

Age Discrimination & Recruitment

As the impact of the new Age Discrimination Regulations become noticeable one area that is worthy of special attention is the need to be "age aware" when recruiting.

Job Descriptions and Person Specification

- It is important to consider precisely what skills and competencies you require for the post and not to use shorthand which may disguise age discrimination. For example asking for someone who is "10 years qualified" may discriminate against younger workers. You will want to ask for specific relevant experience for the post
- If you require a candidate to have certain qualifications, then you should be aware of the possibility of admitting age discrimination given that far fewer people acquired degree level qualifications 20 years ago. This risk is greater if the requirement is for a degree in something that may not have been taught at degree level until relatively recently. Again, if a specific professional degree is not an absolute requirement, focussing on relevant experience may be preferable.
- Asking for the age of a candidate on application forms is not of itself discriminatory but to avoid allegations of having taken age into account inappropriately, you should remove any request for date of birth from application forms and move it to your equal opportunities monitoring form.
- Dates of education and full previous employment record will also be a give away as to a candidate's age. Make sure that you are therefore not asking for irrelevant information which has no bearing on the candidates ability to do the job.
- Consider the title you are using for the post. Does the current title - such as "office junior" - have age connotations ?

Methods of recruitment

- Recruitment literature should accurately reflect the image for the post and should not contain hidden messages – particularly if photographs are used - which might deter one age group from applying.
- If news of a post spreads by word of mouth, any age imbalance which does not reflect the market place, may be perpetuated.
- Internal recruitment may also perpetuate age imbalance and may indirectly discriminate against under-represented groups but it may be something that an organisation can objectively justify if it meets a legitimate aim of the business to, for example, promote existing employees to keep them motivated.
- Recruiting by using the annual university "milk round" may discriminate against older workers who are less likely to be recent graduates and should not be used as the only method of recruitment.
- If you are recruiting through an employment agency, then make sure that you are satisfied that they are acting as you would wish as you will be liable along with them for their acts if they act with your express or implied authority. ACAS Guidance suggests that you need to be sure any agency you use acts in accordance with your equal opportunities policy and it would also be wise to check out what the equal opportunity policy of the agency says. It might be preferable to use a range of employment agencies, recruitment consultants and job centres to ensure the creation of opportunities for the widest range of people.

Advertising

- Consider where you place your advertisements. Advertising in a trade magazine read mainly by say, the under 40s, may indirectly discriminate against those who are over 40 as they will be less likely to read such a publication.
- Any reference in an advertisement to age or time of life may provide evidence of an intention to discriminate.
- Particular attention should be paid to wording which describes a quality or characteristic associated with a particular age group and should be avoided. Seeking someone who is "energetic and dynamic and in touch with the latest thinking" or who is "mature and possessing gravitas" both suggest that a certain age group is being sought and unless this can be objectively justified will be discriminatory.

Shortlisting

- At the time when the applications are considered the criteria against which candidates will be shortlisted should be agreed by those involved in the shortlisting and there must be no age bias involved. It may be sensible to have someone who has not been involved in the shortlisting to check this.
- Rejecting a candidate because they have too much experience and therefore appear "over qualified" may amount to indirect discrimination against older workers and should not be used as a reason for a blanket rejection without more.
- A summary of the shortlisting decisions should be made and retained for a few months before being destroyed

Interviewing

- Anyone - such as receptionists or security staff - coming into contact with any candidates presenting for interview need to be appropriately trained to avoid making any comments which may be offensive to someone of a particular age.
- During the interview, care should be taken not to ask age related questions. If a candidate's feelings are hurt through the interview or if they are undermined or belittled, this may amount to discriminatory treatment. Ideally, all interviewers should receive diversity awareness training to help avoid this.
- Decisions should be made on the basis of clear objective criteria and should be recorded. These notes should be retained centrally and securely for an agreed period of time before being destroyed.
- If feedback is requested by an unsuccessful candidate care needs to be taken to provide an accurate account of the reasons why the candidate was not selected.
- A formal questionnaire can be served by an unsuccessful candidate if they think age may have been part of the process. Care needs to be taken in answering such questionnaires as a refusal to respond or an equivocal response can be used against the employer in any claim which may follow.

Specific Issues

This note is for general guidance only. If you have any specific issues on which you require advice please contact Barry Nichol on barry.nichol@andersonstrathern.co.uk or on telephone **0131- 625-7238** or Jill Bell, Director of Anderson Strathern's Discrimination Law Service on jill.bell@andersonstrathern.co.uk or on telephone **0131-625-7246** Text here