scenarios

Impact on labour supply

Table A1 below summarises the estimated effect on increased labour supply of the three scenarios described above for the period 2011 to 2020.

Table A1: Estimated impact of removing DRA on labour supply – Baseline, central and high growth scenarios

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Baseline	6,000	8,800	9,800	10,000	9,700	9,600	9,500	9,600	9,600	9,700
Central	6,200	9,200	10,400	10,500	10,100	10,100	10,300	10,300	10,300	10,600
High	6,300	9,300	10,500	10,900	10,700	10,800	11,000	11,200	11,400	11,800

Source: BIS analysis based on Labour Force Survey and ONS Population Projections; * NB: rounded to nearest hundred

Impact on costs and benefits

Using these estimates of labour supply it is possible to re-estimate the impact on costs and benefits under both the baseline and high employment growth scenarios: Transitional costs are unaffected by scenario as these are based on numbers of firms, not employees. Therefore as with the central scenario we estimate transitional costs to be £51.3m in the first year.

As the benefits are sensitive to the number of employees affected, these vary by scenario. The overall benefit range in year 1 is £224m to £231m, which compares with the central case estimate of £229m. By year 5 the range is £353m to £386m. Benefits to employers are estimated to range from just over £44m to around £46m in year 1, rising to £66m to just over £72m by year 5.

Estimates for the effect on administrative burdens ranges from £3.7m to £3.9m in year 1, falling to £3.2m to £3.6m in year 5.

Table A2: Estimated quantifiable costs and benefits of abolishing DRA under baseline case scenario (£m)

	Year 1			Year 5			Year 10		
Sensitivity	Low	Medium	High	Low	Medium	High	Low	Medium	High
COSTS (total)	46.8	60.2	73.7	5.7	8.6	11.5	6.3	9.4	12.6
Employers (one-off)	40.8	51.3	61.8	na	na	na	na	na	Na
Familiarisation	18.1	18.1	18.1	Na	Na	Na	Na	Na	Na
Appraisal systems	22.8	33.2	43.7	na	na	na	Na	Na	Na
COSTS (ongoing)	5.9	8.9	11.9	5.7	8.6	11.5	6.3	9.4	12.6
Employers: Appraisals	2.4	3.6	4.8	2.7	4.1	5.5	3.2	4.7	6.3
Employers: ET claims	2.2	3.3	4.3	1.8	2.8	3.7	1.9	2.9	3.8
Government: ET claims	1.4	2.0	2.7	1.2	1.7	2.3	1.2	1.8	2.4
BENEFITS (ongoing)	149.6	223.8	298.9	235.8	353.2	471.4	237.6	355.9	474.9
Individuals	*68.5*	*102.8*	*137.1*	*109.7*	*164.5*	*219.3*	*110.4*	*165.7*	*220.9*
Higher earnings	*68.5*	*102.8*	*137.1*	*109.7*	*164.5*	*219.3*	*110.4*	*165.7*	*220.9*
Employers	*29.7*	*44.0*	*59.1*	*44.5*	*66.2*	*88.7*	*44.9*	*66.8*	*89.5*
Right to request	*4.0*	*5.4*	*7.6*	*3.4*	*4.5*	*6.5*	*3.5*	*4.7*	*6.7*
Increased profits	*25.7*	*38.6*	*51.5*	*41.1*	*61.7*	*82.2*	*41.4*	*62.1*	*82.8*
Government	*51.4*	*77.0*	*102.7*	*81.7*	*122.6*	*163.4*	*82.2*	*123.4*	*164.6*
Fewer ET cases	*0.6*	*0.9*	*1.2*	*0.5*	*0.8*	*1.0*	*0.5*	*0.8*	*1.1*
Increased tax revenue	*50.8*	*76.1*	*101.5*	*81.2*	*121.8*	*162.4*	*81.7*	*122.6*	*163.5*
NET BENEFITS	102.9	163.6	225.2	230.1	344.6	459.6	231.3	346.4	462.4
..of which admin burden savings	*2.9*	*3.7*	*5.5*	*2.5*	*3.2*	*4.6*	*2.6*	*3.3*	*4.8*

Source: BIS analysis

Table A3: Estimated quantifiable costs and benefits of abolishing DRA under high growth case scenario (£m)

	Year 1			Year 5			Year 10		
Sensitivity	Low	Medium	High	Low	Medium	High	Low	Medium	High
COSTS (total)	46.9	60.4	73.9	6.1	9.2	12.2	7.0	10.5	14.0
Employers (one-off)	40.8	51.3	61.8	na	na	na	na	na	Na
Familiarisation	18.1	18.1	18.1	na	na	na	na	na	Na
Appraisal systems	22.8	33.2	43.7	na	na	na	na	na	Na
COSTS (ongoing)	6.1	9.1	12.1	6.1	9.2	12.2	7.0	10.5	14.0
Employers: Appraisals	2.4	3.6	4.8	2.7	4.1	5.5	3.2	4.7	6.3
Employers: ET claims	2.3	3.4	4.5	2.1	3.1	4.1	2.3	3.5	4.7
Government: ET claims	1.4	2.1	2.8	1.3	2.0	2.6	1.5	2.2	2.9
BENEFITS (ongoing)	154.6	231.2	308.8	257.5	385.6	514.6	280.6	420.2	560.8
Individuals	*70.9*	*106.3*	*141.7*	*119.9*	*179.8*	*239.8*	*130.7*	*196.1*	*261.5*
Higher earnings	*70.9*	*106.3*	*141.7*	*119.9*	*179.8*	*239.8*	*130.7*	*196.1*	*261.5*
Employers	*30.7*	*45.3*	*60.9*	*48.4*	*72.0*	*96.5*	*52.7*	*78.4*	*105.1*
Right to request	*4.2*	*5.6*	*8.0*	*3.8*	*5.1*	*7.3*	*4.3*	*5.8*	*8.2*
Increased profits	*26.5*	*39.7*	*53.0*	*44.6*	*66.9*	*89.2*	*48.4*	*72.6*	*96.8*
Government	*53.0*	*79.5*	*106.2*	*89.2*	*133.8*	*178.3*	*97.2*	*145.7*	*194.2*
Fewer ET cases	*0.6*	*0.9*	*1.3*	*0.6*	*0.9*	*1.1*	*0.7*	*1.0*	*1.3*
Increased tax revenue	*52.4*	*78.6*	*104.9*	*88.6*	*132.9*	*177.2*	*96.5*	*144.7*	*192.9*
NET BENEFITS	107.7	170.8	234.9	251.4	376.4	502.4	273.6	409.7	546.8
..of which admin burden savings	*3.0*	*3.9*	*5.7*	*2.8*	*3.6*	*5.2*	*3.1*	*4.0*	*5.9*

Source: BIS analysis

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