

## **Age Discrimination and Recruitment**

### **Overview**

The Employment Equality (Age) Regulations 2006 came into effect on 1 October 2006 and affect all employers in the UK. This new law means that employers will not be allowed to discriminate against employees - including temporary and contract workers - directly or indirectly on grounds of age.

Direct discrimination occurs where a person is treated less favourably on grounds of their age without objective justification. For example, setting an upper or lower age limit for a particular job may be direct discrimination against a person outside the age band.

Indirect discrimination occurs where a provision, criterion or practice has a greater impact on workers in one age group than those in another and is not objectively justified. These are not always easy to spot. For example, restricting a post to "recent graduates" is likely to indirectly discriminate against a worker over 30, since most recent graduates are likely to be in their 20s.

Where an employer wants an employment agency to apply age-based selection criteria in looking for staff, the agency will only be allowed to do this if it reasonably relied on a statement by the employer that those criteria were justified (i.e. that there was a 'real need' to apply the criteria which outweighs the discriminatory effect).

### **Job Descriptions and Person Specifications**

A job description outlines the duties required of a particular post holder. A person specification gives the skills, knowledge and experience required to carry out these duties.

Avoid references, however oblique, to age in both the job description and the person specification. For example, avoid asking for 'so many years' experience. This may rule out younger people who have the skills required but have not had the opportunity to demonstrate them over an extended period.

Educational and vocational qualifications have changed over the years. Make sure that the qualifications you specify are not disadvantaging people at different ages. Ask yourself:

- are the qualifications really necessary?
- are they still current?
- are there other ways of specifying the skill level you require?

If you are going to be specific about qualifications be sure you can justify their need in objective terms and make it clear you will consider equivalent or similar level alternative qualifications. Be clear about what skills you actually need for the post.

### **Advertising**

Advertise in a way that will be accessible to a large audience. For instance avoid using a publication that is focused on a niche market as this may limit the diversity of applicants and may constitute indirect discrimination. An advertisement placed only in a magazine aimed at young people may indirectly discriminate against older people because they are less likely to subscribe to the magazine and therefore less likely to find out about the vacancy and apply.

Write your job advert using the information in the job description and person specification. Avoid using language that might imply that you would prefer someone of a certain age, such as 'mature', 'young' or 'energetic'. If you ask for graduates, remember that the term can be interpreted as code for someone in their early twenties. Graduates can be almost any age. Make it clear that you are interested in the qualification and not the age of the applicant.

As well as considering the language you use in adverts think also about the hidden messages that may be present in any promotional literature that you have, particularly the pictures.

## Application Forms

Review your application form to ensure that you are not asking for unnecessary information about periods and dates.

Age-related information should be removed from the main application form and included instead in a diversity monitoring form to be retained by HR or Personnel. Asking for dates of educational qualifications or even dates of previous employment may give away age and should therefore also be avoided unless you can point to an objectively justifiable reason for asking.

## Shortlisting

Those doing the shortlisting should base their decisions on skills and ability alone. They should be trained, reminded of their responsibility not to discriminate on age grounds and use the requirements of the person specification to judge applicants.

Before moving on to the next stage of the recruitment process, check that no bias, deliberate or unintentional, has influenced decisions. This check should be carried out by someone who has not been involved in the shortlisting. In all instances, you should record your decisions and retain these records, ideally for 12 months.

## Interviewing

Interviews should preferably not be carried out by one person on their own. When interviewing, try to avoid asking questions related to age, for example, "how would you feel about managing older/younger people?"

Check decisions for any bias and make sure interviewers have received training in the skills required and equal opportunities/diversity.

Again, in all instances, record your decisions and retain these records, ideally for 12 months from the date of the interviews.

If you have any questions regarding the new legislation and how it affects our service to you, please call on 02380 33 4444.

### Faststream Recruitment Limited

Medina Chambers  
Town Quay  
Southampton  
SO14 2AQ

Tel: 023 8033 4444  
Fax: 023 8033 5555

### Ben Duxbury

**Bond Pearce LLP**  
Oceana House  
39 - 49 Commercial Road  
Southampton  
SO15 1GA

Tel: 0845 415 0000  
Fax: 0845 415 8200