

Age Discrimination To Be Illegal

On the 1st October new legislation will come into effect making discrimination on the grounds of age unlawful. Age is the one remaining area of discrimination that has yet to be directly protected in the UK and the new law will meet the UK's obligations under European Union Directives.

The law will:

- **outlaw age discrimination in recruitment, promotion and training**
- **introduce a default retirement age of 65, and require that retirement ages below 65 can be justified objectively**
- **introduce a right for employees to request to work beyond retirement age and place a duty on employers to consider such requests**
- **introduce a requirement for employers to give at least six months' notice to employees about their intended retirement date**

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- **remove the current age limit (65) for unfair dismissal and redundancy rights**
- **in most cases make unlawful the use of length of service as a criterion for awarding pay and other benefits including severance terms.**

The Regulations detailing the contents of the Act were published in March and whilst LTU has already met the Bank on a number of occasions over the last few months to prepare for the new legislation, detailed negotiations are only now beginning.

We suggest that until we have agreed a full set of procedures with the Bank, members act as follows:

- **Members due to retire before 1st October 2006 and who wish to continue working for the Bank should confirm their interest in writing to their Managers as soon as possible. Whilst there is no legal obligation on the Bank to act on such requests until October it will give the Bank the opportunity to prove its 'Age Positive' credentials.**
- **Members due to retire after 1st October 2006 will have to be given the option by the Bank to request that they be allowed to continue working. However, members due to retire after October are also advised, in the absence of any agreements or procedures, to register their interest in writing with their Managers.**

Culture Shock

The impact of the new legislation is likely to be much greater and more far ranging in challenging age related stereotypes than many may expect.

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Because the new legislation will apply to all ages, not just those in senior positions, as is the case in America, it means that it will be just as illegal to bar employees from promotion or training because they are too young as because they are too old. It is quite conceivable therefore that someone aged 53 could claim that he or she has been denied promotion because he is too old whilst at the same time someone aged 30 applying for the same job might argue that he was denied promotion because he was younger than the successful applicant.

It also means that all conventional 'proxy' job specifications, such as saying the successful applicant must be over 30 or have 10 years relevant experience as well as implicit adjectives such as 'energetic' or 'fresh', cannot be used.

In the short term there is likely to be a major degree of uncertainty as to what is acceptable or not and it will undoubtedly be left to Employment Tribunals and the courts to decide what the new law means in practice.

LTU Advice

Members with any questions concerning the introduction of the new legislation should contact LTU's Advice Team on 01234 262868 for independent, professional advice and assistance.

I will keep members informed of developments.

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