

Age Discrimination Regulations

On 1st October 2006 Employment Equality (Age) Regulations came into force.

Broadly speaking they will have a comparable effect as the Sex Discrimination and Race Relations Acts.

They prohibit discrimination on grounds of age or perceived age, unless there are exceptional, “objectively justifiable”, grounds.

These new regulations should pose few difficulties in organisations that treat people fairly and with consideration.

Scope of Regulations

- Apply across the whole employment experience including

<i>Recruitment</i>	<i>Terms & conditions</i>	<i>Promotion</i>	<i>Training,</i>
<i>Discipline/grievance procedures</i>		<i>Dismissal</i>	<i>Retirement</i>

- Applies to all ages not just older or younger workers
- Applies to external candidates for jobs and to some extent ex-employees & contractors

Care therefore needs to be exercised in all aspects of employment

Some areas to consider

Recruitment

Adverts – avoid stipulating comments that suggest age bias e.g. “should be between 21 & 35” or “this job would suit a younger/older person”

- take care not to suggest indirect age discrimination by stipulating unjustifiable levels of experience e.g. “must have 10 years experience”. It should be possible to ask for up to 5 years relevant experience. However it may be better to stipulate candidates must have specific experience/skills in.....
- qualifications – 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.

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 therefore are 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 but in general pay scales over 5 years will fall away.

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

Unless an employer can justify exceptional circumstances it will be unlawful to have a normal retirement age below 65.

65 is the National Default Retirement age if an employer has not set one.

There is a Fair Retirement Procedure, which must be followed

Minimum Wage & Redundancy Pay

The regulations retain the 3 age bands set for the minimum wage and minimum level of statutory redundancy pay.

This article is designed to provide general information only. Every effort has been made to ensure the information provided is accurate but it does not constitute legal or professional advice.

For more information and guidance

ACAS - www.acas.org.uk –type “age regulations“ in searchbox or Helpline 08457 47 47 47

The Age & Employment Network – www.taen.org.uk or Tel 020 7843 1590

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