Ageing Workforces

On October 1st 2006 new regulations came into effect which make it unlawful for employers in the UK to discriminate against employees, trainees or job seekers because of their age. The regulations are intended to ensure that all workers, regardless of age, have the same rights in terms of training and promotion. They also introduce what the government has called a ‘national default retirement age’ of 65 years. As a general rule, employers will no longer be able require workers to retire before that age. Mandatory retirement will still be lawful, however, for people who are older than 65, and although employers will be obliged to give proper consideration to requests to work beyond 65, they will not be obliged to accede to them and do not have to give any reason for their decision. The fact that the government has committed itself to reviewing the regulations in 2011, including the undoubtedly controversial provision on mandatory retirement, suggests that it is not entirely convinced of the need for employers to have such a right. The announcement that there will be a review in 2011 has not been enough, however, to hold off a challenge to the legality of mandatory retirement in the High Court. Following a large public opinion survey earlier in the year, which indicated strong opposition to mandatory retirement ages, Age Concern decided to back the application for a judicial review of the regulations by a ‘working rights’ group called Heyday. The High Court has now set a date for the hearing in December 2006, when it will doubtless be asked to consider whether or not the provisions for mandatory retirement deny older people equal protection under the law.

It is the right to work beyond the national default retirement age that is at issue in the forthcoming judicial review – just as it is the right to employment at earlier ages that is being protected in the substance of the Employers’ (Age Equality) Regulations. These changes in the law – the changes that Heyday wants to see as well as the changes already made in the new regulations – are intended to remove the barriers that employment practices put in the way of older people who want to continue to work. The UK government – like nearly all governments in industrial countries with ageing populations – wants to enable older people to continue in employment if they so choose. It also has a firm view, however, on how this choice should be exercised under conditions of
population ageing. What matters to government is not just that older people (up to the national default retirement age) should have the same employment rights and opportunities as younger people, but also that they should choose to stay in the workforce for longer than they are doing at the moment.

As the OECD makes clear in its 2006 report ‘Live longer, work longer’, the world of work has been changing – and is still changing – in ways that should favour the continuing employment of older workers. As the employment share of the manufacturing and agriculture declines, manual work has been increasingly replaced by non-manual work, (though there is evidence to suggest that work for many people is becoming more stressful at the same time as it becomes less physically demanding). And it is not only patterns of work that are changing, but also the individuals who do it: future cohorts of older workers are likely to be better educated, and also healthier, than current cohorts. All this, taken in conjunction with a tightening of the labour supply as a result of low fertility, is already beginning to make older workers look more attractive to employers.

This issue of Ageing Horizons considers the policy issues raised by ageing workforces from various angles – including the way that age of retirement rules are changing in public schemes, the nature and operation of age discrimination legislation, the views of employers about older workers, and the role of occupational health in enabling older people to continue in employment.