

CONFIDENTIAL FILING

Change in the Pension Age

SOCIAL SERVICES

June 1989

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
<del>12.6.89.</del>		PREM 19/3539					
<del>6.10.89</del>							
<del>8.1.90</del>							
23.1.90							
CLOSED							



Prime Minister  
An important issue. P. Unit must be  
right about the case for equalising

23rd January 1991

PRIME MINISTER

OK - do some work on equalising  
at 65. Can we get some public  
attitude survey to include a question  
on this. Pl. release f25.1

at 65.  
First step to raise issue with  
the Chancellor at a forthcoming  
meeting?

PENSION AGE

This issue will again rear its head shortly.

BHP  
24/1

Law Officers' opinion is not optimistic about our ability to limit the effects of the ECJ's Barber judgement on occupational pension schemes, or to escape its being applied retrospectively to pre-May 1990 arrangements.

As you know, although Barber applies to occupational schemes there is a read-across into the State position, not least because of the practical need to amend contracting-out rules, and the fact that the Occupational Pensions Board could find itself approving 'illegal' schemes. State action to phase in an equal pension age appears inevitable. The pensions industry will increasingly look to us for a lead on what date. (We also face the prospect of another EOC-inspired case striking down payment of NICs by men over 60 (potential revenue loss some £1/2 billion), although officials hope that judgement on this could be delayed until later 1992).

Tony Newton will be consulting the Chancellor shortly. DSS has flagged a Bill for the 1991-2 session. It believes that, given the lawyers' interpretation of Barber, a Bill is essential if confusion and (very damaging) any drift to equalization at 60 is to be avoided.

DSS officials would like to see a Green Paper in, say, April canvassing options, and a White Paper in the Autumn. Their timetable in preparing for a Bill next Session is extremely tight.



DSS appears to believe that 63 would be a reasonable compromise. This would save some money. However, Sarah Hogg and I feel strongly that it is most important at this stage to avoid any steer to the Press which suggests 63 as a preferred outcome. We also believe that (at the very least) an equal age of 65 should be considered (Germany is moving to 67). There are strong arguments for it:

- a) equalising at 65 would 'save' up to £4 billion per year;
- b) people are living longer and so drawing pension longer;
- c) many women (especially mid-life returners) want to work longer;
- d) the European judgement allows action to take money out of the budget (or, as attractive, to reappportion some of it to poorer pensioners) which is not placed entirely at the UK Government door. This opportunity will not recur;
- e) demographic pressures post-2000 will be heavy. Numbers in pension will rise from some 10<sup>1</sup>/<sub>2</sub> million in 2000 to 14 million in 2035. After 2020 numbers of working age will contract sharply. Equalization at 65 would maintain, partly but not fully, the ratio between contributors and those in pension;
- f) pension at 60 for women was a wartime anomaly. It is widely seen as unfair.
- g) equalising at 63 would give a signal that the State favoured men retiring earlier; this goes against your aim of sustaining the active contribution of older



people into later life.

Do you wish us to consider the advantages of equalization at, at least, 65?

If so the Policy Unit will undertake some more detailed work.

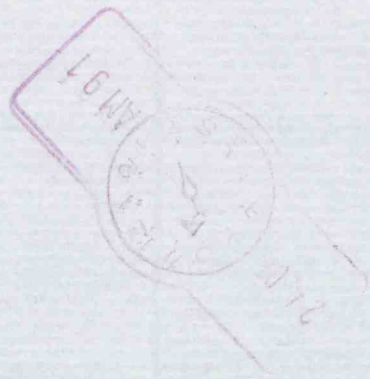
Do you also wish in bilaterals with the Chancellor <sup>of</sup> SoS (SS) to indicate your interest and to say that you would not wish any steer to be given at this stage that equalization at 63 was the most feasible option?



NICHOLAS TRUE

026.nt





COOK COUNTY



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*file*

*Pension. ea*

*bc PU*

10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

8 January 1990

**PENSION AGE**

The Prime Minister was grateful for your Secretary of State's minute of 4 January, together with the attachment. She has noted that your Secretary of State and the Chancellor will be preparing a further paper on what, if any, action is appropriate. Meantime the Prime Minister has commented, in relation to paragraph 4 of your Secretary of State's minute, that if the Equal Opportunities Commission continue to argue that men aged 60 to 64 should not pay National Insurance contributions, the Government should argue that one contribution should only give rise to one benefit.

I am copying this letter to John Gieve (H.M. Treasury).

Paul Gray

Stuart Lord, Esq.,  
Department of Social Security.

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*SA*



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PRIME MINISTER

PENSION AGE

You will recall you had various minutes from Social Security and Treasury Ministers and the Law Officers last year about our difficulties over the pension age for women and the associated contribution requirements. These problems stemmed in part from Community negotiations on a draft Equal Treatment Directive; but mainly from the case brought by the Equal Opportunities Commission arguing that men aged 60-64 should not be required to pay NICs.

You had been resolutely opposed to suggestions that we should consider raising the pension age for women to 65, certainly within this Parliament. You confirmed this reaction when the Chancellor spoke to you about this shortly before Christmas. The Chancellor indicated that he had been discussing the position with Tony Newton and had asked for further work to be done; he would then send you a further minute.

That work is still continuing, and I gather we are unlikely to see the results for another month or so. But meantime Tony Newton has sent you the further minute attached at Flag A.

This covers three points:

- an update on the draft Equal Treatment Directive. It seems that, happily, negotiations are stalled and are unlikely to resume at least until the Italian Presidency;
- an update on the EOC case. There is no change in the earlier advice, endorsed by the Law Officers, that the Government will lose the case. This view is taken notwithstanding the point you raised earlier that contributions by men gave rise to additional pension entitlement for their wives as dependants. But the main news in the latest minute is that the timetable for final judgement in the case now seems more extended than suggested earlier; depending on the sequence of events people are now talking about 1992 or 1993;

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- the note you had requested on contribution arrangements in other Member States has been provided. This reveals that Belgium is the only other Community country with a comparable situation to ours in which a man has to contribute for five more years than a woman to achieve the same level of pension.

Tony Newton's minute ends by promising the further joint report with the Chancellor mentioned above.

You may also like to glance at the note from Andrew Dunlop (Flag B) prepared before Tony Newton's minute arrived. Andrew argues that, notwithstanding the political difficulties, there is a case for issuing a Green Paper on the pension age in this Parliament.

I imagine you will want to defer further consideration of Andrew's points or the other issues until we have the promised further Treasury/DSS report. Content at this stage simply to note the latest material and the promise of the further note?

PRCG.

(PAUL GRAY)

5 January 1990

pension.dca



A

ali  
A



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Prime Minister

PENSION AGE

1. This note concerns the two outstanding issues arising out of the exchanges in recent months related to the subject of Pension Age.
2. First, John Moore's minute of 12 July <sup>gap</sup> promised you a note on tactics for handling the current negotiations in Brussels on the draft Equal Treatment Directive. In fact these negotiations are virtually at a standstill. There was a flurry of activity as the Spanish Presidency tried to complete the Directive. Their attempts failed, and the French Presidency then focussed attention instead on the Social Charter. Indications are that the Irish Presidency will also not want to take forward the draft Equal Treatment Directive. It is likely, therefore, to be the Autumn at least before active negotiations resume, depending upon the attitude of the then Italian Presidency.
3. When those negotiations do take place, we will however need to consider carefully what our line on pension age should be. The proposition currently on the table is that Member States should have as long as they feel appropriate actually to equalise State Pension Age, but




that they should legislate for the change within six years of signing the Directive. Those are probably the most favourable terms we can expect and the Commission will probably argue that a long delay is not acceptable. If the terms are not acceptable (to us or to the Commission) we would have to insist on excluding pension age from the scope of the Directive. Much will depend on what else is left in the Directive, and I propose to await developments.

4. Second, there is the issue of the current case by the Equal Opportunities Commission (EOC), who argue that men aged 60 to 64 should not pay National Insurance contributions. The High Court hearing is likely to begin in June 1990. If the High Court refers the case to the European Court of Justice, a hearing is unlikely to take place before the summer of 1991 with a decision at the end of the year or early 1992. If the matter is not referred to the ECJ, a High Court ruling can be expected in the autumn but the ruling could then be appealed to the Court of Appeal and, if necessary, to the House of Lords. Either the Court of Appeal or the House of Lords could refer the case to the ECJ which would delay a final decision into the latter half of 1992 or even 1993.

5. You asked for a note on the contribution arrangements in other Member States. This is attached. Belgium is the only member country where there is a situation comparable to ours in that the man has to contribute for five more years to achieve the same level of pension as a woman. However, the Belgians have declared their intention to equalise pension age by increasing the pension age for women, though they have not finally decided upon the age

If this is agreed we should also agree that one contribution should only give rise to one week's.





of equalisation nor upon the timetable for change. We would need to turn to the Belgians to see how closely their system mirrors ours and whether they would wish to become involved if the case reaches the European Court of Justice. But we cannot assume they they will be a helpful ally.

6. Even if they did join with us, whilst that might help, the clear balance of legal advice is that we are likely to lose the case. The costs of doing so would be high. We have looked at the loss to the NI Fund were men aged 60-64 to stop contributing (the probable outcome of an adverse judgement), the effect on the State Earnings Related Pension and the implications for the system of contracted out occupational pensions. This is a highly complex area, requiring more detailed study. But our work so far confirms the suggestion in my predecessor's minute of 12 July of £500 million a year immediate cost (probably 1992-93) though that could increase over time to more than £1000 million depending upon the policy options we choose. If the judgement were to be backdated to 1984, when the Directive first applied, then the cumulative costs of refunding the men might be as high as £2.25 billion to the end of 1988-89 alone. If backdated refunds had to be paid in a single year, that would have significant effect on the Government's financial and economic position.

7. In the light of the scale of these costs, and the political difficulties which we would face in devising a strategy in the wake of such a defeat, I am considering with John Major, to whom I am copying this minute, whether we need to come back to you with any recommendation for action.

*TN*

4 January 1990

TN

*This was the advice from the law officers but not action.*



AR1271t/1

## CONTRIBUTION CONDITIONS FOR PENSION AGE IN THE EC

1. The only member states with different minimum state pension ages for men and women are Belgium, Germany, Greece, Italy and Portugal.

BELGIUM

2. Pension age: men 65 (or 64 if they have 45 years contributions)

women 60.

3. Contribution conditions

The rate of contributions is the same for men and women; but men must pay for 45 years to get a full pension, women only 40 years.

4. Calculation of pension

The pension is earnings-related;

Single men:  $\frac{1}{45}$  of 60 per cent of average gross earnings since 1955 x numbers of years insurance since 1955.

Single women:  $\frac{1}{40}$  x 60 per cent of average gross earnings since 1955 x number of years insurance since 1955.

Married people: (if spouse retired and no pension in own right):

$\frac{1}{45}$  ( $\frac{1}{40}$  for woman) x 75 per cent of average gross earnings since 1955 x number of years insurance since 1955;

if both entitled to pension in own right, each gets the single rate.

PLUS for all pensioners:

$\frac{1}{45}$  (or  $\frac{1}{40}$  for women) x years reckonable employment 1926-1954 x £4724.

AR1271t/2

A man can retire at 60, but the pension is reduced by 5 per cent for each missing year. The woman's option to retire at 55 was withdrawn as the first step in equalisation of pension age.

**GREECE**

6. Pension age: men 58-65; women 55-60.

7. Contribution conditions

The rate of contributions is the same for men and women. There are various contribution conditions:

(a) men can retire at 65 and women at 60 if they have made at least 4050 days of contributions;

(b) men can retire from age 62 and women from 57 if they have made at least 10,000 days of contributions;

(c) men can retire from 60 and women from 55 if they are in dangerous or unhealthy employment and have at least 3,240 days contributions (at least 1,000 in the last 10 years);

(d) men can retire from age 58 if they have made at least 10,500 days contributions;

(e) women can retire from age 55 if they are married women or widows with unmarried children under 18 and no pension from any other source, and they have made at least 5,500 days contributions.



Calculation of pension

The pension is earnings related.

Men and women:

Between 30 per cent and 70 per cent of average earnings, according to salary class (there are 22), PLUS

1.5 per cent - 2.5 per cent of the pension for each 300 days of employment after the first 3,299 days of insurance, according to salary class.

So women can retire earlier than men, but they are likely then to have a lower pension.

ITALY

9. Pension Age:

men 65, women 60: or, for both, after 35 years contributions if earlier, but they must then cease work. The rate of contributions is the same for men and women.

10. Contribution conditions

There are no specific conditions other than a maximum of 40 years, with the early retirement proviso in para 9.

●. Calculation of pension

The pension is earnings related. The base figure is average annual revalued earnings over the last 5 years.

Men and women:	2 per cent of base figure up to ceiling (£1,600 pa)
	1.5 per cent for the first 33 per cent of earnings above ceiling
	1.25 per cent for the next 33 per cent
	1 per cent for the rest.

All multiplied by the number of insurance years (maximum 40).

PORTUGAL

12. Pension Age:

men 65, women (52) ? I think this should be 62.  
Rec6.

13. Contribution conditions

The rate of contribution is the same for men and women. Minimum contribution period 5 years but in transition to 10 years. Maximum contribution period 36 years.

14. Calculation of pension

The pension is earnings related.

Men and women:	2.2 per cent of average earnings in each contribution year ( <u>earnings not revalued</u> ) with a maximum of 80 per cent of earnings (36 years).
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RMANY

15. Pension age:

normally 65 for men and women, but

(a) both can retire at 63 if they have contributed for 35 years.

(b) women can receive state pension at 60 if they have contributed for 15 years, including 10 in the last 20 years.

16. Contribution conditions

The rate of contribution is the same for men and women.

17. Calculation of pension

The pension is earnings-related.

Men and women:  $1.5 \text{ per cent} \times \text{no of years insured} \times \text{individual's revalued average earnings.}$

So for a woman, working until 65 would give her the same pension as a man with the same employment conditions.

SOC SERV

Changes in Pension Age

June 89





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PAUL GRAY

21 December 1989

CC A. DUNLOP

PENSION AGE

Hitherto we have taken the view that this sensitive issue shouldn't be raised unless we have to. It is becoming more likely that we shall have to say something before the next election.

There are two issues which might force our hand:

- the new EC Equal Treatment Directive;
- the Equal Opportunities Commission's (EOC) challenge on National Insurance Contributions.

The two issues could become linked.

I understand that Tony Newton may minute the Prime Minister today, reporting back on two outstanding points from earlier correspondence. These are:

- the state of play on negotiations on the Equal Treatment Directive. It seems negotiations are likely to be stalled until next Autumn (ie still well before the next election);
- the contributions paid by men and women in other EC countries. Belgium is the only other country where - as in the UK - a man has to contribute for 5 more years to get the same level of pension as women. The Belgians have, however, announced plans to equalise the pension age by raising it for women, but no timetable has been given.

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### The Problem

The problem is that, irrespective of whether or not the Belgians are willing to make common cause if the NIC case reaches the European Court of Justice, the legal advice is that we are still likely to lose the case.

The implications of such an outcome are that men aged 60-64 would stop contributing to the NI fund. The immediate cost would be £500 million a year.

This has a strong read-across to the pension age. There are signs that the EOC see the NIC case as part of a wider strategy. Their Chief Executive is on record as saying:

"The decision to challenge the Government on this issue is an important step in our strategy to tackle the different state pension ages and the various inequalities surrounding them."

The EOC is reported to favour an equal pension age of 60. In this they would receive strong support from the Labour Party. Such a policy would cost billions of pounds.

My main concern is that if the Government is forced to concede the NICs case we would find ourselves at the top of a very slippery slope leading ultimately to an equal pension age of 60. After all if nobody is bound to pay contributions beyond 60, it would be very much more difficult to then shift the pension age for both men and women to 65 at a later date.

Even if negotiations on the Equal Treatment Directive had not reached a conclusion by the time of the election, people

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would know it was in the pipeline. There is a risk that Labour would try and put us on the spot about our policy on pension age. If we fail to give a clear answer this will be taken as evidence that we want an equal pension age of 65 but are unwilling to come clean. This would be the worst of all worlds.

### The Way Forward

One way for the Government to fend off trouble might be to issue a Green Paper on the Pension Age. I believe the "politics" of such a move could be quite containable:

1. There would be no need to make firm proposals, only to offer a list of the range of options;
2. Legislation and implementation could be portrayed as being some way off;
3. The Government would have a strong presentational case:
  - it is a clear injustice that men are treated inequitably. The feminist lobby always argue for equal treatment when it improves their situation. They would appear unconvincing if they objected on the one occasion that it might not.
  - women are living longer. The period of retirement is, therefore, longer as well;
  - the Government would not be forcing women to work beyond 60. They would be giving them a choice. We could move towards the "decade of retirement".
  - the demographics are making it obvious already that older people will have a major and fulfilling role

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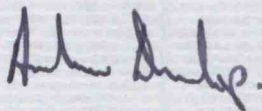
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to play in a tighter labour market. The Prime Minister started to float this idea in the "Passports to Opportunity" section of her Conference Speech. It was well received (see attached Press cutting). Moreover, the abolition of the earnings rule is a direct encouragement for people to work longer./

- with the increase in occupational pensions, the basic state retirement pension will become less important as a source of income for many pensioners.
- the cost of the alternative (an equal pension age of 60) is prohibitive, with all the adverse consequences for inflation and taxation;

#### Conclusion

I well understand the political sensitivities of this issue. But I believe the politics to be manageable. Equally I don't think we can put off some sort of consideration of this issue until beyond the election. There is a strong case for the Prime Minister to hold a meeting with Tony Newton and the Chancellor early in the New Year. This would consider the broad options and the politics. The danger is that if we don't dictate the agenda, the EOC and the Labour Party will.



ANDREW DUNLOP

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Prime Minister vows to get rid of the petty restrictions that stifle ambition

# Thatcher stamps Tory passport to prosperity

By ROBERT GIBSON Political Editor

MRS THATCHER launched the Tories' crusade for a second decade in power yesterday declaring her policies were an international passport to opportunity and prosperity.

She vowed to eradicate remaining petty restrictions and red tape that kill ambition, stifle initiative and curb enterprise.

And she bluntly told bosses to get rid of prejudices about age that stop people retraining and changing jobs as they get older and block opportunities when people have left school.

The changes the Tories had brought about, she said, were "passports that will enable their holders to overcome a false start in early life, passports with no expiry date, passports to the Conservative world of opportunity."

Her appeal came in her wide-ranging conference speech that covered health, the environment, drugs, terrorism, the economy, defence.

## Adapted

But she had a clear message for Britain's employers that age should be no barrier to a new career.

In one of the best-received passages of her speech, she told rapturous Tories: "For instance, there are prejudices about the age at which people can begin a new career.

"Well, I started being Prime Minister at the age of 53. I'd never been Prime Minister before, but I adapted to the work. I did my best and my employers have twice asked me to stay on.

"Then again, some people find a lot of jobs blocked to them because they don't have the right qualifications."

## Obstacle

Qualifications were necessary in modern times, she said, but opportunity should last a lifetime and not end at 18.

Britain now had the best training scheme for long-term unemployed adults in Europe and had started the first scheme of its kind open to all young people.

It was also necessary to remove obstacles erected by Government.

She was proud that the Government had been able to abolish the earnings rule for pensioners and remove barriers for those starting work, especially the low paid, by cutting income tax and national insurance.

From 1992 the professionals, she said, would



MRS THATCHER'S speech was peppered with jokes. A GENTLE dig at party president and former Deputy Premier Lord Whitelaw: "Your role in government was invaluable: Always wise, often witty and just occasionally wily."

LABOUR, which took us to the IMF, like some Third World country, now primly posed as a model of financial rectitude. "And it's all happened, as dear old Tommy Cooper used to say: 'Just like that.'"

ON Labour's scene of "unprecedented mass conversion" at their party conference in Brighton last week: "Nothing like it, since the Chinese general who baptised his entire army with a hose pipe."

IN a jibe at the Archbishop of Canterbury's claim of a Pharisee society: "For every Pharisee our system produces you will find at least three good Samaritans."

ON the difficulties of changing career: "I started being Prime Minister at the age of 53. I'd never been a prime minister before — but I adapted to the work, I did my best and my employers have twice asked me to stay on."

have the freedom to move throughout Europe.

She said: "That will open up a much wider vista for all young people."

Throughout her speech Mrs Thatcher repeatedly returned to her strong theme that under Conservative policies — now being adopted throughout the world — people were given freedom to run their own lives.

And it was freedom of choice that lay behind her policies on health education, the economy and industry.

On HEALTH Mrs Thatcher said she was determined to make the Health Service one of the best in the world and pledged that it will not be privatised.

On EDUCATION she

said that the Government had introduced major reforms in the face of fierce Labour opposition, including the national curriculum.

"Who now argues that we were wrong?" she asked.

On the ENVIRONMENT Mrs Thatcher said: "To make Britain cleaner, we shall bring in a new Environment Bill to give us much tougher controls on pollution, litter and waste."

## Condemned

On DRUGS she said the war would continue against those who produced, peddled and profited from them.

On TERRORISM she said the battle against the men of violence would go on and she bitterly con-

demned countries which support the terror gangs.

She said: "A country cannot support terrorism and still expect to be treated as a member of the international community. To take hostages is to exclude yourself from the civilised world."

On EASTERN EUROPE she said: "What a fantastic year this has been for freedom — 1989 will be remembered for decades to come as the year when the people of half our continent began to throw off their chains.

"The decade and the century which open up before us must see the lasting triumph of liberty, our common cause.

"The world needs Britain — and Britain needs us — to make that happen."



SOCIAL SERVICES  
Changes in Pension Age  
June 89



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*clap*



10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

9 October 1989

*Dea Christophe,*

PENSION AGE

*BT* // Thank you for your letter of 3 October enclosing a note setting out the advice of the Solicitor General and the Lord Advocate. The Prime Minister has noted this. She understands that the Secretary of State for Social Security is now considering the issue further and will be putting forward views next month. She would be grateful in this context to have a note on the arrangements in other EC States on the relative treatment of men and women for National Insurance contributions.

I am copying this letter to Stuart Lord (Department of Social Security), John Gieve (HM Treasury), Gregor Kowalski (Lord Advocate's Department) and Sir Robin Butler.

*Yan,  
Paul*

PAUL GRAY

Mr. C. P. J. Muttukumaru  
Attorney General's Office

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*to*

PRIME MINISTER

PENSION AGE

Earlier in the Summer, both John Moore and the Chancellor put papers to you urging serious consideration of raising the pension age for women to 65. You felt it was not appropriate to contemplate such a move at this stage.

*It would be utterly disastrous.*

It subsequently emerged that one of the reasons for the proposal coming forward was the difficulties we are under from an Equal Opportunities Commission legal challenge in Europe that we are in breach of the Equal Treatment Directive in requiring men aged 60-64 to pay National Insurance contributions. You were disturbed to learn that it was felt the Government could lose this case. And you asked the Law Officers to look into this further, considering the point that contributions by men give rise to additional pension entitlement for their wives as dependants. I minuted out your views in my letter at Flag A.

The Law Officers have now responded - Flag B. I will not attempt to summarise their reasoning. But the bottom line is that they still believe we will lose the EOC case and feel that your point will not materially help the defence.

Following the earlier exchanges, the Department of Social Security are now considering possible options on the way forward. Tony Newton aims to minute you about this next month. Perhaps the best course is to await that minute before considering any further action.

Content to note the Law Officers' views and to await the promised further note from Tony Newton?

*PLG*

PAUL GRAY

6 October 1989

C:\WPDOCS\ECONOMIC\PENSION.DAS

*Please let me have a note on what happens in other EC states on this point*





B. ~~CCPS~~ B  
THE LEGAL SECRETARIAT TO THE LAW OFFICERS  
ATTORNEY GENERAL'S CHAMBERS  
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P. Gray Esq.,  
The Private Secretary,  
Prime Minister's Office,  
10 Downing Street,  
London,  
SW1A 2AA.

3 October 1989

Dear Paul,

SEX DISCRIMINATION AND NATIONAL INSURANCE  
CONTRIBUTIONS : PENSION AGE

Thank you for your letter of 21 September. *hap*

The Lord Advocate and the Solicitor General have carefully considered the observations made by the Prime Minister on the pension age question. With Gregor Kowalski's agreement, I now attach a note which (a) summarises the earlier advice given to the Secretary of State for Social Security by the Law Officers and (b) contains their views on the Prime Minister's observations.

I am copying this to Stuart Lord (DSS), to John Gieve (Chancellor's Office), Gregor Kowalski (Lord Advocate's Department) and John Mogg (Cabinet Office, European Secretariat).

Yours sincerely,

*C. P. J. Muttukumar*

C. P. J. MUTTUKUMARU



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SEX DISCRIMINATION AND NATIONAL INSURANCE  
CONTRIBUTIONS : PENSION AGE

1. The Equal Opportunities Commission have now commenced judicial review proceedings against the Secretary of State for Social Security in the Divisional Court. The EOC's grounds of challenge allege that the government has acted in breach of its obligations under Council Directive (EEC)79/7 (on the progressive implementation of the principle of equal treatment for men and women in matters of social security) in that:

"A man who continues to work between the ages of 60 and 65 is required to continue to make National Insurance contributions until the age of 65, even if he has already completed the years of contribution required for eligibility for a category A pension, whereas a woman of the same age and circumstances is not required to make any further such contributions after the age of 60".


The requirement to contribute beyond the age of 60 is referred to in this note as "the relevant contribution condition".

2. This note is set out in 3 sections, which comprise:
- (a) A summary of the Law Officers' advice hitherto;
  - (b) The reasoning underlying that advice;
  - (c) The Law Officers' views on the Prime Minister's observations.

SUMMARY OF THE LAW OFFICERS' ADVICE

3. Prior to the commencement of the proceedings referred to above, the Lord Advocate and the Solicitor General advised the Secretary of State on the lawfulness of the relevant contribution condition. In summary, the Law Officers concluded that if, as is likely, the case were referred to the European





Court of Justice for a preliminary ruling on the compatibility of the relevant contribution condition with Community Law, the Court of Justice would be likely to find that the condition constituted sex discrimination and that it did not fall within the scope of the derogation in Article 7.1 of the Directive which preserves the right of Member States to exclude from the scope of the Directive "the determination of pensionable age for the purposes of granting old-age and retirement pensions and the possible consequences thereof for other benefits". That said, the Law Officers also emphasised that there was no binding authority of the Court of Justice on the government's arguments on compatibility and so they did not advise that such arguments could not properly be put to the Court of Justice.

#### THE LAW OFFICERS' REASONS FOR REACHING THEIR CONCLUSIONS

##### The questions at issue

4. The Law Officers considered the issue of unlawful sex discrimination as follows:


(a) would the Court of Justice conclude that the difference in treatment between men and women aged 60 to 64 constitutes unequal treatment of men and women, as defined in Directive 79/7?

(b) if so, is such discrimination lawful by reason of the derogation in Article 7.1(a) of the Directive?

##### Question (a):

##### Direct or indirect discrimination?

5. It was, in the Law Officers' view, arguable that there was no sex discrimination in the present case. Men and women were treated equally in the sense that the obligation to contribute existed until state pension age. Because state pension age was 65 for men and 60 for women the obligation to contribute ceased earlier for women than for men.



6. There was some domestic law authority in support of this approach to be found in the recent case of James v Eastleigh Borough Council (The Times: 1 May 1989). There was also some support for such an approach in the ECJ case of Burton (1982) ICR 329 (at pages 348 to 9 (paragraphs 15 to 16 of the judgment of the European Court).

7. The Law Officers nevertheless concluded that the recent jurisprudence of the Court of Justice suggested that the Court was more likely to take as the appropriate comparator for this purpose a man and a woman of the same age. This was the approach adopted by the Court of Justice in Roberts v Tate and Lyle Industries Limited (1986) ICR 371 (in the context of Directive 76/207) in which the Burton arguments were considered. It was moreover the approach advanced in Roberts by the United Kingdom (see paragraph 27 of the judgment). The Court of Justice was also likely to consider that Directive 79/7 prohibited different treatment of men and women of the same age unless this fell within one of the exceptions expressly recognised in the Directive itself.


8. The question whether, if the Court of Justice considered this to be a case of indirect sex discrimination (proportion of men detrimentally affected considerably greater than the proportion of women so affected), such discrimination might be objectively justified is dealt with in paragraph 16 below.

#### The derogation (question (b))

9. It was well established that a derogation (see paragraph 7 above), such as that to be found in Article 7.1(a), would be strictly construed by the European Court.


10. On its face, Article 7.1(a) only applied to the determination of pensionable age for the purposes of granting old age and retirement pensions and the possible consequences thereof for other benefits. There were two possible arguments as to why Article 7.1(a) should be applied to the obligation to make National Insurance contributions until State pension age.





11. The principal argument was that Article 7.1(a) was intended to permit differences in treatment which were inextricably linked with the difference in State pension ages. In the present case the contribution age criterion was the same as the age criterion for receipt of a pension. But the difficulty was that the liability for men to contribute for 5 more years than women was not, on the information provided by the DSS, inextricably linked with the difference in pensionable age in the sense that the difference in State pension ages could not continue if the contribution age criterion were to relate to men and women of the same age. That is, the requirement to contribute for 5 more years was not a necessary consequence of the exercise of a Member State's right, by virtue of the derogation, to maintain different pension ages. The Court of Justice was therefore likely to conclude that the government would not in practice be driven to adopt a single pensionable age and that the relevant contribution condition fell outside the scope of the derogation permitted by the Directive. If, on the other hand, it could be shown that that would be the inevitable result of equalisation of the contribution age criterion, it would deprive the first limb of the derogation in Article 7 of any effect, and the Court of Justice might be persuaded to rule in the government's favour.

12. The Law Officers accepted of course that there were a number of arguments which could properly be advanced before the ECJ by the government in defence of the present position. It could, for instance, reasonably be argued that a reduction in the age at which a man's contributions might cease would create pressure to equalise pensionable age at the lower age. That would tend to support the argument that the effect of being required to equalise the contribution age criterion would in practice drive the government to adopt a single pensionable age. In this context, it was for further consideration whether the government would have a better prospect of success before the Court of Justice if it had announced plans to equalise pensionable age at 65. It would then be possible to argue more forcefully before the Court of Justice that the UK ought not to be driven to amend the contribution condition for men in the opposite direction to its stated intentions on equalisation of pension age. But if it had not so announced, the furthest that the government could go before the Court of Justice would be to emphasise the implications for pension age of the requirement to equalise the contribution condition and to argue that



the equalisation of the contribution condition ought not to be required where that would have the effect of forcing the UK to move in any particular direction on pension age. The point to stress would be that the contribution condition could not be considered in isolation from the pension age issue.


13. The Law Officers have considered a second (and subsidiary) argument to the effect that the obligation to make contributions, which for a woman ceases at age 60, is to be construed as included in the category of "other benefits" for which under the exception in Article 7(1)(a) the determination of pensionable age has "consequences". The Law Officers, whilst believing that something could be made of this argument, preferred the view that the European Court would be likely to conclude that this was a "detriment" rather than a "benefit" (relying, inter alia, on Article 4 of the Directive distinguishing between the obligation to contribute and the receipt of benefits), and that Article 7.1(a) was drafted to exclude sex discrimination in relation to such detriments.

#### THE PRIME MINISTER'S OBSERVATIONS

14. The Prime Minister has commented that it is surely right that men should pay contributions longer than women because this gives rise to additional entitlement to pensions for wives as dependants. It is assumed that this is a reference to the fact that category "B" pensions are available to a woman based on the husband's contribution record either where the woman has had no relevant contribution record at all or where her contribution record is deficient.

15. The difficulty with this argument is, it is suggested, two-fold. First, as explained in paragraph 6 above, the Court of Justice is likely to consider the question of equal treatment by comparing the treatment of men and women of the same age. Accordingly, the Court would be likely to conclude that the relevant contribution condition was directly discriminatory. If so, as a matter of law, it would not be open to the United Kingdom to justify the discrimination by showing that it was reasonable. The only defences would be those recognised by a specific provision in the Directive. It is Article 7(1)(a) which is relevant for present purposes. Unless, therefore, it could be demonstrated that the relevant contribution condition was inextricably linked

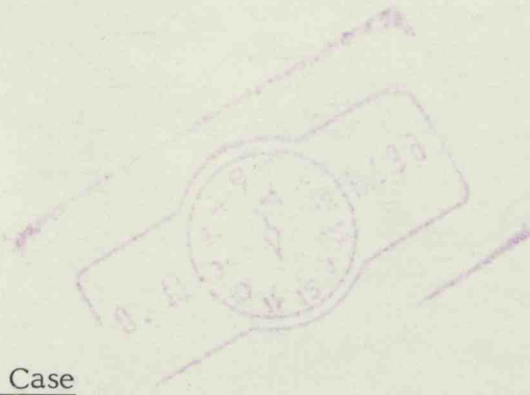




with the difference in State pension age in the sense noted above, the Court of Justice would be likely to rule that such a condition was incompatible with Community law. Even if it could be argued that a man was paying for two pensions, this would not help the United Kingdom to establish a derogation to the Directive under Article 7. Indeed given that the payments would not in fact benefit a large number of men, for example those whose wives had a full contribution record at 60 in their own right (and who, therefore, were entitled to a category A pension) and those who remained unmarried throughout their lives, this factor would make the position even more difficult to defend.

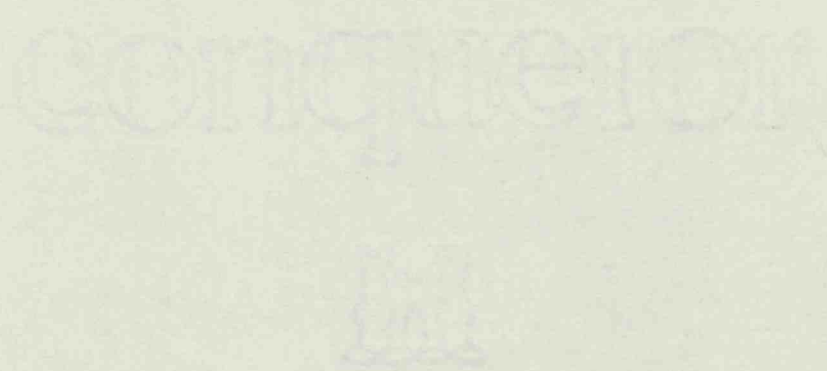
16. Secondly, if the Court of Justice were to consider the issue as one of indirect discrimination (see paragraph 7 above), then it would be open to the United Kingdom to justify objectively the relevant contribution condition. The test for objective justification would be whether the United Kingdom could show that the relevant contribution condition was reasonably necessary to further a legitimate goal and whether it was proportionate to that goal. The United Kingdom would need to satisfy the Court of Justice that, in the absence of the relevant contribution condition (and therefore in the absence of the revenue raised by that condition), it would not reasonably be able to maintain the provisions relating to the wife's pension at all or by means which did not have a discriminatory effect on men. It has, however, been confirmed by the Department that, since 1975, the revenue yielded by the extra 5 years' contributions has only met a small part of the cost of providing the category B pension and the Department does not suggest that it would be driven to revising the wife's pension arrangements in the absence of such revenue. In the circumstances, the Law Officers have concluded that, on the information presently available to them, the Court of Justice is unlikely to accept the argument that the relevant contribution condition may be objectively justified.

17. Prior to the changes introduced by the Social Security Act 1975, men did pay a higher flat rate contribution than women throughout their working lives because a man's contributions bought category B pensions and widow's benefits for a wife and because certain benefits were paid at lower rates to women. But, as noted in paragraph 16, the position has now changed.



The EOC Case

18. The case brought by the Equal Opportunities Commission is being vigorously contested. Counsel of considerable standing have been instructed to appear for the Secretary of State. The Law Officers are closely monitoring developments in the case.





SOCIAL SERVICES:

Change in the Pension Age - June 1989.



CONFIDENTIAL



10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

21 September 1989

Dear Christopher,

*Bell*  
Thank you for your letter of 20 September. I quite understand the reasons for the delay. Given the Prime Minister's movements during October it would however be extremely helpful if the note could be made available early in the week beginning 2 October.

I am copying this letter to Stuart Lord (Department of Social Security), John Gieve (HM Treasury) and Gregor Kowalski (Lord Advocate's Department).

*Yours,  
Paul Gray*

Paul Gray

C. P. J. Muttukumar, Esq.,  
Law Officers' Department.

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THE LEGAL SECRETARIAT TO THE LAW OFFICERS  
ATTORNEY GENERAL'S CHAMBERS  
ROYAL COURTS OF JUSTICE  
LONDON, WC2A 2LL

General enquiries 01-936 6602  
Direct line 01-936 6020

CONFIDENTIAL

Paul Gray Esq  
The Private Secretary  
Prime Minister's Office  
10 Downing Street  
London  
SW1A 2AA

20 September 1989

Dear Mr Gray,

SEX DISCRIMINATION AND NATIONAL INSURANCE CONTRIBUTIONS :  
PENSION AGE

I refer to our telephone conversation on 12 September, when I explained that the Solicitor General was concerned to explore further points arising from the Prime Minister's comments on this issue. Consideration of these points proceeds apace. In particular, Counsel appearing for the Secretary of State for Social Security in the proceedings brought in the Divisional Court by the Equal Opportunities Commission has been asked to assess the strength of one of the arguments under consideration.

Unfortunately, it did not prove possible to resolve the legal issues arising whilst both the Lord Advocate and the Solicitor General were available earlier this week. The Solicitor General is away until the end of next week and we hope that, on his return, it will be possible to send you the note which the Prime Minister has requested. Needless to say, I greatly regret the delay. On the other hand, as I know you appreciate, it would be far better if all options were fully explored especially in such a complex area of the law.

I am copying this to Stuart Lord (DSS), to John Gieve (Chancellor's Office) and to Gregor Kowalski (Lord Advocate's Department).

Yours sincerely,

*C P J Muttukumar*

C P J MUTTUKUMARU

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Social Services

6/89 - change in  
version A/E.





CONFIDENTIAL



*File K/S  
L06B75*

10 DOWNING STREET  
LONDON SW1A 2AA

11 August 1989

*From the Private Secretary*

PENSION AGE

I enclose a letter dated 31 July which I sent to Stuart Lord in the Department of Social Security, with a copy to Michael Saunders in the Law Officers' Department. I now understand from discussions with Michael's colleagues that this is an issue which should also be addressed by the Scottish Law Officers. I should therefore be grateful if you could arrange for this to be put in hand.

PAUL GRAY

Mr. Gregor Kowalski,  
Lord Advocate's Department, Scotland.

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FILE SLHBIU  
A bc PU A

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

31 July 1989

**PENSION AGE**

The Prime Minister has now seen the Chancellor of the Exchequer's minute of 27 July following Mr. Moore's earlier minute of 12 July.

The Prime Minister is disturbed to learn that it is felt that the Government could lose the case brought by the Equal Opportunities Commission alleging that the UK is in breach of the 1979 Equal Treatment Directive in requiring men aged 60-64 to pay National Insurance contributions. She has commented that it is surely right that men should pay contributions longer than women because this gives rise to additional entitlement for pensions for wives as dependants. She would like to be able to consider this point with the Law Officers.

I am therefore copying this letter, not only to John Gieve (Chancellor's Office), but also to Michael Saunders (Law Officers Department). I should be grateful if he could arrange for the Prime Minister to have a note on this issue.

PAUL GRAY

Stuart Lord, Esq.,  
Department of Social Security

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*clp*

*This is absurd  
It is quite right that  
men should pay contributions  
larger than women because*



Treasury Chambers, Parliament Street, SW1P 3AG

01-270 3000

*They receive pension for  
a wife as a dependant.*

*Prime Minister*

*It should like to consider*

*Following X I have already mentioned  
out saying you have noted that the  
contingency work is in hand. But do you  
want to support the Chancellor's plea that  
this is done  
quickly . *press ref**

PRIME MINISTER

*with the Law Officers  
first no*

PENSION AGE

X/

I have seen John Moore's minute of 12 July letting you know that the Equal Opportunities Commission has now begun its case that the UK is in breach of the 1979 Equal Treatment Directive in requiring men aged 60-64 to pay national insurance contributions.

2. If, as the Law Officers seem to believe is highly likely, we lose this case, the implications are potentially very damaging for budgetary and pensions policy. If the result is that men aged 60-64 no longer have to pay contributions, the Department estimate a revenue loss of £½ billion a year. It would also lead to considerable pressure for an equal pension age of 60, despite the strong case for a move in due course to at least 65. If conceded, that would result in a very much higher cost to the Exchequer.

3. John's minute said that a ruling from the European Court of Justice was unlikely before 1991 or 1992. But the Law Officers advise that our best chance of heading off an adverse decision is to produce a consultative document on pension age. So we would need to act sooner.

4. For these reasons, I very much hope that further work on the consequences of an adverse decision, referred to in John's minute, can be taken forward as quickly as possible. It is clear that the Law Officers' advice on this case, which was not known until after

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John's minute to you of 9 June about the pension age, has introduced an important new factor which we will have to take into account.

5. I am copying this minute to Tony Newton.

*HL*

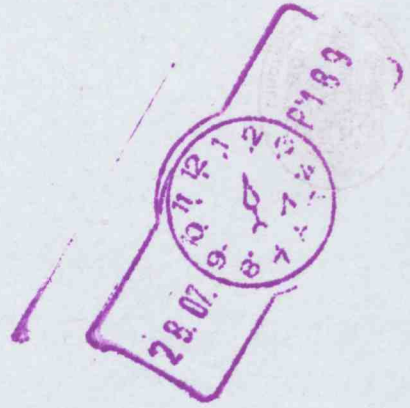
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27 July 1989

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SOCIAL SERVICES - Berpau Kurus age



COMPLIMENT

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cefu jmw

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

14 July 1989

**PENSION AGE**

The Prime Minister was grateful for your Secretary of State's minute of 12 July alerting her to the difficulties with the Equal Opportunities Commission challenge. The Prime Minister has noted this and that your Secretary of State has now put in hand work on a contingency basis to look at what issues need to be considered in the event of an adverse decision. She has also noted that your Secretary of State is considering tactics for handling the current negotiations on the draft Equal Treatment Directive, and she looks forward to his promised further minute on that.

I am copying this letter to Carys Evans (Chief Secretary's Office).

(PAUL GRAY)

Stuart Lord, Esq.,  
Department of Social Security.

CONFIDENTIAL

h





~~clp~~

Prime Minister

CONFIDENTIAL

Prime Minister

Follows your conversation with John Moore. I assure you do not want to change your line on pension age because of this. Contact simply to note the problem and that further work is in hand?

Yes not

PENSION AGE

file 6  
14/7

I mentioned to you recently the potential problem on the horizon which has a close link to the issue of Pension Age.

2. The Equal Opportunities Commission will very soon be seeking leave for a judicial review of the interpretation and application of the 1979 Equal Treatment Directive, their argument being that payment of national insurance contributions by men (but not by women) aged 60-65 contravenes the Directive. Since my minute to you of 9 June we have had clear advice from the Law Officers that we are highly likely to lose, our best chance of winning being to signal our intentions on pension age in a consultative document before judgement is given.

3. This case will take some time to work through the legal system, and will undoubtedly be referred to the European Court of Justice where a ruling is unlikely to be given before March 1991 and might not be given until well into 1992.

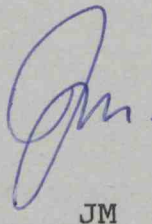
E.R.

4. I have commissioned further work on a contingency basis to look at what issues need to be considered in the event of an adverse decision. Legal advice is that we would not be able to extend to age 65 women's liability to pay contributions. Foregoing contributions from men aged 60-65 would reduce NI fund income by £1/2 billion, 2% of the total. But we need also to work through the effects on other components of the system - notably contracted out pension schemes and benefits. From a strategic point of view, we would not be able quickly to equalise pension age because of the need to allow people to adapt their expectations. And meanwhile the effect of men ceasing to pay contributions at age 60 would undoubtedly be to raise expectations of, and pressure for, a common pension age of 60. That would make presentation of the sensible case for equalisation at 65 more difficult.

5. I am also considering tactics for handling the current negotiations in Brussels on the draft Equal Treatment Directive concerning pension age, and will minute you again on that.

6. I am copying this minute to John Major.

12 July 1989



JM



F.F.



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*Cile JM*  
*cc A Dunlop*

10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

12 June 1989

*Dear Shakti,*

PENSION AGE

The Prime Minister was grateful for your Secretary of State's minute of 9 June and the enclosed paper.

I should be grateful if you and copy recipients would ensure that this letter is seen only by those with a clear need to know.

The Prime Minister has commented that the possibility of raising the retirement age for women should not be raised now. She notes that there is already some flexibility in the retirement age because of the increments accruing to those who retire later, and that those at present in the system have paid contributions for many years on the basis of present conditions. Given the sensitivities, she feels that the question of a change to the retirement age should only be raised when the need for this has become obvious, for example as a result of the demographic changes which will tighten conditions in the labour market; the Prime Minister thinks that will be some years ahead.

I am copying this letter to Alex Allan (H M Treasury).

*Yan.*  
*Pa*

PAUL GRAY

Stuart Lord,  
Department of Social Security

CONFIDENTIAL

*M*





10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

Prime Minister

I think the late this is brought onto the agenda is better. At present people are still in the high unemployment mode of thinking, with early retirement being "a good thing". In two or three years time, the demographic changes will have hit the labour market and the case for rounding up will look stronger as employers are striving to retain older workers.

I do not think it is necessary to respond to Labour's rounding down. This can be criticized on the expenditure / taxation grounds.

AT  
9/6

8  
B

PRIME MINISTER

PENSION AGE

You will want to consider John Moore's minute attached. He judges that the time is now right to bring forward proposals to equalise the pension age for men and women at 65.

He has discussed this informally with Treasury Ministers, who are said to be supportive. But he is seeking guidance from you before raising the matter with other colleagues. His plan is to produce a White Paper before the end of this year, while making clear that there would be no legislation until after the next election.

Andrew Dunlop has been kept in touch with this work, and I have discussed this with him. We both feel that the technical case for raising the retirement age for women is strong, for the reasons brought out in John Moore's paper. But this is clearly very sensitive politically, and you will want to consider whether you judge that the time is right to raise this issue.

(i) do you have a clear view that you want to give John Moore?

OR

(ii) would you like to have a brief chat with him to talk this through (bearing in mind the current pressures on the diary)?

*Yes - we cannot raise this question now. There is already some flexibility in retirement age because of the increments to attend later retirement. Further - those at present*

*have paid contributions for years on the basis of present conditions. We should only raise this question when the need has become obvious. That will be some years ahead.*

*AGC.*

(PAUL GRAY)  
9 June 1989





Prime Minister

## PENSION AGE

1. The current difference in state pension ages for men and for women has no logical justification. Equalising them in a responsible programme of change offers the opportunity to forestall demographic labour force problems which will otherwise build up in the next century. Such changes demand long lead times. Political considerations, both domestic and in the European context, also suggest that now is the time to take the initiative.

2. I attach an outline paper summarising the issues. I will need to consult colleagues if we are to pursue my proposals. But, because of the political sensitivity, I wanted to seek your views first.

Why Change?

3. It is right that men and women should get state pensions at the same age. There was never any real justification for introducing the difference in the first place. But looking beyond the issue of principle, there are very practical arguments, to do with the deteriorating balance between the sizes of the working and retired populations in the next century, for seeking to encourage older people to remain in the labour force. Increasing state pension age for women, the trend across industrialised nations generally, to a common age at 65 would achieve that goal.

Why now?

4. The changes themselves do not need to be in place fully until the second quarter of the next century. But they would mean significant changes to retirement plans. Employers, the pensions





industry and most importantly individuals ought to expect ample time to prepare. A long phasing in period will also be essential. All this points to a comparatively short window of opportunity for making our intentions clear if we are to have our proposals in place for the 21st Century when demography turns against us.

5. Other developments reinforce the need to seize the policy initiative. It is increasingly difficult to adopt a firm stance on the European stage in response to litigation, in implementing previous directives or in negotiating the next without a clear public position on pension age. On the domestic front, Labour's policy reviews have come up with characteristically irresponsible and hugely expensive ideas, including a reduction of state pension age for men to 60. By adopting a clear policy ourselves, we will be in a much better position to respond firmly and decisively. Both these considerations point to forming a public policy in the near future and in advance of the next election. There is no similar imperative for legislation to implement change. This could wait for the next Parliament.

#### Presentation

6. I am convinced that we can make a forceful case. The wider rational arguments behind the change stand in their own right. We must also bring home to people how the link between state pension age and the age when they personally will retire is becoming ever more tenuous. Companies are already forbidden from having different retirement ages for men and for women. Occupational schemes offer pensions at a range of ages. We would want to explore options for offering flexibility in the state scheme too. But state pension itself accounts for an ever decreasing proportion of pensioners' incomes. The real flexibility about when to retire will come from individuals' private arrangements with employers and personal pension providers.





Conclusion

7. If you are content, I will consult colleagues with a view to a White Paper before the end of the year but with the intention of leaving legislation until after the next election. I know that I have the broad support of Nigel Lawson and John Major for the basic approach proposed. You may wish to discuss.

JM

9 June 1989



## CONFIDENTIAL

## PENSION AGE

Background

1. When introduced in 1908, old age pension was paid to both men and women at 70. The age was lowered to 65 in 1925. It was not until 1940 that inequality was introduced - 60 for women and 65 for men. There is a general belief that the change was made because women are generally 5 years younger than their husbands. In fact, it was proposed by Aneurin Bevan as a response to the large numbers of single women receiving Unemployment Assistance before the War and to the Campaign for the Single Woman and her Dependents. To get these women off unemployment assistance pension age was lowered, and it was felt that the reduction could not be denied to married women. As it happens the War generated a large demand for labour very soon afterwards and the change was unnecessary. The inequality of treatment has been a recurring theme since then and debate has centred on whether equalisation should be upwards or downwards.

2. A major study was carried out in 1982 by the Social Services Select Committee. They recommended flexibility between 60 and 65, with a pivotol age in effect of 63 (mainly on cost grounds). The Committee, mindful that actuarially reduced pensions should not be so low as to lead to general dependence on income related benefit, recommended that the new scheme should not be available until most of those qualifying had the expectation of a reasonable level of SERPS. The Committee concluded that the proposal involved no significant long term cost. In response, the Government expressed sympathy with the principles of flexibility and equal treatment, but cast doubts on the Committee's optimistic view of the likely costs.

3. The Government's 1985 Green Paper "Reform of Social Security" invited views on the idea of a decade of retirement between 60 and 70, with 65 as the pivotol age. Below 65, the individual would retire on an actuarially reduced pension - 60 per cent at age 60. The White Paper published later in 1985 stated that many of those who responded to the Green Paper favoured greater flexibility: however none had suggested a way of introducing the decade without substantial initial costs. It was left that the Government would continue to examine this possibility.



4. Developments in Europe will make it increasingly difficult to avoid adopting a clear stance.

- a. The Equal Treatment Directive we signed in 1979 explicitly excluded pension age. However, challenges in the European Courts have concerned state benefits where entitlement or level hinges on pensionable age. Cases now before the Courts concern Severe Disablement Allowance and Invalid Care Allowance. The Equal Opportunities Commission are considering a challenge on the issue that men currently have to continue paying contributions from age 60 to 65 to qualify for the same minimum pension as a woman can receive at age 60. Our reactions to these will be better received and understood when we have a clear declaration on pension age.
- b. Occupational pension schemes have already had to make changes following interpretations in the European Courts of the 1979 Directive. The 1986 Directive on Equal Treatment in Occupational Schemes requires further changes by 1993. The UK legislation will be contained partly in the present Social Security Bill and partly in further legislation required for 1989/90. All this change is time consuming and expensive. Yet employers and pension providers generally will not be able to fix on final measures until the Government has made clear its long term policy on State pension age.
- c. A third Equal Treatment Directive covering a number of issues including pension age is currently being negotiated. The latest (Spanish) text proposes a 6 year timetable for legislation after the Directive is signed but leaves it to each Government to decide when that legislation becomes effective. That is coming close to a position to which the UK could subscribe, but we need to have made our intentions clear first or we shall appear to be driven by Brussels before we are ready.



5. Work has continued amongst economists within Government to assess the impact of change and they have agreed an approach to estimating the effects on employment and on public finances. These cover direct effects - impact on the age at which people retire, changes in job opportunities for younger people and the resulting effect on unemployment, and also indirect effects - impact on the level of real wages and on the total number of jobs available. The actual costings, and other economic effects, have yet to be discussed between Departments.

#### Demography

6. The table below shows the predicted population data firstly if pension age remains as now and secondly if an equal pension age of 65 were to be introduced over 20 years from 2010:-

Year	<u>Number of working age</u> 16-pension age		<u>Number over pension age</u>		<u>Dependency ratio</u>	
	a		b		a/b	
	million		million			
	Current Scheme	Proposed Scheme	Current Scheme	Proposed Scheme	Current Scheme	Proposed Scheme
1988	34.1	34.1	10.1	10.1	3.4	3.4
2000	34.6	34.6	10.4	10.4	3.3	3.3
2010	34.9	34.9	11.2	11.2	3.1	3.1
2020	34.5	35.2	12.4	11.6	2.8	3.0
2035	32.5	34.0	14.0	12.4	2.3	2.7
2055	32.3	34.1	12.7	10.9	2.6	3.1

7. Underlying these figures are the following changes:-

a. To the year 2000

\* slow increase in numbers of pensioners: rise in number of very old (75+) partly offset by fall in numbers aged 60/65 to 74.

\* slow increase in number of working age. Fall in number of young adults more than offset by growth in older ages particularly over 50s.



b. 2000 to 2020

- \* rapid increase in numbers of pensioners
- \* total of working age stable

c. beyond 2020

- \* pensioner numbers continue to increase rapidly to 2035 then begin to decline.
- \* number of people of working age very uncertain because of need to predict future births. Government Actuaries' central projection shows a fall of two million between 2020 and 2035, then a continuing slower rate of decline.

8. The dependency ratio is a valuable indicator of the burden on the working population of supporting state benefits for the elderly. The figures in the final column show how equalising pension age at 65 will help to maintain this ratio closer to present values.

Labour market effects

9. The immediate effects of a change in pension age will be to increase the work force. The effect on unemployment will depend on:-

- a. how many women want to continue working;
- b. the extent to which those who work longer displace people who would otherwise have found a job.

There are also second round (indirect) effects on the economy which could take up to between five and ten years to have full impact. A higher pension age would increase total labour supply, causing the price of labour to fall below what it would otherwise have been. This could lead to better economic performance and competitiveness, and an increase in demand and in the numbers of jobs available. On the other hand, it could result initially in higher unemployment than would otherwise have occurred.



10. A phased change in pension age would however give individuals and employers better opportunity to make proper plans, and would allow the labour market more time to adjust. Annex 1 illustrates schemes in which equalisation is phased in over 10 and 20 years; other variants are clearly possible. The employment effects of phasing are complex and have not yet been calculated.

#### Costings

11. On the simple assumption that pension age is equalised in one step in 2010, the long run annual costs/savings (allowing for PE and revenue effects) for various changes in pension age are as follows:-

<u>Pension</u>	<u>Savings -/</u>
<u>age</u>	<u>costs +</u>
	£ billion
	1989-90 prices
60	+ 10
63	+ 3
64	neutral
65	- 2
67	- 3

These figures take account of basic pension, SERPS and other Social Security benefits, tax and NI revenues, and also assume that second round effects on jobs come into play immediately. A phased introduction is much more complex to cost and would need to take account of the build up of second order effects.

#### Flexibility

12. The flexible decade of retirement is a goal that requires further exploration. There might still be attractions in introducing flexibility in state pensions by letting men and women take their pension early at a reduced rate if they wished. But we need to avoid the trap of people retiring early with inadequate means so that they become a drain on means tested benefits. We also need to avoid a system that exacerbates the adverse demographic trends identified in paras 6-8. But the argument has moved on since



flexibility was floated in the 1985 Green Paper. The real key to flexibility is not the State Retirement Pension but the growth in private pensions. A good deal of further work is needed to look at the cost and labour implications of the options.

#### Other countries

13. Most other countries already have equal pension ages of 65 or above or are currently considering equalising upwards. Annex 2 shows the position in the community. Besides the UK, the only EEC countries with unequal ages are Belgium, Greece, Italy and Portugal. In the USA, pension age is currently 65 and is to be increased to 66 by 2015 and 67 in the decade beginning 2020.

#### Next Steps

14. The demographic arguments point to an increase rather than a decrease in pension age, whilst the labour market effects suggest that given proper phasing such an increase could be accommodated. However, further work is needed to include the views of other departments and to work up the details for a public announcement. A White Paper could follow the outline at Annex 3.

## ILLUSTRATIVE PHASING

<u>Year of Birth</u>	<u>Age in 1990</u>	<u>Present Scheme</u>		<u>20 Year Phasing</u>		<u>10 Year Phasing</u>	
		<u>Year pension age reached</u>	<u>Pension age</u>	<u>Year pension age reached</u>	<u>Pension age</u>	<u>Year pension age reached</u>	<u>Pension age</u>
1950	40	2010	60	2010	60	2010	60
1951	39	2011	60	2011	60	2012	61
1952	38	2012	60	2012	60	2014	62
1953	37	2013	60	2014	61	2016	63
1954	36	2014	60	2015	61	2018	64
1955	35	2015	60	2016	61	2020	65
1956	34	2016	60	2018	62	2021	65
1957	33	2017	60	2019	62	2022	65
1958	32	2018	60	2020	62	2023	65
1959	31	2019	60	2022	63	2024	65
1960	30	2020	60	2023	63	2025	65
1961	29	2021	60	2024	63	2026	65
1962	28	2022	60	2026	64	2027	65
1963	27	2023	60	2027	64	2028	65
1964	26	2024	60	2028	64	2029	65
1965	25	2025	60	2030	65	2030	65

The 20 year phasing illustration assumes that pension age is increased in steps of a whole year at a time every 3 years. An alternative approach would include increases each year of 4 months.



## PENSION AGE: EC MEMBER STATES

Broadly speaking, the position is as follows:

<u>Member</u>	<u>Men</u>	<u>Women</u>
Belgium	65	60
Denmark	67	67
France	60	60
Germany	65	65
Greece	65	60
Ireland	65(66)	65(66)
Italy	60	55
Luxembourg	65(60)	65(55)
Netherlands	65	65
Portugal	65	62
Spain	65	65
UK	65	60

Notes

Belgium: Belgium proposed to equalise pension ages at 65 at a stroke in 1986, but the proposal was modified as a result of political pressure. Instead, women were prevented from taking early retirement with an abated pension as was possible for both sexes until 1987. Only men can now retire up to five years earlier with an abatement of 5 per cent a year. Belgium plans to equalise eventually at 65. Pension age is lower for men in certain circumstances where arduous employment is involved. For miners, pension age can be 55.

Pension age can be 58 for men and women under the 'pre-pension' arrangements: early retirement can be taken if the person retiring is replaced by an unemployed person.



- Denmark: Partial pension is allowed from age 62 (men and women): one-half pension is payable from that age to those who choose to work half-time.
- France: Pension payable at 60 only to those with  $37\frac{1}{2}$  years' insurance (about a third achieve this). Pension age can therefore be later than 60 in practice, but many evade the rules by drawing a form of invalidity benefit which effectively gives early retirement on full pension.
- Germany: Although Germany technically has a common pension age of 65, men at 63 and women at 60 may qualify for an early pension if they have worked a sufficient number of years (35 years for men; 15 in the last 20 years for women). However, in recognition of the longer life span and the increasing ratio of pensioners to workers, the qualifying age for an early pension will from 1995 be raised by six months every year until the old limit of 65 years is reached.
- Greece: Early pension at 62 (men) and 57 (women) for those with lengthy insurance history, or at 55 for some married women and widows. Special schemes for those in agriculture, public sector, parts of private sector and in dangerous or unhealthy employment give range of pension ages down to 50. Greece has 300 pension schemes with different rules, benefit levels and ages and is embarrassed by any requirement of equal treatment.
- Ireland: Overlapping pension schemes mean most retire at 66 but pension possible in some circumstances at 65. Pension age originally 70 and was planned to reduce to 65, but resources stopped the main scheme's age at 66.



- Italy: Proposals under discussion since 1986 to raise women's pension age to 60 by mid-1990s and then raise both sexes to 65 by first decade of next century. A variety of early pension arrangements for special groups mean pension can in some circumstances be taken in the early 30s (to some national scandal).
- Luxembourg: Variety of pension arrangements depending on residence (equality) and insurance (common age of 60 for long-serving wage earners, differential ages of 60/55 for white-collar workers). also special schemes for different employments.
- Portugal: Equal pension age of 62 after exhaustion of unemployment benefit if qualifying insurance period completed. Early retirement up to 15 years for miners and up to 10 years for seamen and fishermen.
- Spain: For workers who were insured before 1967, pension age can be 64 if their jobs are filled by the unemployed. For the same group of workers, pension age can be 60 subject to abatement for each year younger than 65 at date of retirement.

1. Introduction

A general introductory section covering:

- \* why we have our present unequal pension ages
- \* the reasons for change
- \* - Select Committee Scheme of 1982
- Social Security Reforms (Decade of Retirement).

2. The present system

- \* features of present RP system which would need to be retained, modified or abolished eg incremental system.
- \* other benefits and their relationship with pension age.

3. International comparisons

- \* USA
- \* EEC Countries

4. Economic and Demographic data

- \* Demographic - fertility and mortality
- \* Economic - unemployment
  - activity analysis/dependency ratio
  - economic growth.

5. Options for change

Equalisation at

- \* 60
- \* 63
- \* 64
- \* 65
- \* 67
- \* 70



6. Flexibility

- \* reduced and increased pensions round a central point

7. Implementation/Timing

- \* 'one jump' method
- \* staggering (in relation to years away from current pension age)
- \* 2010-2030
- \* 2010-2020

8. Costs

- \* of each equalisation option
- \* of flexibility

9. Preferred Way Forward

- \* options for change
- \* implementation
- \* modifications to the present scheme to make the package more presentationally attractive.

Technical Annexes

- \* Demographic data
- \* Economic assumptions
- \* Costings.





Prime Minister?

CE-p-  
See by Mr; no like  
action needed at this stage.  
Rec 6 11/6



This only arrived today  
after you had seen John  
Moore's paper. I have  
mentioned it  
today saying you do not  
want his issue brought up  
now, ~~but~~ <sup>but</sup> you will want to be  
aware of the Chancellor's views.

Treasury Chambers, Parliament Street, SW1P 3AG  
01-270 3000

PRIME MINISTER

**EQUAL PENSION AGE**

Will be?

Rec 6  
12/6

As John Moore says in his minute of 9 June, John Major and I broadly agree with his approach on this issue. But there are a number of points I would like to add.

2. John's minute and the accompanying paper show clearly the demographic and labour market problems we are likely to face in the first part of the next century. Unless we encourage people to work longer, the number of workers will fall in relation to the number of retired people, with adverse consequences for economic performance and living standards. Indeed, in view of this outlook, I think it important that we look carefully not just at a common age of 65 for the state pension but at the possibility of a higher age, perhaps 67, in line with the decision already taken by the US. (Within the European Community, Denmark already has a common retirement age of 67.)

3. For the same reason, we will also need to examine the shorter phasing-in period of 10 years mentioned in John's minute. I agree with John that we would need to give people plenty of time to prepare for the change and that a reasonable phasing in period would be important in securing acceptance for it. These are the arguments for making no change until 2010, so that no one now over 40 or so would be affected. But phasing in the increase over the following 10 rather than 20 years would be a more effective way of arresting the decline in the number of workers in relation to retired people.





4. One of the main reasons for this demographic change is, of course, that people are living longer. And I am sure that one of the points we would want to bring out in presenting our case for change is the significant increase in life expectancy since the current state pension ages were established in 1940.

5. The increase in life expectancy has been a long term trend. But there are other more recent developments which have, I think, improved the climate for change. A few years ago, there was still talk of the need to find ways of enabling people to give up work earlier. This was the background to the ideas discussed in the 1985 Green Paper for a "decade of retirement". Since then, unemployment has fallen from 3.3 million to less than 2 million. And there is increasing awareness of the forthcoming sharp decline in the number of young people entering the labour market. These developments would help us win the argument for a higher state pension age. They may also help us to dispel any worries that the result would be higher unemployment. On this point, John's paper may be a little pessimistic. It may be true that, if we were to introduce a higher state pension age in one go, unemployment might be higher initially. But given reasonable phasing in, as he envisages, we should expect the increase in labour supply to be accommodated and to benefit the economy.

6. I am sure John is right to be cautious about the scope for offering increased flexibility as part of this change. People already have the option to defer their state pension for up to 5 years and to earn larger entitlements by doing so. But allowing flexibility downwards could be very expensive in the early years after the change. Even if those taking an early pension, say between 60 and 64, had their entitlements reduced, many might still opt to do so, especially as their earnings would not be affected now that the pensioners' earnings rule has been abolished. This would bring forward substantial amounts of public expenditure on pensions.





7. Nonetheless, I am sure that the change could be presented positively. We are already doing a great deal to offer more choice and flexibility in pension arrangements, notably by encouraging personal pensions and getting rid of the earnings rule, and we should want to present the change in that context. We may also be able to offer the prospect that, by taking this approach, we will be in a better position in the longer term to afford improved pensions for older people, particularly those who can longer work because they are too old or infirm to do so.

8. I am copying this minute to John Moore and John Major.

*Duncan Sparkes*

p.p. [N.L.]

9 June 1989

[Approved by the Chancellor  
and signed in his absence]





# Grey Scale #13



**A**

1

2

3

4

5

6

**M**

8

9

10

11

12

13

14

15

**B**

17

18

19

