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Factsheet 77 ● April 2012

## The law on age discrimination

### About this factsheet

The Equality Act 2010 is the new law providing protection against age discrimination in employment, training and adult education for people of all ages. It has since 1 October 2010, replaced the Employment Equality (Age) Regulations 2006, by absorbing most of its provisions. This factsheet provides information for people in later life on their rights at work.

It is important that people with possible age discrimination cases seek expert legal advice. You should not rely on this factsheet as a definitive statement of the law.

If you need more detailed advice tailored to your personal circumstances or representation, it is often best to find a local service. Age UK Advice can give you contact details for a local Age UK, or you could contact one of the independent organisations listed in section 13.

The information in this factsheet is correct for the period April 2012 – March 2013.

It is applicable in England and Wales. Different rules may apply in Northern Ireland and Scotland. Readers in these nations should contact their respective national Age UK organisations for information specific to where they live – see section 14 for details.

For details on how to order other Age UK Factsheets and information materials go to section 14. You will also find the telephone numbers for Age UK Advice there.

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# 1 Recent developments

- The default retirement age has been abolished with effect from 1 October 2011. From this date, there is no longer a retirement age provided by law and no-one can be retired at the age of 65, unless subject to a notice received before April 6 2011. Employers will still be able to include a retirement age in employment contracts, known as the employer justified retirement age, as the name suggests this retirement age would have to be justified by the employer.
- The qualifying period for a claim of Unfair dismissal, has from 6 April 2012, been increased from one to two years. This however only affects employees whose contracts started after 6 April 2012, for those before the qualifying period remains 1 year.
- Also, the Government intends to introduce fees for Employment Tribunal proceedings. Of which a filing fee of £250.00 and a hearing fee of £1000.00 maybe introduced for the first time in April 2013.
- The Court of Appeal has recently decided in the case of *Bailey v R + R Plant (Peterborough) Ltd*, that under the procedure in the old Employment Equality (Age) regulations, a notice of retirement to an employee, was required to state that he or she had a right to request to remain in employment past retirement age, pursuant to “paragraph 5, schedule 6 of the Employment Equality (Age Regulations 2006” for the notice to be valid. It also decided however, that the employer had no duty to tell the employee how to make a valid request to remain beyond retirement age.
- The Court of Appeal in the case of *Woodcock v Cumbria Primary Care Trust*, decided that an employer was right in dismissing an employee facing redundancy, just before he turned 50, because he would then have received both his pension and the redundancy payment. The Court however said that this did not give employers a right to time redundancies to prevent employees from enjoying their pension rights, because the facts in this particular case were unique. In this same case, it was decided that cost may be a legitimate aim to justify discrimination, based on the facts of each individual case.
- The Government recently announced that the dual discrimination provision in the Equality Act would not be implemented.

## 2 What does the Equality Act cover?

The Equality Act contains provisions making it unlawful to discriminate against a person based on their age (amongst other categories e.g. Sex, Race) in:

- employment, training and education;
- Membership of associations and clubs.

In the area of goods and services, act does not yet provide protection against age discrimination. In particular discrimination is seen to be lawful in the provision of Insurance products and services.

In relation to Employment, guidelines on the provisions of the Equality Act are contained in the Equality Act 2010 Code of practice and give detailed guidance on the application of the Act in the field of Employment. Which is now in force and provides guidelines- which are not enforceable at law- but guide as to best practice.

Further, in relation to employment and education, the following people are covered by the act:

- employees
- self-employed people
- office holders (for example, company directors)
- contract workers
- job applicants
- former employees
- people applying for adult, further or higher education or training
- students in adult, further or higher education or training
- former students in adult, further or higher education or training.
- The act also protects:
  - Barristers (and Advocates in Scotland)
  - Members of Qualifications bodies

- Partners and Members of Partnerships and Limited Liability Partnerships
- Personal and Public office holders
- Members of trade organisations and
- Local authority members

The act also gives employment service providers, i.e. recruitment, training agencies, an obligation not to discriminate against applicants on the basis of their age (amongst other categories). Unpaid volunteers are generally not covered under the act, but unpaid work that is part of a training course is covered: for example, unpaid teaching work as part of a teacher-training course. Volunteers may be able to claim under the act if they can show that they have a contract with the organisation for which they volunteer.

### 3 What kind of discrimination is unlawful?

#### 3.1 Direct discrimination

This means treating someone less favourably because of their age or because of the age they appear to be: for example, a company refuses to recruit a person because they are over 50.

#### 3.2 Indirect discrimination

This means having a policy or practice that puts people of a certain age at a disadvantage, compared with other people. For example, a company restricts recruitment to recent graduates – fewer older people would be able to meet this requirement.

Direct and indirect discrimination is unlawful unless the employer can justify the discrimination, or an exemption applies (see sections 4 and 5 below).

As said above, the act also creates two categories of discrimination – Associative discrimination, which occurs when a person is discriminated against because of his/her association with an older or disabled person, e.g. a carer and Perceptive discrimination i.e. when a person is discriminated against, because the person who discriminates against them thinks they may be subject to a protected category, e.g. age, disability, and so on.

### 3.3 Harassment

This is unwanted conduct, on the grounds of age, that has the purpose or effect of violating a person's dignity, or creating an intimidating, humiliating or offensive environment for that person. For example, an older worker's colleagues repeatedly make jokes about them at work, based on their age, which the person finds offensive.

### 3.4 Victimisation

This has a very specific meaning under discrimination law. Victimisation means being treated unfairly as a result of making a complaint of age discrimination, or giving evidence when somebody else complains of age discrimination. For example, a person is dismissed after complaining that they are not receiving the same training as younger colleagues, because of their age.

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**Note:** Unlike direct and indirect discrimination, harassment and victimisation can never be justified by an employer.

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## 4 When can an employer justify discrimination?

Direct and indirect discrimination is unlawful unless the employer (or training provider) can justify the discrimination, or an exemption applies.

To justify discrimination, the employer must show that it is a proportionate way of achieving a legitimate aim. Proportionate means it has to be appropriate and necessary. Especially it means that the importance of the policy or action which is discriminatory outweighs its effect on the individual or category e.g. safety and protection of the public in general.

A legitimate aim simply means that the intention of the employer must be a lawful, reasonable and genuine.

Cost in certain circumstances, may be a legitimate aim to justify discrimination. This was the decision in the recent case of *Woodcock v Cumbria Primary Care Trust*. This does not however permit employers absolute right to discriminate against employees, using cost as a reason, every case would have to be decided on its individual facts.

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**Example:** An employer might argue that it is appropriate and necessary to refuse to recruit people over 60 where there is a long and expensive training period before starting the job. In this case, the legitimate aim would be for a person to be in a job for a reasonable period before they retire. The employer would have to show that there was no less discriminatory way of achieving the aim.

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It is up to the Employment Tribunal or court in each case to decide whether a measure is justified or not.

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**Example:** In the case of *Baker v National Air Traffic Services Ltd* the age limit of 35 for recruitment to train as an air traffic controller was challenged. The employer argued that the age limit was justified to meet aims relating to safety and the need for recruits to be in the job for a reasonable period after training.

These aims were found to be legitimate, but the age limit was not a proportionate means of achieving them. The employer did not have evidence to support its argument that there was a decline in the performance of older air traffic controllers, and the extensive safety measures already in place meant that the age limit was not necessary to achieve the aim of improving safety. The tribunal decided that the employer could not justify the age limit of 35 and it was therefore unlawful.

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## 5 What kind of discrimination is covered by exemptions?

The exemptions contained in the old age regulations have been retained by the Equality Act and details of which are contained in the ECHR code of practice on Employment. These exemptions are detailed below:

### 5.1 Length of service benefits

Many employers have policies that link pay and benefits to an employee's length of service: for example, additional holiday entitlement for employees after two years' service.

This may indirectly discriminate against younger people as they are less likely to have been with an employer long enough to qualify for the benefit. There is an exemption to allow this kind of practice to continue in most circumstances.

Generally, any benefit linked to length of service is lawful, but if the length of service required is more than five years, the employer must show that it is expected to meet a business need. Examples of a business need that could be met are encouraging loyalty, motivating workers or rewarding experience.

This is an easier test for employers to pass than the normal test for justifying discrimination.

If the length of service required is less than five years, a benefit linked to length of service will automatically be lawful, without the employer having to meet the business need test.

## 5.2 **Genuine occupational requirement**

An employer can set an age requirement for a job if there is a genuine need for a person to have a characteristic related to a certain age. The example usually given is of an actor playing the role of a person of a particular age. There are very few cases where this exemption applies.

## 5.3 **Positive action**

Taking positive action means doing something to prevent or compensate for disadvantages experienced by people of a certain age group. This is allowed in two areas:

- access to training and education facilities
- encouraging people to take up employment opportunities.

This means that employers can target their recruitment advertising at older people (if they would otherwise be at a disadvantage linked to their age), as long as the position itself is open to all ages. Selection on the basis of a candidate's age is not lawful, unless it can be justified.

## 5.4 Statutory authority

An employer can discriminate on grounds of age if it is required by existing law: for example, an employer can refuse to employ someone under 18 to work in a bar.

## 5.5 Insurance or Related Financial Benefits in Employment

An employer may restrict provision of insurance or insurance related service benefits to employees over 65 or who have reached pension age. The main example of this being Health Insurance Benefits

This is contained in Regulation 2 of the Employment Equality (Repeal of Retirement Age) Regulations 2011, which has amended paragraph 14 of Schedule 9 of the Equality Act 2010.

Example: A company offers Private Healthcare to its employees as a benefit, A turns 65 and this service is withdrawn by the employer. The Law currently provides that this would be lawful, because private health-care is based on a health insurance policy, which would fall within the exception.

## 6 What to do if you believe you are being discriminated against.

There are steps which are necessary for you to take, if you believe you have been discriminated against based on your age, they are:

### 6.1 Raising a grievance

To bring your complaint to the attention of your employer and look for a resolution, by raising a grievance, following your employers grievance procedure- if there is one or by following the grievance procedure prescribed by Acas, which can be found on the Acas website [www.acas.org.uk](http://www.acas.org.uk), search for “grievance procedure”.

Also further information on raising a grievance can be found in the Age UK factsheet – “Dealing with disputes at work”. It is important to put your complaint in writing, stating:

- a. What was done to you;

- b. Who did it;
- c. What has cost you, either financially or emotionally.

## 6.2 Complaints form procedure

The Equality Act has provided an updated method for employees to obtain information from the employer in respect of an act which they believe to amount to discrimination; this is by use of a questionnaire or complaint form.

There are two sets of forms:

- a. For acts before 1 October 2010, and;
- b. For acts after 1 October 2010, or for acts before 1 October 2010, which continued after 1 October 2010

These forms are available on the Home Office website- [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk) (search under "Process for complaints under the Equality Act").

There is information and guidance on complaints regarding acts before 1 October 2010 on the government's [www.direct.gov.uk](http://www.direct.gov.uk) website (search under "solving a discrimination dispute"). This factsheet is however focused on acts done after 1 October 2010 (in that a claim for acts done before 1 October 2010 would now be out of time). Also any acts done before 1 October 2010, but continuing past that date would be protected under the Equality Act.

There are two sections in the complaint form- one for the employee to state his complaint, as well as ask the employer questions relating to the behaviour complained of e.g. whether the facts are accepted and about the other being for the employer to respond to the details and questions raised. An employer has to respond within 8 weeks of receipt of the complaint form, there is no legal requirement to respond, however if there is no response- or the response is unsatisfactory, this would be considered, were the claim to proceed to a Tribunal.

## 7 Retirement

Retirement age is different from pension age. There is a State Pension age (currently 60 for women and 65 for men) at which you can draw your State Pension, but employees do not have to retire at this age. A slow process of equalisation has started to bring women's State Pension age up to 65. This will be at the rate of one month's delay for every two months of age, so that by 2020 the five-year gap will have been eliminated. The age regulations do not affect State Pension age.

Some employers have their own retirement age, at which they usually retire employees. Other employers have no retirement age at all and work on a more flexible basis.

The law does not affect voluntary retirement. It is still possible for a person to choose to retire under age 65 if they wish to do so.

### 7.1 Retirement under the age of 65

The old age regulations provided for a default retirement age of 65 (for both men and women). It provided that if your employer tries to force you to retire under the age of 65, you can make a claim for age discrimination and for unfair dismissal. The retirement is unlawful unless the employer can justify it (see section on justification above). It is likely that employers will only be able to justify forced retirement under the age of 65 in exceptional circumstances.

### 7.2 Retirement over the age of 65

As said above, the default retirement age was scrapped on 1 October 2011, meaning that employers will no longer be able to force staff to retire at the age of 65.

Prior to the abolition of the default retirement age, the Government published some transitional guidelines, which are:

- The confirmation of the abolition of the Default retirement age by 1 October 2011;

- From April 6 2011, employers were no longer permitted to issue notices of retirement. However, a notice issued by April 5 2011 would expire beyond 1 October 2011, up until April 2012 (i.e if 12 months notice is issued). An employee issued with a 12 month notice by 5<sup>th</sup> April 2011, may request a further extension of the contract up till September 30, 2012, as long as the request is made by January 2012.
- The notice of retirement procedure contained in Schedule 6 of the former Employment Equality (Age) Regulations, has been removed and replaced by a formal guidance which has been prepared and published by Acas, in its revised “Age and the workplace” guidance. This is a guidance document, rather than a statutory code.

The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011, which provide guidance on the abolition of the default retirement age, came into force on 6 April 2011 and provides detail on the transitional guidelines listed above.

Prior to the removal of the default retirement age on 1 October 2011, it was lawful for an employer to force someone to retire once they reached the age of 65, as long as they followed the correct procedure but employees had the right to request to continue working after the date when the employer required them to retire.

The employer was required to give the employee a minimum of six months’ notice of the intended date of the retirement. At the same time, the employer had to tell the employee that they had the right to request to continue working. The notice must be in writing. If less than six months’ notice is given, the employee can be awarded up to eight weeks’ pay by the Employment Tribunal (this is limited to a maximum of £380 per week, so the maximum total compensation would be £3,040). If the employer fails to give at least six months’ notice, they have an ongoing duty to tell the employee of their right to request to continue working

In addition to the minimum six-month notice period, for a notice of retirement to be valid, it must have informed the employee of the following:

- a. A right to make a written request to remain in employment beyond the age of 65;

- b. That the request must be made pursuant to paragraph 5 of Schedule 6 of the Employment Equality Age Regulations 2006 (now repealed).

If the notice did not contain the above two references- then it is invalid. This is based on a recent decision of the Employment Appeal Tribunal in the case of *Bailey v R & R Plant Hire(Peterborough) Limited*.

In this same case, the Court of Appeal (on appeal from the Employment Tribunal) retained this duty, however it also decided that apart from this, an employer had no other responsibility to instruct the employee on the proper way to request to remain in employment beyond retirement.

On the other hand, It is also important that a written request to remain in employment must have stated that it was brought pursuant to paragraph 5 of schedule 6 of the Employment Equality Age Regulations to be valid in itself.

### 7.3 'Duty to consider' procedure

Under the old Employment Equality Age Regulation (now repealed, but still applicable to a person who was issued a notice of retirement while they were still in force).If an employee made a request not to retire, the employer had a duty to consider that request. The procedure they had to follow is the 'duty to consider' procedure.

The employee's request had to be in writing and had to state whether they wished to continue working indefinitely, for a specific period, or until a certain date.

The employer had to hold a meeting to discuss the request with the employee within a reasonable period of time, and had to then notify the employee of the decision as soon as reasonably practicable. The employee had a right to be accompanied to the meetings by a colleague and a right to an appeal meeting if not happy with the decision. The right was only a right to request staying on; the employer could refuse the request and the law did not require them to give reasons for their decision and there was no further right of appeal from this.

The employer however had a duty to properly consider the request and the procedure could not merely be a box-ticking exercise or formality- this was the decision in the recent case *Ayodele v Compass Group* -decided at the Employment Tribunal and later re-inforced at the Employment Appeal Tribunal. In that case, the company employee was informed by his Manager that the company's policy was always to refuse requests to remain in employment, this was deemed to be unlawful by the Tribunals and the employee was awarded damages for Unfair dismissal.

## 7.4 **Is retirement the real reason for the dismissal?**

The requirement for employers to give a minimum of six months' notice of retirement was intended to prevent employers using retirement to cover up for another reason for dismissing the employee.

As long as there is a minimum of six months' notice an Employment Tribunal will accept that retirement was the genuine reason for the dismissal and if the duty to consider procedure was followed correctly the dismissal will be fair.

If less than six months' notice was given, the Employment Tribunal would consider whether there was actually another reason for the dismissal. For example, the real reason may have been redundancy, or the employee's conduct or performance. In deciding the real reason for the dismissal, the Tribunal would consider how much notice the employee received and whether the duty to consider procedure was followed.

If the dismissal came out of the blue, with little notice, and little attempt was made to follow the duty to consider procedure, the Tribunal is less likely to accept that retirement was really the reason for the dismissal.

If the Tribunal decides there was actually another reason for the dismissal, where the employer claimed it was a retirement, it is likely to be an unfair dismissal and unlawful age discrimination.

If the duty to consider procedure has not been followed correctly once a request has been made, the dismissal is unfair, even if the Tribunal accepts it was a genuine retirement and even if six months' notice was given.

## 7.5 Action to take if you are forced to retire

If you were forced to retire at age 65 or above, following the correct procedure in the Employment and your employer had followed the correct procedure (listed under Schedule 6 of the old Employment Equality Age Regulations and The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011) you would not be entitled to any compensation. However if they failed to follow the procedures in both laws, you may be entitled to damages for unfair dismissal and/or age discrimination.

The main things to look out for being in summary

- That the notice of retirement was issued by 5 April 2011
- That the notice informed you of your right to request to remain in employment based on “paragraph 5, schedule 6 of the Employment Equality Age Regulations”. This wording is very important.
- That your employers actually considered your request to remain in employment, properly and in good faith.

Age UK brought a court case challenging the law allowing mandatory retirement (known as the Heyday case). The High Court gave its decision in September 2009, ruling that the default retirement age was lawful. It held that the Government had shown that, when it was introduced in 2006, the default retirement age was a proportionate means of achieving the legitimate aim of maintaining confidence in the labour market. The judge, however, questioned whether age 65 was the appropriate age for the default retirement age and the Government has now removed the default retirement age entirely.

## 8 Unfair dismissal

The former age regulations removed the upper age limit for claiming unfair dismissal. The previous position was that an employee could not claim unfair dismissal once they had reached age 65, or their employer’s normal retirement age if it was different.

The change means that employees over 65 can challenge an employer’s decision to dismiss them. With the abolition of the default retirement age (see above), an employee can further challenge an unfair dismissal without any age limitation.

## 9 Redundancy

The upper age limit for a redundancy payment was also removed by the old age regulations. This means that all employees, including those over 65, are entitled to statutory redundancy pay if the reason for their dismissal is redundancy. This remains the case.

Age and length of service are still used as a factor in calculating statutory redundancy pay (and compensation for unfair dismissal). Employees are entitled to 1.5 week's pay (capped at £400 per week) for each year of service in which they were aged 41 or over, and 1 week's pay for each year they were under 41, up to a maximum 20 years' service.

This means that older people will continue to be paid at a higher rate than younger people, even though this appears to be discrimination on the grounds of age. The Government has said it believes this difference in treatment is justified. It is unlawful for employers to use age as a factor when considering whom to select for redundancy.

A number of employment contracts provide employees with redundancy pay (contractual redundancy pay), at a higher amount than statutory redundancy pay. Some of these contracts also restrict access to contractual redundancy pay to people over a certain age; for example a clause might give staff under the age of 60, full contractual redundancy pay but limit those over 60 to statutory redundancy pay. In the case of *Kraft Foods UK Ltd v Hastie*, the Employment Appeal Tribunal decided that a cap on contractual redundancy payments for employees over 60 did not amount to age discrimination. The reason given by the Employment Tribunal in this case being specifically, that employees over 60 would be shortly entitled to their pension, hence the limit to redundancy pay was to create a level playing field with other employees.

In another case, *Woodcock v Cumbria Primary Care Trust*. It was decided that an employer who dismissed a man just before his 50<sup>th</sup> birthday, when his Pension would have become payable, did not act unlawfully because, he was being considered for redundancy and it would have meant his receiving a windfall of two large payments. The Court however made clear that this did not give employers a right to simply fix redundancies simply to prevent employees from qualifying for enhanced pension rights. Every case would have to be determined on its individual facts.

## 10 Statutory Sick Pay

The upper age limit of 65 for payment of Statutory Sick Pay (SSP) was removed in 2006. People working after age 65 are entitled to SSP for up to 28 weeks, in the same way as other employees.

## 11 Adult learning

The Equality Act 2010 makes it unlawful for education and training course providers to discriminate against people on the grounds of their age. All further education, higher education (including university courses) and adult learning is covered. Other training that provides you with skills relevant to work is also covered.

As with employment, both direct and indirect discrimination are unlawful, unless the course provider can justify the discrimination. Victimisation and harassment on the grounds of age are also unlawful. A course provider must provide courses to people of all ages on the same terms (again, unless this can be justified or is covered by an exemption).

Course providers can set age limits for admission to a course if they can show this is covered by the positive action exemption. They have to show that the age restriction is expected to compensate for disadvantages experienced by people in the age group at which the course is aimed.

For example, an IT course restricted to people over 60 would be lawful if it could be shown that people over 60 face a disadvantage in that area of work, and that the age restriction for admission to the course was expected to compensate for this disadvantage.

Claims against higher or further education institutions must be made at the County Court (Sheriff Court in Scotland), rather than at the Employment Tribunal, unless the claim is against the institution in its role as an employer. Claims against other training providers must be made in the Employment Tribunal.

## 12 Age discrimination – questions and answers

**1. Q.** In two years' time I will have been working for the same employer for 25 years. As a reward, I am entitled to two weeks' extra holiday. Is this unlawful?

**A.** Your employer could rely on the exemption for service-related benefits. If challenged by a younger worker, the employer would have to show that the measure was expected to bring a benefit to the business such as encouraging loyalty.

**2. Q.** I'm being made redundant. I am 65 years old. What am I entitled to?

**A.** You are entitled to a redundancy payment calculated in the same way as all other employees. Your statutory redundancy payment will be 1.5 week's pay for each year you have worked for that employer, up to a maximum of 20 years and capped at £400 per week.

**3. Q.** I am aged 66 and I have recently been forced to retire. I was given six months' notice by my employer on 5<sup>th</sup> April 2011, which gave me a right to request to remain in employment based on "paragraph 5 of schedule 6 of the Employment Equality Age regulations 2006", but my request to continue working was refused, on full consideration by my employers after a long meeting. The workplace has now closed down and all my colleagues have been made redundant. I believe that my employer retired me to avoid making a redundancy payment.

**A.** Because six months' notice was given of the retirement before the deadline for notices to be issued (April 6 2011) and your employers considered your request to remain, an Employment Tribunal will accept that retirement was the reason for your dismissal, rather than redundancy. The dismissal will be fair and you will not be entitled to a redundancy payment. You could seek legal advice about whether the decision to use the retirement procedure rather than make you redundant could amount to age discrimination.

**4. Q.** I have been refused an interview for a job because of my age, I am 67.

**A.** This is unlawful age discrimination and you would be entitled to claim against the employer or agencies who apply this practice.

**5. Q.** I'm 66. My employer gave me five and a half months' notice of my retirement date on 6 April 2011, my notice said I could request to remain in employment if I wished, but did not contain a reference to paragraph 6 of schedule 5 of the Employment Equality age regulations". I made a request to continue working after this date but, my employer has turned down this request without considering my request.

**A.** Your employer has failed to follow the correct procedure. Whilst you are over the default retirement age of 65 at the time, the notice was issued a day after the deadline for notices to be issued (April 5 2011). You were given less than six months' notice and the notice did not contain a reference to paragraph 5 of schedule 6 of the regulations. The duty to consider procedure was not followed in that your employer did not properly consider your request. Under the law, your employer would have been deemed to have acted unlawfully and you would be entitled to claim for Unfair dismissal and Age discrimination.

**6. Q.** My employer has refused to pay for me to go on a training course that some colleagues have gone on because I will retire soon and it will be a waste of his money. Can he do this?

**A.** This could be direct discrimination. If you were to make a claim at the Employment Tribunal, your employer would have to justify their refusal to pay for training.

This means the Employment Tribunal would decide whether saving costs was a legitimate aim and whether your employer has shown it was necessary and appropriate to refuse you training in order to achieve this aim. Cost alone may not be a legitimate aim.

Your employer would need to have evidence to suggest that you will retire soon. The Tribunal would also consider whether younger staff are likely to remain in the job for significantly longer than someone of your age. Your employer's argument is likely to fail if there is a high turnover of younger staff who have received the training.

**7. Q.** I am applying for a job and the application form asks me to give my date of birth? Is this lawful?

**A.** It is not unlawful under the Equality Act to ask for your age but may be regarded as bad HR practice and if you are refused the job and you believe that this is because of your age, you could use the fact that the employer asked for your date of birth as part of your evidence before an Employment Tribunal, although it will probably not be enough on its own.

It is good practice for employers to remove the date of birth from the application form and to ask for this on a separate equal opportunities monitoring form instead. This monitoring form should not be seen by the person making the decision on whom to shortlist for interview or hire.

## 13 Useful organisations

### **Advicenow**

A website providing information on your rights, including the law on age discrimination.

Website: [www.advicenow.org.uk](http://www.advicenow.org.uk)

### **Advisory, Conciliation and Arbitration Service (ACAS)**

The aim of ACAS is to improve organisations and working life through better employment relations. ACAS can provide guidance on the regulations.

Tel: 08457 47 47 47

Website: [www.acas.org.uk](http://www.acas.org.uk)

### **Citizens Advice Bureau (CAB)**

National network of free advice centres.

Tel: 020 7833 2181 (for contact details only – not telephone advice)

Websites: [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk) for local CAB details  
[www.adviceguide.org.uk](http://www.adviceguide.org.uk) for online information

## **Community Legal Service (CLS)**

The Community Legal Service (CLS) is a network of LSC funded organisations and advice providers that fund, provide and promote civil legal aid services.

Tel: 0845 345 4 345

Website: [www.legalservices.gov.uk](http://www.legalservices.gov.uk)

## **Equality and Human Rights Commission (EHRC)**

The EHRC is responsible for promoting and enforcing age discrimination legislation. The EHRC can take legal action on behalf of individuals.

Tel: 0845 604 6610 (England)

Tel: 0845 604 8810 (Wales)

Tel: 0845 604 5510 (Scotland).

Website: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

## **The Age and Employment Network (TAEN)**

The Age and Employment Network is a campaigning organisation, working for better opportunities for older people to continue working and learning.

Tel: 020 7843 1590

Website: [www.taen.org.uk](http://www.taen.org.uk)

## 14 Further information from Age UK

### Age UK Information Materials

Age UK publishes a large number of free Information Guides and Factsheets on a range of subjects including money and benefits, health, social care, consumer issues, end of life, legal, issues employment and equality issues.

Whether you need information for yourself, a relative or a client our information guides will help you find the answers you are looking for and useful organisations who may be able to help. You can order as many copies of guides as you need and organisations can place bulk orders.

Our factsheets provide detailed information if you are an adviser or you have a specific problem.

### Age UK Advice

Visit the Age UK website, [www.ageuk.org.uk](http://www.ageuk.org.uk), or call Age UK Advice free on 0800 169 65 65 if you would like:

- further information about our full range of information products
- to order copies of any of our information materials
- to request information in large print and audio
- expert advice if you cannot find the information you need in this factsheet
- contact details for your nearest local Age UK

## Age UK

Age UK is the new force combining Age Concern and Help the Aged. We provide advice and information for people in later life through our publications, online or by calling Age UK Advice.

Age UK Advice: 0800 169 65 65

Website: [www.ageuk.org.uk](http://www.ageuk.org.uk)

In Wales, contact:

Age Cymru: 0800 169 65 65

Website: [www.agecymru.org.uk](http://www.agecymru.org.uk)

In Scotland, contact:

Age Scotland: 0845 125 9732

Website: [www.agescotland.org.uk](http://www.agescotland.org.uk)

In Northern Ireland, contact:

Age NI: 0808 808 7575

Website: [www.ageni.org.uk](http://www.ageni.org.uk)

## Support our work

Age UK is the largest provider of services to older people in the UK after the NHS. We make a difference to the lives of thousands of older people through local resources such as our befriending schemes, day centres and lunch clubs; by distributing free information materials; and through calls to Age UK Advice on 0800 169 65 65.

If you would like to support our work by making a donation please call Supporter Services on 0800 169 80 80 (8.30 am–5.30 pm) or visit [www.ageuk.org.uk/donate](http://www.ageuk.org.uk/donate)

## Legal statement

Age UK is a registered charity (number 1128267) and company limited by guarantee (number 6825798). The registered address is Tavis House, 1-6 Tavistock Square, London, WC1H 9NA. VAT number: 564559800. Age Concern England (charity number 261794) and Help the Aged (charity number 272786) and their trading and other associated companies merged on 1 April 2009. Together they have formed Age UK, a single charity dedicated to improving the lives of people in later life. Age Concern and Help the Aged are brands of Age UK. The three national Age Concerns in Scotland, Northern Ireland and Wales have also merged with Help the Aged in these nations to form three registered charities: Age Scotland, Age Northern Ireland, Age Cymru.

## Disclaimer and copyright information

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