

Chapter Nine Age in Employment

The Employment Equality (Age) Regulations 2006 outlaws age discrimination in employment, vocational training, promotion and working conditions. The Regulations apply to workers, applicants for jobs, employees, ex-employees, elected members, temporary staff from agencies and people on work experience.

The Regulations came into force on 1st October 2006.

These regulations cover recruitment, terms and conditions, promotions, transfers, dismissals and training. They do not cover the provision of goods and services.

The regulations make it unlawful on the grounds of age to:

- Discriminate directly against anyone – that is, to treat them less favourably than others because of their age – unless objectively justified.
- Discriminate indirectly against anyone – that is, to apply a criterion, provision or practice which disadvantages people of a particular age unless it can be objectively justified.
- Subject someone to harassment. Harassment is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them having regard to all the circumstances including the perception of the victim.
- Victimise someone because they have made or intend to make a complaint or allegation or have given or intend to give evidence in relation to a complaint of discrimination on grounds of age.
- Discriminate against someone, in certain circumstances, after the working relationship has ended.

How we will meet these duties:

The Wealden Equality Scheme represents a comprehensive scheme which identifies our overall aim: to ensure that all our services and employment opportunities are provided with equity and fairness to everyone. The Council is committed to preventing discrimination in the provision of our employment policies against people because of their age, where unlawful.

Chapter One of the Wealden Equality Scheme sets out our equality principles, values and approach to equality and diversity. The Employment Action Plan reflects our aims, priority objectives and details the actions that we will take to meet all of our equality duties.

In advance of the Regulations an assessment of all of our employment policies and procedures was undertaken. A number of proposed changes to

the Wealden Conditions of Service were agreed and the Wealden Employment Stability policy was revised to ensure compliance. These changes were discussed by the Wealden Employee Consultative Group and Personnel Committee

The following sources can be found on the Council's website at:
<http://www.wealden.gov.uk/moderngov/uucovpage.asp>

1. Employment Equality (Age) Regulations- Impact on Conditions of Service: Personnel Committee 28.06.06
2. Update on Local Government Pension Scheme Changes/Employment Stability Policy: Minutes of Personnel Committee 10.11.06

Guidance on the measures

Source: Guidance provided by Acas
(http://www.acas.org.uk/media/pdf/r/j/Age_and_the_Workplace.pdf)

Direct discrimination

Direct discrimination is less favourable treatment because of someone's age. For example it is unlawful on the grounds of age to:

- decide not to employ someone
- dismiss them
- refuse to provide them with training
- deny them promotion
- give them adverse terms and conditions
- retire an employee before the employer's usual retirement age (if there is one) or retire an employee before the default retirement age of 65 without an objective justification

Indirect discrimination

Indirect discrimination means selection criteria, policies, benefits, employment rules or any other practices which, although they are applied to all employees, have the effect of disadvantaging people of a particular age unless the practice can be justified. Indirect discrimination is unlawful whether it is intentional or not.

Lawful discrimination

There are limited circumstances when it is lawful to treat people differently because of their age. It is not unlawful to discriminate on the grounds of age if:

- there is an **objective justification** for treating people differently – for example, it might be necessary to fix a maximum age for the recruitment or promotion of employees (this maximum age might reflect the training requirements of the post or the need for a reasonable period of employment before retirement).
- where a person is older than, or within six months of, the employer's normal retirement age, or 65 if the employer doesn't have one, there is a specific exemption allowing employers to refuse to recruit that person.

- the discrimination is covered by one of the **exceptions** or **exemptions** given in the regulations – for example pay related to the National Minimum Wage.
- there is a **genuine occupational requirement** (GOR) that a person must be of a certain age – for example, if you are producing a play which has parts for older or younger characters.

Harassment

Harassment includes behaviour that is offensive, frightening or in any way distressing. It may be intentional bullying which is obvious or violent, but it can also be unintentional, subtle and insidious. It may involve nicknames, teasing, name calling or other behaviour which is not with malicious intent but which is upsetting. It may be about the individual's age or it may be about the age of those with whom the individual associates. It may not be targeted at an individual(s) but consist of a general culture which, for instance, appears to tolerate the telling of ageist jokes.

Victimisation

Victimisation is when an individual is treated detrimentally because they have made a complaint or intend to make a complaint about discrimination or harassment or have given evidence or intend to give evidence relating to a complaint about discrimination or harassment.

Further information can be sourced from Acas (<http://www.acas.org.uk>)