

# Age Concerns

## Protection from age discrimination at work

### Overview

It is illegal to discriminate against someone at work because of their age. Age discrimination is unlawful under the Equality Act 2010 ("The Act"). The Act covers all ages and areas of employment, including recruitment, employment terms and conditions, promotions, transfers, dismissals and vocational training.

The Act protects you from discrimination, victimisation or harassment because of your age. In certain circumstances it also protects you after you have left your job.

### Discrimination

Direct discrimination is when you are treated or would be treated less favourably than someone else because of your age, unless this treatment can be "objectively justified".

Indirect discrimination is when your force has a "practice, provision or criterion" that applies to all workers but which puts people of a particular age at a disadvantage compared to others, unless it can be "objectively justified".

### Victimisation and harassment

Victimisation is when you are treated less favourably because you have made a complaint or allegation of age discrimination or helped someone else who has. Victimisation following termination of employment is also unlawful. Harassment is behaviour that violates your dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. This could be making derogatory comments about your age or excluding or ignoring you because of your age. Harassment does not have to be targeted directly at you: it could include, for example, a culture of telling and tolerating "ageist" jokes.

### Objective justification

In certain circumstances your force may be able to justify direct or indirect age discrimination. To do so, your force will have to show that in the different treatment is a "proportionate way of achieving a legitimate aim". This is meant to be a tough test and your force will have to produce strong evidence that the discrimination is justified.

### Retirement

There is no longer a default retirement age applying across the UK workforce. In general if employers wish to impose a retirement age they would have to objectively justify it.



Since October 2006, the normal retirement age for all Federation members is 60, which the Home Office believes is objectively justified.

### Making a complaint

If you think you are a victim of age discrimination, you can complain to the Employment Tribunal. There is no minimum service requirement for bringing a claim. You must lodge a claim within three months less one day of the discrimination. This time limit applies even if you are going through the force's internal grievance procedure.

If the Tribunal agrees you have been discriminated against and the force is responsible, the force will have to justify their behaviour. If they cannot, the Tribunal can make a declaration that the force has acted unlawfully and award compensation. Compensation can include awards for injury to feelings, injury to health and financial losses suffered which were caused by the unlawful discrimination. The tribunal also has the power to make recommendations.

Continue overleaf >

## Questionnaire

You can serve a questionnaire on the force to obtain useful information relating to your complaint. ACAS have prepared guidance on 'asking and responding to questions of discrimination in the workplace' which is available on their website at [www.acas.org.uk](http://www.acas.org.uk).

## Mandatory ACAS Early Conciliation

If you are thinking about making an employment tribunal claim, you will first need to notify details of your claim to ACAS, who will then offer early conciliation to try to resolve the dispute. The conciliation period can be up to one month. If the claim does not settle, ACAS will issue a certificate confirming that the mandatory conciliation process has concluded.

There are changes to time periods within which to lodge claims to allow for the period during which a claim is with ACAS. The period within which a claim is with ACAS will not count for calculation of time limits; and if the time limit would usually expire during that period, or within the month after the certificate is issued, then you will have up to one month following receipt of the conciliation certificate in which to lodge a claim.

The process makes the calculation of time limits in employment tribunal cases more complicated. Claimants are advised to be aware of limitation issues and seek legal advice promptly. For further information on the ACAS early conciliation process visit: [www.acas.org.uk](http://www.acas.org.uk)

## Employment Tribunal Fees

You have to pay a fee when you file your claim in the employment tribunal. Fees are payable when you issue your claim and prior to a final hearing. A fee remission scheme is in place- see the employment tribunal website at [www.employmenttribunals.service.gov.uk](http://www.employmenttribunals.service.gov.uk) for further details. The booklet on the website "EX160A Court and Tribunal fees – do I have to pay them?" Provides details for claiming a remission of fees.

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**If you need further assistance, in the first instance please contact your local Joint Branch Board.**

**W:** [www.slatergordon.co.uk/policelaw](http://www.slatergordon.co.uk/policelaw)

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