

The Equality Act 2010 – Age Discrimination

To ensure the employer's duty to ensure discrimination does not take place here are some areas to consider:-

- **Recruitment Adverts** – avoid stipulating comments that suggest age bias e.g. “should be between 21 and 35” or “this job would suit a younger/older person”, unless there are exceptional, “objectively justifiable”, grounds. Take care not to suggest indirect age discrimination by stipulating unjustifiable levels of experience e.g. “must have 10 years experience”. It may be appropriate to ask for up to 5 years relevant experience. However it may be better to stipulate candidates must have specific experience/skills in..... Be careful about stipulating a specific qualification, especially if there are a range of qualifications that would be acceptable. Take care if qualification names have changed in the past.
- **Application Forms** – consider removing age/date of birth from application forms. Perhaps collect this information with any diversity monitoring information. Applications that request photographs could suggest age discrimination. Monitor decisions for any evidence of age bias, particularly after short listing.
- **Interviews** – take care to avoid any age related questions. Take care to avoid any age related comments such as “you are a bit young for a post with this level of responsibility” or “don't you think you someone like you should be looking for something with more responsibility”
- **Working with Employment Agencies** - Make sure the agency works within the regulations and in accordance with your equality and diversity practices. Any challenge under the age discrimination regulations could be your responsibility, if you ask the agency to discriminate on age grounds.
- **Long Service and Loyalty Payments** - Benefits available after, say, 5 or 10 years' service are not available to younger age groups and could, therefore, indirectly age discriminatory. The regulations allow for any benefits based on up to 5 years service to be automatically justified. Benefits based upon more than 5 years service will have to be justified by an employer.
- **Harassment** - The regulations include harassment that is about an individual's age, either directly or indirectly. An employer can be held responsible for the actions of the employees – as well as the employee being individually responsible. There is now a danger that ageist remarks whether relating to young or old could give rise to complaints
- **Retirement** - There is no default or compulsory retirement age, unless it is objectively justified.

Employees have the choice to retire when they want to and legislation will usually protect them if they wish to carry on working. Employers have the option to dismiss employees on grounds other than age, such as on the grounds of capability.

- **Minimum Wage & Redundancy Pay** - The regulations retain the 3 age bands set for the minimum wage and minimum level of statutory redundancy pay.

Further information and guidance on age discrimination can be found at:

ACAS – www.acas.org.uk –search “age discrimination“or Helpline 08457 47 47 47

The Age & Employment Network – www.taen.org.uk or Tel 020 3033 1507

Business Link - <http://www.businesslink.gov.uk> – search “age discrimination”

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