

Age Discrimination

Discrimination on the grounds of age is unlawful from 1 October 2006. This means that it is unlawful for your employer to unlawfully discriminate against you by:

1. Directly discriminating against you because of your age by subjecting you to less favourable treatment (eg by refusing to employ you or refusing to promote you because of your age) without justification. Unwanted age-based conduct, such as unwanted age-related banter, will also be unlawful.
2. Indirectly discriminating against you. This is where your employer operates, without justification, a rule or procedure that adversely affects you because of your age. For example, if your employer has a rule that you must have 10 years' experience before you can qualify for a promotion, then that is likely to indirectly discriminate against younger workers who will be less likely to have 10 years' experience. This is a very complex area of law but our legal experts can help you with this.
3. Victimising you, eg by bullying you for raising an issue of age discrimination.
4. Failing to give you proper notice of retirement or failing to properly consider a request from you to continue working beyond retirement. This is a very complex area but in essence your employer must be able to objectively justify any retirement age below the age 65 and must give you 6 – 12 months' written notice of your intended retirement – a failure to do so could entitle you to an award of up to 8 weeks' pay and may mean that your dismissal is unfair. Furthermore, if your employer does inform you that he wishes to retire you, you have the right to request to carry on working and if your employer does not consider your request (or fails to consider it under the proper procedure), then your dismissal will be unfair.

Who can I claim against?

If you are unlawfully discriminated against, you can bring a claim against the person who has discriminated against you (eg a co-worker or your boss) and you can also bring a claim against your employer (eg for failing to stop the discrimination from occurring or if it is your employer who has actually discriminated against you).

Who can bring a claim for unlawful discrimination?

There is no requirement for you to have been employed by your employer for any length of time before you can bring a claim for unlawful discrimination. In fact, there is no need for you to actually be an employee. You can bring a claim for unlawful discrimination if you are:

- A job applicant (eg if you are turned down for a job because of your age)
- An employee (even if you are in the first day of your employment)
- A worker (ie you are not an employee but are still providing services to your "employer", eg as a self-employed contractor)
- An ex-employee and, for example, your ex-employer refuses to provide a reference for you because you complained of unlawful discrimination whilst you were still an employee.

Remedies

If you have been unlawfully discriminated against, an Employment Tribunal may award you compensation. This is usually compensation for any losses you may suffer (eg lost wages if you are dismissed) and an award for injury to feelings. **There is no limit on the amount of compensation that can be awarded for unlawful discrimination.**