

The EJRA was established following changes in national legislation which removed the default retirement age. Council agreed to maintain a retirement age for University academic and academic-related staff, including (in respect of their University appointments) the holders of joint appointments, primarily to support the University's mission to sustain excellence in teaching, research and administration.

The EJRA resolution, as debated in Congregation on May 17<sup>th</sup>, comprises four elements. The first proposes suspending the EJRA. The second and third concern the EJRA Review Committee and timescale of the review. The fourth proposes disclosing to the whole of Congregation all legal advice relating to the EJRA.

The proposers of the resolution argue that the EJRA should be suspended because of criticisms of the EJRA scheme made by Dame Janet Smith in the University's internal Appeal Court in 2014. They say that good governance and fairness require that the scheme be suspended pending the review. We disagree.

We believe that some colleagues in Congregation have misunderstood the nature of the Appeal Court. Although it is presided over by a judge, it is an internal review body, not a court of law. As such, its decisions do not have the status of a judgment of a court of law. The University implemented the decision of the internal Appeal Court in full in relation to the individual case that had been referred to it. Alongside the decision Dame Janet made other comments which are for the University to use in the course of its review, with the benefit of legal guidance and in light of all the relevant data, which is still being gathered. The existence of the Appeal Court's decision does not make it improper for the University to continue to apply the scheme pending the planned review.

Following the decision, and after proper consultation, the extensions procedure (a part of the EJRA scheme) has already been comprehensively reviewed; the resulting changes make it fairer and more objective. The EJRA scheme which was criticised by Dame Janet Smith has been substantially changed. At the debate it was argued that these changes have made the extension process more unfair because they require candidates to bring in all of their salary and overhead costs and that this creates unfairness across disciplines. That argument is not well-founded. Adequate funding in respect of an extension is cast in the form of an expectation, and how an extension is funded is not prescribed.

The proposers of the resolution urge that they are only seeking the suspension of the EJRA scheme, not its abolition. They argue that the issue is about good governance and treating employees fairly, not about whether or not the University should have an EJRA. We understand that. However, suspending the EJRA would have a number of serious consequences. In the first place, due to the periods of notice required, suspension would effectively mean that there will be no compulsory retirements until at least 2018. This would have a corresponding impact on the aims, which speakers on both sides of the debate agree are legitimate and laudable. It would also lead to severe administrative and financial difficulties for departments.

Proposers of the resolution argued that suspension would restore good governance. We would argue that to withdraw from an agreed process at this stage would be the opposite of that. It was always intended that there would be a comprehensive and unbiased review of the scheme after 5 years<sup>1</sup>. This will take into account all the data on the effect that the EJRA is having, Dame Janet Smith's comments, and expert advice. The Vice-Chancellor, in her recent communication, has indicated that the committee will engage with Congregation broadly as it completes the review. The Review Committee should be allowed to do its job and complete the review without prejudging the outcome.

As to fairness, suspension of the EJRA at this stage would mean that employees who are due to retire in the next two or three years would be treated differently from those who have been required to retire in the past and those who may be required to retire after the review. That is not fair.

The resolution demands that all legal advice taken by Council and University Committees on this matter be promptly disclosed to Congregation. The legal advice relating to the EJRA was provided on the basis that it would remain confidential. As the trustee body of the University, Council must be able to take confidential legal advice in order to make the best decisions about its policies and practices. The decision of the University Appeal Court and legal advice on it will be made available to the Review Committee, all of whom are members of Congregation, so that it can conduct a thorough and detailed review. The group will have the appropriate specialist legal support and the staffing data that are essential for assessing the material. To make it more widely available would be unnecessary, irresponsible and damaging to the reputation and good governance of the University.

**The postal ballot is counted separately from the vote that was taken in Congregation.  
Please use your ballot and vote against the resolution.**

Signatories:

Dr Kate Blackmon, Merton  
Professor Donal Bradley, Jesus  
Professor Alastair Buchan, Corpus Christi  
Professor Matthew Freeman, Lincoln  
Professor Roger Goodman, St Antony's  
Professor Richard Hobbs, Harris Manchester  
Professor Neil MacFarlane, St Anne's  
Professor Paul Madden, Provost of Queen's  
Professor Sally Mapstone, St Hilda's  
Professor Helen McShane, Clinical Medicine  
Professor Jonathan Michie, President of Kellogg  
Professor Teresa Morgan, Oriel  
Professor Lionel Tarassenko, St John's  
Professor Anne Trefethen, St Cross  
Professor Chris Wickham, All Souls  
Professor Henry Woudhuysen, Rector of Lincoln

---

<sup>i</sup> Details of the review and the committee can be found at [www.ox.ac.uk/gazette/2014-2015/2july2015-no5103/notices/#210772](http://www.ox.ac.uk/gazette/2014-2015/2july2015-no5103/notices/#210772)