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SOLUTIONS

Employment Team In Brief

Default retirement age is upheld, but for how long?

As some of you will recall from previous In Briefs, there has been an ongoing challenge, "the Heyday Challenge", of the default retirement age of 65 contained in the Employment Equality (Age) Regulations 2006.

On Friday, the High Court decided that the default retirement age of 65 is lawful. However, it seems one of the deciding factors was the Government's decision, 2 days prior to the hearing, that it would bring forward its review of the Regulations by a year to 2010. This was specifically mentioned by Mr Justice Blake who said that he might have reached a different conclusion if the Government had not brought forward its review.

There was also comment that had the default retirement age of 65 been introduced in 2009, it is unlikely it would have been found to have been proportionate, but the High Court had to decide the case on the basis of the circumstances in 2006 when the challenge began.

The further question of whether an employer could objectively justify age discrimination, as provided within the Regulations, was also upheld. Consequently, if an employer can show its conduct, which on the face of it might amount to discrimination, was a proportionate means of achieving a legitimate social policy aim, then it will not amount to discrimination.

For further information on this or any employment issues please contact the coleman-ctts [Employment Team](#) or Telephone – 0208 296 6846