

EDUCATION EMPLOYMENT SUB-COMMITTEE
18 JULY 2006

AGE DISCRIMINATION REGULATIONS 2006
(Director of Corporate – Human Resources)
(Director of Education, Children’s Services and Libraries)

1 INTRODUCTION

- 1.1 The Age Discrimination Regulations come into force on 1 October 2006. The Regulations will follow the pattern of other discrimination legislation in that discrimination will be unfair in areas such as recruitment, training and promotion; it will also impact on areas related to retirement age and service related benefits.

2 IMPACT ON RETIREMENT

- 2.1 The national default retirement age of 65 will remain in force. A retirement age of 65 is assumed as the standard, except for teachers who can currently retire between the ages of 60 to 65, and so the Council is compliant with the regulations. However as part of its general approach to recruitment and retention issues and recognising the value of older workers, the Council already has a policy of allowing employment beyond age 65.
- 2.2 There are new rules with very specific timescales surrounding the way an employee’s retirement should be dealt with. Employers will be required to write to employees 6 months in advance of the normal retirement date of 65 to inform them that they can request to work past retirement age. The employee then has to indicate if they wish to stay on beyond the age of 65 no later than 3 months before their 65th birthday.
- 2.3 A meeting to discuss retirement and any request to work past retirement age, and any subsequent appeal meeting should the request be refused, must be held within a reasonable period. It will be fair to dismiss an employee for a genuine retirement provided the procedural requirements are met.
- 2.4 At the moment, those who remain in employment with the Council beyond age 65 are offered 12 month contracts, with renewal subject to medical clearance. This will be considered discriminatory and so the medicals will need to be discontinued and replaced with a straight forward extension of contract following the process outlined.

3 IMPACT ON RECRUITMENT

- 3.1 The Council already adheres to “best practice” recruitment processes therefore the current approach does not require a great deal of amendment. It will however, be important to stress the importance of avoiding unfair age discrimination.
- 3.2 Advice will be given to schools on issues such as advertisements and person specifications which must focus on the job needs and the person’s competence, rather than anything which could be construed as discriminatory. References to, for example, “8 years experience” will now be subject to legal challenge if they restrict the ability of a competent younger person to apply.

4 IMPACT ON TRAINING

- 4.1 The Council has a duty to train all managers on dealing with age diversity as it does with all equality issues. Information sessions are planned for schools during the autumn term. The issue will be included in the internal diversity training already run by the Council.

5 IMPACT ON BENEFITS

- 5.1 Where benefits contain a service related criteria (e.g. the benefit is enhanced after so many years) these too may be open to challenge. Many of the Council's terms and conditions of employment for example leave entitlement and sickness pay are nationally set and will be reviewed at that level. However, all locally determined benefits will be examined to ensure they are non discriminatory; Long Service Awards are likely to be considered acceptable despite the service related basis.

6 IMPACT ON REDUNDANCY

- 6.1 The Council's current redundancy policy differentiates between those employees who leave the Council before their 50th birthday (with no access to pension) and those who leave after they reach the age of 50 (and can access their pension). It is possible that this will no longer be justifiable: however further advice has been sought before changes can be considered. The preferred interpretation is that the scheme relates to access to pension rather than age, and it may be that this interpretation is acceptable.
- 6.2 The redundancy policy for teachers allows for access to pension in the case of redundancies from the age of 58. It is possible that this will no longer be justifiable; further advice is being sought. This will not impact on any redundancies in the interim due to the structured programme for teaching reductions having to link with school term times and teachers' terms and conditions of service.
- 6.3 The upper age limit for statutory redundancy payments will be removed, making it possible for the first time for over 65s to get a redundancy payment.

7 AMENDING POLICIES IN RELATION TO EQUALITIES

- 7.1 All employment policies will be reviewed to ensure compliance with the new law and, where necessary, brought to this committee for comment and agreement but it is anticipated that few overall changes will be needed. New internal procedures will be put in place where necessary to ensure compliance with the new Regulations.

8 COMMUNICATING CHANGES

- 8.1 In order to publicise the new legislation to schools, articles will appear in the newsletter Forest Views and on the intranet, written guidance has been issued and information sessions are planned for the autumn term.

Background Papers

None

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