

ATL ADVICE



Working beyond the age of 65

ATL receives a number of calls from members who wish to continue working beyond the age of 65. This factsheet aims to address common questions asked by our members.

Does my employer have to give me prior notice of my retirement date?

Yes. In accordance with the Employment Equality (Age) Regulations 2006, your employer must give you at least six months (and not more than 12 months) written notice of compulsory retirement. Additionally, your employer must give at least six months (and not more than 12 months) written notice of your right to request (in writing) not to retire.

What happens if my employer doesn't give me at least six months written notice?

Your employer will be in breach of the regulations and you may be entitled to compensation.

Do I have the right to work beyond the age of 65?

No – but you do have the right to request to work beyond 65. The request must be made in writing at least three months, but not more than six months, before the intended retirement date.

Is there any information that I must include in my request to continue working beyond 65?

Yes. You must state that the request is made under schedule 6, paragraph 5 of the Employment Equality (Age) Regulations 2006. You should also state whether you wish to continue to work indefinitely, for a stated period or until a certain date. Please seek further advice from ATL before sending your letter.

Does ATL have any tips to help improve the chances of my request?

You should think about emphasising the benefits to your employer of retaining your services. These could include some or all of the following:

- proven subject knowledge
- proven success in delivering good pupil results
- excellent working relationship with staff and pupils (include any supportive written evidence eg, feedback from parents, management and students)
- excellent attendance record
- excellent record of contributing to extra-curricular activities.

Does my employer have to meet me to discuss my request?

Yes. Your employer must consider your request, via a meeting, before the retirement takes effect. You have the right to be accompanied to this meeting by a workplace colleague. Having considered your request, the employer should inform you whether it intends to grant it or not in writing.

Does my employer have to give reasons for refusing my request?

Unfortunately, no.

If my employer says no, do I have a right of appeal?

Yes, if your request is refused an employer must inform you of your right of appeal.

What if my appeal is unsuccessful?

Provided the employer complies with the above procedures, the compulsory retirement will be deemed fair.

So, provided the employer follows the procedures, it can reject my application regardless of how strong a case I make?

Unfortunately, yes.

Are there any plans to change the law?

Yes. The Coalition Government plans to scrap the default retirement age (DRA) of 65 in the UK from October 2011. Under the proposal, employers will not be allowed to dismiss staff simply because they have reached the age of 65. Retirements under the DRA will end completely on 1 October 2011 and no new notices of intended retirement can be issued after 6 April 2011. Retirements that have been notified before 6 April to take effect before 1 October will be valid.

The Coalition Government also proposes to remove all the associated statutory 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 their retirement age.

So, where there is no employer-justified retirement age, the employee will simply carry on working until they decide to leave. If the employer wants to dismiss an older employee, this will entail following a fair procedure and relying on one of the reasons set out in Section 98 of the Employment Rights Act 1996, such as capability or conduct.



Need advice?

Your first point of contact is the ATL rep in your school/college. Your local ATL branch is also available to help, or you can contact ATL's member advisors on 020 7930 6441, email info@atl.org.uk. Don't forget there's lots more advice on ATL's website at www.atl.org.uk.

© Association of Teachers and Lecturers 2009. All rights reserved. Information on this sheet may be reproduced or quoted with proper acknowledgement to ATL.