

AGE AND EMPLOYMENT

Background

Age discrimination can be defined as occurring when someone treats a person less favourably because of that person's age, and uses this as a basis for prejudice against, and unfair treatment of, that person.

BBSRC recognises that it needs to attract, retain and develop high-calibre employees as part of a diverse workforce in order to be successful in an increasingly competitive market place.

The Equality Act 2010:

- outlaws direct and indirect discrimination, victimisation and harassment on grounds of age, in employment and vocational training;
- provides that both direct and indirect age discrimination can be justified if the treatment or provision, criterion or practice in question is a proportionate means of achieving a legitimate aim;
- makes recruitment, selection and promotion based on age unlawful unless this can be objectively justified;
- exempts length of service requirements for employment benefits practices of five years or less which are deemed not to be unlawful age discrimination;
- exempts length of service requirements for employment benefits practices of periods longer than five years if the employer can show that they have awarded the benefit to reward loyalty, to encourage motivation, or to recognise the experience of a worker.

BBSRC assurance

BBSRC will ensure that all its policies and procedures conform to the Act. Any complaints should be raised in accordance with the BBSRC Grievance Procedure (Section A12c of the Employment Code). Discrimination by employees may result in disciplinary action being taken, up to and including dismissal. This includes the sending and/or downloading of inappropriate electronic material and conduct at work-related social gatherings, whether on or off-site.

Aspects of employment to consider

Recruitment and Selection

Age-related criteria or age ranges should not be used, other than to encourage applications from age groups who are underrepresented and/or do not usually apply; in such cases the reasons/justification must be clearly stated. For example, using phrases like 'experienced and mature' in advertisements could be indirectly discriminatory to younger workers, although it will be open to an employer to attempt to justify that the discrimination is a proportionate way of pursuing business objectives.

Exceptions to this are only permissible where a person is:-

- (i) older than, or within six months of reaching age 65; or
- (ii) there is an objective justification for treating people differently, e.g. to reflect the training requirements to do the job or to secure a reasonable period of employment before retirement; or
- (iii) if there is a genuine occupational reason that a person must be of a certain age (this is unlikely to apply in JNCC employment); or
- (iv) to comply with other legislation, e.g. health and safety.

Careful consideration to be given to advertising publications used in order to attract a mixed-age response. Mixed-age recruitment panels should be used wherever possible.

There is no legal obligation to consider those aged over 65 years for a vacancy for which they apply.

Access to Training and Development

Age is not to be a factor and assumptions about an individual's ability or willingness to learn new skills should be avoided.

BBSRC Retirement Age

The normal retirement age for BBSRC employees is age 65 years. However, employees may request to work beyond age 65. Please see Section A14 of the Employment Code for details of the age retirement procedures, including details of the Decade of Retirement.

Other factors

To avoid claims of discrimination or harassment, managers should encourage a working environment where ageism is eliminated. As with other forms of discrimination, individuals may be personally liable for harassment claims if they adopt conduct which violates another individual's dignity or creates an intimidating, hostile or offensive working environment, including on the grounds of age.

Monitoring

Appropriate monitoring of employee age profiles is carried out by HR and Corporate Services Group, to measure, analyse and thus identify policy and procedural areas for continuous improvement.

Sources of Further Information

Your local HR Department

Your local Diversity Champion

<http://www.acas.org.uk> ACAS Guidance on Age and the Workplace

<http://www.dti.gov.uk/employment/discrimination/age-discrimination/index.html>

Department for Business Innovation and Skills- Equality and Diversity: Age Discrimination in Employment and Vocational Training

Linked Documents

BBSRC Employment Code Section A3 Dignity and Diversity at Work

BBSRC Employment Code Section A14 Leaving Us