CWU Response to Isle of Man Treasury on the Equality Act 2017 – Age Exceptions Relating to Occupational & Personal Pension Schemes

Introduction
1. The Communication Workers Union (CWU) represents approximately 192,000 members in the postal, telecoms, financial services and related industries across the UK, the Isle of Man and the Channel Islands. We are the recognised trade union for non-managerial grades in Manx Telecom and the Isle of Man Post Office. We represent active, deferred and retired members of occupational pension schemes in both Manx Telecom and the Isle of Man Post Office.

2. The CWU welcomes the opportunity to respond to the Isle of Man Government’s ‘Equality Act 2017 – Age Exceptions relating to occupational and personal pension schemes’ consultation. Pensions is a priority issue for CWU members, and we work tirelessly to protect and improve occupational schemes on their behalf.

3. We recognise that there is a need for a facility in law to allow for age exceptions relating to pensions for the purposes of achieving a legitimate aim. We believe that the IoM Government should also be looking to reflect Collective Defined Contribution (CDC) schemes in age discrimination legislation under the Equality Act 2017. Defined Benefit (DB) schemes will always be the gold standard for pensions that should be protected as far as possible. However, CDC schemes have the potential to dramatically improve pension provision for those currently reliant on Individual Defined Contribution (IDC) schemes. Work is underway to legislate for CDC schemes in the UK, and we would like to see CDC schemes enabled for workers in the IoM as an alternative to IDC schemes.

Response to proposals for age exceptions to the Equality Act 2017
4. We agree that the excepted rules, practices, actions and decisions contained in the draft Order 2019 are appropriate in light of the Equality Act’s aim of tackling social inequality. We recognise that it can be justified for pension scheme members to be treated differently on the grounds of age, providing that it can be shown this is a proportionate means of achieving a legitimate aim.

5. This has been the approach taken in the UK since the introduction of age discrimination legislation under the Equality Act 2010. It is acceptable therefore, that the draft Order 2019 is largely a reflection of the Equality Act (Age Exceptions for Pension Schemes) Order 2010 made under the Equality Act 2010 of the UK Parliament, subject to minor modifications for local purposes.³

6. We wish to make clear that in general terms, the CWU is not in favour of different member and employer contribution rates for workers of different ages. In discussions with employers, we strive for consistency across the workforce so that all scheme members receive the same employer contribution rate, and are entitled to pay the same member contribution rates, regardless of their age. This approach is important to help ensure that no group is disadvantaged and to secure decent pension provision for all workers through the collective bargaining process.

7. We do recognise, however, that pension schemes require a certain level of flexibility in law to allow for age exceptions for the purposes of equalising age related benefits or making benefits more nearly equal.

8. For example, flat rate pension contributions advantage younger members and this is a feature of occupational Individual Defined Contribution schemes with a fixed employer contribution. This is recognised by an exemption to the age discrimination legislation in the UK, permitting higher contributions for older IDC members if actuarially justified on grounds of aiming at a more even benefit outcome for members of different ages. It is right, therefore, that this exemption should be reflected in the Equality Act 2017 (Age Exceptions for Pension Schemes) Order 2019.

9. We also consider that the IoM Government should help to facilitate the introduction and take up of Collective Defined Contribution pension schemes in future, by adding a comparable exemption to the age discrimination legislation specifically to cover CDC schemes.

10. Faced by Royal Mail’s decision to close the company’s defined benefit scheme to future accrual in March 2018 and in the face of growing evidence about the inadequacy of Royal Mail’s Individual Defined Contribution plan, the CWU (working with our advisors First Actuarial) developed a proposal for a defined ambition scheme to secure the future pension provision of over 100,000 employees in Royal Mail Group.

11. Our initial “Wage in Retirement Scheme” (WinRS) proposal was rejected by Royal Mail on the grounds that it would have been a DB scheme under the current regulatory framework. However, we subsequently reached an agreement with the business to introduce a scheme that combines two elements of benefit including a wage in retirement generated by a CDC arrangement, and a Defined Benefit lump sum on retirement. This will be the UK’s first CDC scheme, and is subject to necessary legislative changes to enable CDC schemes in the UK.

³ A Consultation on the Draft Equality Act 2017 (Age Exceptions for Pension Schemes) Order 2019, August 2019, para 6.1
12. The key benefit of a CDC scheme over a DC scheme is that unlike other DC arrangements, contributions are pooled collectively. This opens the way to a more efficient and less cautious investment. Modelling carried out by our actuaries shows that the proposed Royal Mail CDC scheme is expected to perform well and to deliver far better outcomes for our members than an IDC scheme. More generally, there is a great weight of evidence that CDC schemes can deliver superior outcomes for members compared with traditional IDC schemes.  

13. The introduction of CDC pension schemes in the UK is subject to necessary legislative changes. The UK Government has recognised the value of CDC schemes and has been very supportive of the approach taken by the CWU and Royal Mail. It has confirmed that CDC will be brought into legislation ‘as soon as parliamentary time allows’. 

14. Against this backdrop and in tandem with supporting the sustainability of DB schemes, the CWU has been calling on the UK Government to enable CDC schemes with the aim of improving overall occupational pension provision in the UK. This should include the introduction of a legal framework that allows and encourages not just the largest employers, but businesses of all kinds to introduce CDC schemes as an alternative to DC provision. 

15. In light of this, we call on the Isle of Man Treasury to make the necessary changes to age discrimination legislation under the Equality Act 2017 to specifically cover CDC schemes. We also call on the IoM Government to look at the potential for CDC schemes more broadly and to make the necessary changes to legislation to enable CDC schemes in the Isle of Man.

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4 See for example research by AoN Hewitt, Cass Business School, the Royal Society of Arts and the Pensions Policy Institute, referenced in the Government’s consultation impact assessment on CDC schemes, accessed on 19th December 2018 at: https://www.gov.uk/government/consultations/delivering-collective-defined-contribution-pension-schemes