

Age Discrimination – Treatment of Retirement Age

The EC Equal Treatment Framework Directive requires legislation making direct and indirect discrimination on the basis of age unlawful in the employment field, unless this can be objectively justified, to be implemented by 2 December 2006.

To this end, the Department of Trade and Industry has outlined its proposals. These include maintaining a national default retirement age of 65 but giving employees the right to request to work beyond the set retirement age and to have their request considered seriously by their employer. This follows the model of the right to request flexible working for parents with young children.

The default retirement age is not a compulsory retirement age. Employees will be able to work beyond 65 if they and their employers agree to it. The decision to have a national default retirement age will be reviewed after five years.

Employers will only be able to set a retirement age below 65 if they can objectively justify this. This would be subject to challenge and the employer would have to show that doing so was 'appropriate' and 'necessary'.

It is intended that consultation on draft regulations on age discrimination will take place in summer 2005. Subject to that consultation and the approval of Parliament, the legislation is due to come into force on 1 October 2006.