

# Age Discrimination

**An implementation plan for the  
prevention of age discrimination in  
employment**

Equality Commission

FOR NORTHERN IRELAND

# Ageism – A definition

Age discrimination in employment is action that disadvantages an individual because of their age or on the basis of assumptions, misconceptions or stereotyping about age and ability, and hinders the proper consideration of an individual's talents, skills, potential and experience.

Equality Commission

FOR NORTHERN IRELAND

# Why is protection needed?

- New Demographics

N.I.

- **2001**: 29% of population over 50
- **2021**: 35%
- **2041**: 44%

U.K.

- **2010**: 40% of workforce over 45
- **2020**: 1/3 of workforce over 50
- **2050**: 1/3 adults retired. [Two workers per pensioner]

Equality Commission

FOR NORTHERN IRELAND

# Is it currently a problem?

- Cabinet Office Report (2000):
  - 1/3 of over 50's not working
  - Only 1/3 of these specifically chose not to work
  - 1/2 rely on state benefits
  - Cost to economy estimated at £16 billion per year.

# Is it currently a problem? [2]

## CIPD Survey (2005):

- 59% felt at some stage in their career they had been disadvantaged because of age.
- 20% had been discouraged from applying for a job because the advert communicated an age restriction.

# An Integrated Approach

- Common themes and Parallels to other discrimination legislation
- The negative effect of stereotypes
- Avoidance of discrimination must be coupled with the proactive pursuit of best practice – good HR management and good business sense
- AgeSmart employers are gaining competitive advantage:
  - Reduced costs due to higher retention
  - Access to a wider pool of talent
  - Increased return on staff investment
  - Retain corporate knowledge

Equality Commission

FOR NORTHERN IRELAND

# New Age Discrimination Legislation - Employer's responsibilities:

Prohibits discrimination and harassment in all aspects of employment:

- Recruitment
- Terms and conditions of employment
- Working environment
- Opportunities for promotion and transfer
- Access to benefits
- Termination of employment
- Post employment situations (e.g. references)

Equality Commission

FOR NORTHERN IRELAND

# Implementation Plan

- 1. Communicate top down commitment**
- 2. Revise Equal Opportunity & Harassment policies**
- 3. Review Training & Awareness strategy**
- 4. Review Employment policies & practices**
- 5. Review service related benefits**
- 6. Introduce planned retirement procedure**
- 7. Monitor and review flows**

# Senior Management Commitment

Have Senior management:

1. Understood their statutory responsibilities?
2. Identified business reasons for promoting age diversity?
3. Clearly communicated their commitment to the prevention of age discrimination?
4. Agreed an action plan?

Equality Commission

FOR NORTHERN IRELAND

# Staff Awareness

- Have all staff received training on Age Discrimination?
- Are they aware what is meant by ageism and why the Company takes this seriously?
- Have line managers and selection panel received appropriate training?

# Equal Opportunity / Harassment Policies

- Do they both include age?
- Have all staff been issued with a copy of revised policies?
- Are all staff aware of:
  - their responsibilities?
  - how to raise a complaint?

# Review of Employment Policies

- Key polices to review:
  - Reward
  - Redundancy
  - Training & Development
  - Retirement
  - Recruitment & Selection

# Reward

- Can any service related benefits (including pay progression) based on **more than five years** service be justified?
- An employer must have reasonable grounds to believe that it fulfils a business need:
- Consider how significantly they impact on issues such as staff retention, motivation, reward loyalty, reflect experience etc
- Evidence Based

# Redundancy

- Do you ensure that age is not a criteria unless it can be justified?
- Are you aware of the potentially discriminatory impact of LIFO (Last in first out)?
- Do you take steps to ensure that older workers are not treated differently in voluntary redundancy situations?
- **Note:** It may be lawful to make enhanced redundancy payments based on length of service.

# Training & Development

- Do you currently restrict / exclude employees from opportunities because of their age?
- **NOTE:** Must have clear objective justification for turning down a training request on age grounds
- Do you monitor trends by age bands?

# Retirement

A **fair** retirement is one that:

1. Takes effect on, or after the **NDRA (65)** (or on or after the employer's retirement age if this is higher).
2. After the employee has been given **written notice** of their retirement date.
3. After any **request to continue working** has been reasonably considered.

Equality Commission

FOR NORTHERN IRELAND

# Retirement [2]

## **Develop/Review Retirement Policy and Procedure**

- Review organisation retirement age
- Keep good records and operate diary systems that will notify of time limits
- Must inform in writing
  - The intended retirement date
  - The right to request to continue working beyond that date
- Must do this at least 6 months (but no more than 12 months) before the intended retirement date.

# Retirement [3] – Dealing with a request to continue working

The employer must:

1. Consider all requests
2. Meet the employee to consider the request within a reasonable time period.
3. Inform the employee in writing
4. Hold an appeal meeting if necessary.

# Retirement [4] – Factors to consider

**Reflect on the benefits of granting an extension such as:**

- Savings to the organisation in recruitment & training costs
- The valuable experience & knowledge you will be losing.

# Retirement [5]

- Transitional arrangements apply from 1 October 2006 to 31 March 2007
- Flow Chart
- Sample letters

# Recruitment & Selection

- Job Criteria
- Advertising
- Application Forms
- Interview
- References / health assessment
- Monitoring

## Recruitment [1] – Exclusion of Workers near retirement age

Those who are within 6 months of the national default retirement age, (or the particular employer's normal retirement age if that is greater) are excluded from the right to complain in respect of selection arrangements.

# Recruitment [2] – Job Criteria

- Can any age requirement be justified?
- Can any length of service / qualification criteria be objectively justified?
- Have you considered qualification equivalencies?

# Recruitment [3] – Advertising

- Have you screened for potentially discriminatory wording or images?
- Do you refer to equal opportunity policy?
- Are you satisfied that you are reaching the widest possible field of applicants?

# Recruitment [4] – Application Form

- Does the application form focus on the skills and knowledge required to do the job?
- Do you have a justifiable reason for:
  - Asking the applicants age?
  - Full career history?
  - Dates of education?

# Recruitment [5] – Selection

- Avoid comments / stereotypical assumptions in relation to an applicant's actual or perceived age.
- Have panels received training on selection methods and age discrimination?

# Recruitment [6] - Health Assessment

- Is any procedure for seeking references or assessments of health applied in a consistent manner?
- Are you satisfied that no assumptions have been made on the capability or medical fitness of someone based purely on their age?

# Recruitment [7] - Monitoring

- Do you monitor employees, applicants and appointees?
- If so do you conduct regular reviews of workforce flows to assess equal opportunity trends related to age?

# Implementation Plan

- 1. Communicate top down commitment**
- 2. Revise Equal Opportunity & Harassment policies**
- 3. Training & Awareness strategy**
- 4. Review Employment policies & practices**
- 5. Review service related benefits**
- 6. Introduce planned retirement procedure**
- 7. Monitor and review flows**