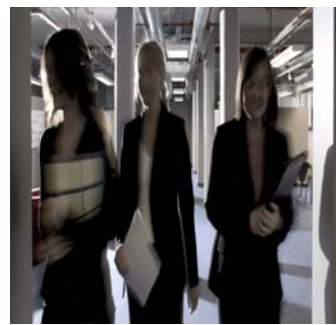


Age Discrimination - Guidance for Employers

Factsheet 9
September 2006



Introduction

The Employment Equality (Age) Regulations 2006 will come into force as of 1st October 2006. These new regulations will apply to all employers, private and public sector vocational training providers, trade unions, professional organisations, employer organisations and trustees and managers of occupational pension schemes.

By definition in these regulations, an **employer is classed as anyone who has employees or someone who enters into a contract with a person to undertake some work.**

The regulations cover recruitment terms and conditions, promotions, transfers, dismissals and training, but do not include the provisions of goods and services.

The Employment Equality (Age) Regulations 2006

In brief, the new regulations make it unlawful on the grounds of age to:

- ⇒ Discriminate directly against anyone
- ⇒ Discriminate indirectly against anyone
- ⇒ Subject a person to harassment
- ⇒ Victimise an employee
- ⇒ Discriminate against someone, in certain circumstances, after the working relationship has ended
- ⇒ Employers may be responsible for the acts of employees who discriminate on the grounds of age
- ⇒ Upper age limits on unfair dismissal and redundancy will be removed
- ⇒ A national default retirement age of 65 thus making compulsory retirement below 65 unlawful unless objectively justified

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Definitions

Direct Discrimination - less favourable treatment because of a person's age.

Indirect Discrimination - means selection criteria, policies, benefits, employment rules or any other practices, although they apply to all employees they have an effect of disadvantaging people of a particular age.

Lawful Discrimination - discrimination on the grounds of age is lawful if there is objective justification, when a person is within six months of retirement age an employer has a right to refuse to recruit, discrimination is covered by the exceptions or exemptions given in the regulations or there is a genuine occupational requirement (GOR) that a person must be of certain age.

Harassment - behaviour which is offensive, frightening or in anyway distressing.

Victimisation - when an individual is treated detrimentally when having made (or intended to make) a complaint about discrimination or harassment or have given evidence or intend to give evidence relating to a complaint regarding discrimination or harassment.

Discrimination, harassment or victimisation after a working relationship has ceased - includes issues such as written or verbal references.

Guidelines

Employees who are subjected to discrimination, harassment or victimisation could;

- ⇒ Become unhappy, unproductive and unmotivated
- ⇒ Resign
- ⇒ Make a complaint to an employment tribunal

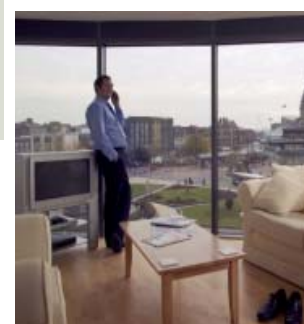
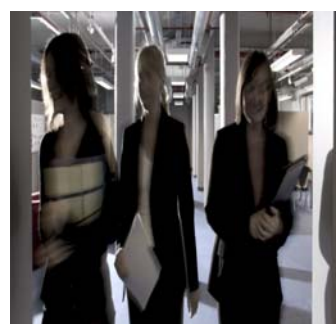
This could affect employers as;

- ⇒ Their reputation may become damaged
- ⇒ Increased cost of recruitment and training
- ⇒ May be liable to pay compensation as a result of a tribunal

Being able to tackle discrimination can help attract new staff, retain current staff and improves your reputation as a company.

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Factsheet 9
September 2006



Recruitment

To prevent the risk of being accused of age discrimination please consider the following;

Application Forms

- ⇒ remove age/date of birth from the main form but instead include in a diversity monitoring section to be retained by HR/personnel. Also do not request unnecessary information about periods and dates of previous employment.

Job description/Person specification

- ⇒ avoid references to age, for example asking for so many years of experience as this may rule out younger people who have the necessary skills but have not had the opportunity to demonstrate them.
- ⇒ ensure that specified qualifications are necessary as educational and vocational training has changed and thus do not disadvantage people of certain ages.

Advertising

- ⇒ ensure you attract a wide range of applicants through advertising in an accessible range to a large audience.
- ⇒ use the information in the job description and person specification.
- ⇒ avoid use of language that may imply you would like someone of a certain age, e.g. using vocabulary such as 'mature', 'young' or 'energetic'.
- ⇒ consider any hidden messages that may be present in your advert, e.g. in any promotional literature, any pictures.

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Sources of Information

- ⇒ The Employment Equality (Age) Regulations 2006;
http://www.opsi.gov.uk/si/si2006/draft/ukdsi_0110742664_en.pdf
- ⇒ Department of Trade & Industry (DTI) Age Discrimination;
<http://www.dti.gov.uk/employment/discrimination/age-discrimination/index.html>
- ⇒ ACAS The Arbitration and Conciliation Advisory Service
A guide for employers on Age and the workplace;
http://www.acas.org.uk/media/pdf/s/3/Age_and_the_Workplace.pdf
- ⇒ Age Positive - tackling age discrimination and promoting age diversity in employment; <http://www.agepositive.gov.uk/index.cfm>
- ⇒ Age Awareness E-learning - make your staff aware of the new regulations;
<http://www.age2006.org/>

This is the first in a series of business factsheets on diversity and cohesion issues, which reflect priorities in ONE HULL's new Community Strategy.