

# **Paul Gilroy QC succeeds in Landmark Age Discrimination Class Action against Police Forces across England and Wales**

5 February 2014

The long awaited Employment Tribunal judgment concerning multiple age discrimination claims by former officers of 5 police forces across England and Wales - Devon and Cornwall, Nottinghamshire, West Midlands, North Wales and South Wales - has been delivered. The London Central Employment Tribunal has unanimously held, in relation to each of the forces concerned, that the compulsory retirement of officers with 30 years' service could not be "justified" within the meaning of the Equality Act 2010.

Over 170 officers made claims. Test cases were selected and evidence and submissions were heard over a 6 week period.

The case concerned the reliance by each of the relevant Police Authorities on Regulation A19 of the Police Pensions Regulations. Each force conceded that the compulsory retirement of officers who had accrued 2/3 pensionable service amounted to the application of a provision, criterion or practice, ("PCP"), which constituted a detriment consisting of dismissal, which was itself prima facie indirect discrimination on the grounds of age. Each force also contended, however, that its treatment of the relevant officers was lawfully "justified" within the meaning of the Equality Act.

The parties disagreed about the nature and identity of the PCP.

The Respondents' primary case was that the defence of justification was made out on the basis of the Regulation itself. The Claimants

argued that the PCP was not the statutory instrument itself, but the practice of applying A19 to the full cohort of officers simply because they happened to qualify under the 2/3 pensionable service rule, and regardless of rank, personal efficiency, role, and expertise.

The Tribunal agreed with the Claimants, holding that *“the practice of requiring the retirement of nearly all officers in the Forces who could be required to retire under Regulation A19 was not a proportionate means of achieving a legitimate aim”*.

Paul Gilroy QC acted for affected members of the Police Superintendents' Association, including all affected officers of the rank of Superintendent and Chief Superintendent.

Graham Cassidy, National Secretary of the Police Superintendents' Association of England and Wales said *“I want to thank Will Burrows of LHS Solicitors and Paul Gilroy QC who both acted for all the former officers of superintendent rank and above. This decision is the culmination of a substantial amount of work from all those involved, including the former officers, their families, all those who supported them throughout what was a devastating period in their lives, including the Superintendents' Association of England and Wales. Although we are pleased with the result, nothing can make up for the loss to the country of hundreds of experienced officers whose careers were cut short unnecessarily and via discriminatory means”*.

See attached for the Tribunal's judgment and links to press coverage.

<http://www.bbc.co.uk/news/uk-england-cornwall-21463160>

<http://www.bbc.co.uk/news/uk-21541395>

<http://www.telegraph.co.uk/news/uknews/law-and-order/10620435/Age-discrimination-police-could-win-pay-outs.html>

<http://www.nottinghampost.com/Ex-Nottinghamshire-Police-win-A19-tribunal-claim/story-20565196-detail/story.html>

<http://www.bbc.co.uk/news/uk-26054294>

<http://www.southwales-eveningpost.co.uk/South-Wales-Police-faces-huge-legal-bills-losing/story-20575768-detail/story.html>

<http://www.birminghammail.co.uk/news/midlands-news/west-midlands-police-retirement-programme-6677099>

<http://www.westernmorningnews.co.uk/Officers-win-discrimination-case-Devon-Cornwall/story-20565977-detail/story.html>

[http://www.yorkpress.co.uk/uk\\_national\\_news/10989003.Retired\\_police\\_win\\_age\\_bias\\_case/?ref=rss](http://www.yorkpress.co.uk/uk_national_news/10989003.Retired_police_win_age_bias_case/?ref=rss)