



DEBORAH THOMAS
SHOWS HOW AGE
DISCRIMINATION IS DUE TO
BE OUTLAWED.



Do not go gently

Although there is no law at present on age discrimination in employment in the UK, the government is committed to introducing the EU Directive on age discrimination by the end of 2006.

There are a number of key issues that employers need to reflect upon prior to the 2006 implementation. These are issues that emerged from a workshop I recently attended on age discrimination. Please note that these are impressions formed from the workshop and are an individual view rather than one that employers should rely on. Organisations would need to take independent advice on individual issues.

IMPLICATION FOR TREASURY

DEPARTMENTS The government's decision on the retirement age will not be reviewed until 2011 so there will be uncertainty around these issues until that date. It is expected that a retirement age of below 65 will only be acceptable if there are clear business reasons. This has clear implications for treasury departments. There is substantial debate around the issues of graduate schemes, pensions, redundancy and whether organisations will still be allowed to reward individuals based on length of service. The legislation will be introduced in October 2006 and from that date it will be unlawful for any organisation (regardless of size) to discriminate based on age. It will be an organisation's responsibility to prove that they did not discriminate on age – not the individual's to prove that discrimination took place. Job advertisements (internal and external) will no longer be able to state an age requirement or number of years' experience required for the role e.g. 'five years' experience'. Reasons for lack of progression or rejection for a role will have to be clearly free from age bias. There may be some grounds for the justification of discrimination, however these will be the exception. Examples may include protecting the health and safety of

individuals and employment planning. Surprisingly age discrimination affects more teenagers and women generally than people over the age of 50; having said this it is still clear that age discrimination is a significant issue in the UK workplace. One has only to read adverts placed in the media to recognise that this is the case. There is a clear perception that an older age is synonymous with technophobia, lack of drive and ambition and greater illness.

THE MYTH OF YOUTH

The assertion that youth continually adds value can be flawed. Whilst I agree that new blood, drive and energy are required in an organisation, I do think that these qualities can come from older candidates and that a balance is required in departments to reflect the needs of the role and the team. We are routinely asked to look for young, dynamic high fliers and frequently you will observe this phrase coupled with minimum experience requirements. The legislation may in effect mean a more competency based emphasis rather than biographical will be evident both in media advertising and the recruitment and review processes.

Similar legislation was introduced 40 years ago in the US and affects individuals over the age of 40. Recent data suggests that ageism claims in the US far exceed sex discrimination cases.

The UK government anticipates many more age discrimination claims compared with sex/religious claims when the legislation comes into effect. Legal experts predict that UK employers may have to pay out up to £200 million in the first year. Age discrimination legislation is already in place in Ireland and Irish case law could be a useful point of reference.

They should be looking at the age profile currently – where are you now, what does your organisation's age profile look like? Review policy and practice – audit for age

bias. Create an effective performance management system based on competency skills. In order to defend claims in this area successfully, employers should not only ensure that they have transparent and fair procedures, but they should retain records relating to those procedures. Employers' interview methodology is very important and no conscious/unconscious age discriminatory questions should slip through. Employers should be much more careful (under the new UK legislation) about singling out older workers for redundancy and will be obliged to communicate much more detail about the reasons for redundancy than is currently the case with older employees. Retirement policies may have to change and could still be subject to challenges from unions regarding their fairness for older workers. We must ensure we train and educate to remove stereotype perceptions. Over time feedback to candidates (internal and external) may have to change to reflect the US system of very limited feedback in order to avoid potential discrimination claims. In such a climate, our assessment of individuals may move to being more competency led.

We feel it is important to stress to clients and candidates that age discrimination is a topical issue where all parties need to be aware of the impact of changes to legislation. All age groups need better management and it is advisable to initiate that process now rather than to wait until October 2006 where employers would potentially leave themselves open to claims. For the individual it should be a positive step which will allow anyone regardless of age to be more thoroughly considered for roles and will make everyone aware of the benefits of more mature individuals.

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