



EQUALITY AND DIVERSITY: AGE MATTERS

Response by the
Chartered Management Institute

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OVERVIEW

As the leading organisation for professional management representing 74,000 managers, the Chartered Management Institute welcomes the opportunity to comment on the "Equality and Diversity" consultation document from the Department of Trade and Industry.

The Institute strongly supports the view that age should not matter when making employment decisions: skills, abilities and potential are what count. At a time when the UK is experiencing skills shortages in many sectors, whole swathes of the working population must not be overlooked solely on the basis of their birth date.

Discrimination often reflects poor people management. If effective competency frameworks are used by organisations in their approach towards recruitment, selection, promotion, training and development, and redundancy issues, then discrimination should be minimised.

Over the past few years, more and more organisations have realised that an age diverse workforce is a successful one. But too many employers are still missing out on the substantial and proven business benefits that a good mix of older and younger workers can bring to their organisation, for example, greater flexibility, higher productivity and a broader range of skills and experience.

The Institute's response is based on new research carried out among a sample of 1,000 members who are practising managers focusing directly on the issues raised in the Government's consultation paper.

Age discrimination is still rife in the workplace

The latest research findings from the Institute clearly demonstrated that age discrimination is still prevalent across too many organisations, affecting old and young alike.

70 per cent of managers believed that age discrimination is a significant issue in the workplace. Alarming, 55 per cent had personally experienced some form of age discrimination, and up to three quarters of those surveyed had witnessed age discrimination in the workplace.

Base: 160 managers		
Employment practice	Personal experience of age discrimination %	Witnessed age discrimination in workplace %
Selection process	39	43
Recruitment	30	49
Promotion	25	46
Retirement	15	43
Training and development	14	36
Pay decisions	14	28
Redundancy decisions	13	44

HIGHLIGHTS FROM THE INSTITUTE'S RESPONSE AND RESEARCH FINDINGS

Support for abolition of mandatory retirement age

There is strong support from 71 per cent of the managers surveyed for the abolition of the mandatory retirement age. Managers agree that this would allow much greater flexibility for employees to pursue options for continuing in work beyond the traditional age for retirement.

In the Institute's recent research, nearly half of managers (43 per cent) claimed to have witnessed age discrimination in relation to retirement decisions in their workplace.

Managers favour a default retirement age at 70

The proposals for a default retirement age at 70 were welcomed by 60 per cent of managers, and only one third opposed it.

It has to be recognised however that employers do rely on retirement ages as a way to manage their employees' expectations sensitively and with a minimum of bureaucratic burdens. In the absence of a retirement age, employers would have to rely on appraisal systems and the potential indignity of dismissing older workers on competence grounds at the end of their careers.

For employers to be required to justify objectively their decisions and to obtain sufficient evidence in case of an employment tribunal, this would potentially be a costly and time-consuming process for many organisations.

Aims for justifying differences of treatment: managers call for greater clarity

The consultation proposes that employers can treat people differently on the grounds of age, if they can justify their treatment in respect of specific aims that will be set out in the legislation. Employers will have to be able to produce supporting evidence if challenged on their use of the specific aims.

Currently these aims are set out as follows:

- a. health, welfare, and safety
- b. facilitation of employment planning
- c. the particular training requirements of the post in question
- d. encouraging and rewarding loyalty
- e. the need for a reasonable period of employment before retirement

Two thirds of managers agreed with these aims in principle. However, it is a key concern that only 53 per cent of managers claim to understand fully what the aims mean, and at present 46 per cent do not understand them and their likely effects.

If the legislation is to be effectively implemented, it will be vital that these broad aims are significantly clarified in the drafting of the legislation with specific business examples of how the aims could be applied. Employers would benefit from the development of case studies and scenarios so that they can see how these aims can be applied across many different contexts.

Managers also expressed serious concerns about the level of evidence that would be needed to justify an employer's actions at an employment tribunal.

Redundancy rights to start at day one of working life

The Institute's survey showed that 75 per cent of managers support the recommendation to include service below the age of 18 in statutory redundancy calculations.

There was also overwhelming agreement among managers (95 per cent) that an employee's length of service should still be used when calculating statutory redundancy pay.

The Institute's survey also demonstrated that managers are strongly opposed to maintaining the limit of 20 years on the length of service that counts towards the basic award. 80 per cent of managers disagreed that statutory redundancy pay should be limited to a maximum of 20 years service. In certain respects, it could be regarded as indirect discrimination.

Unfair Dismissal: abandon age related aspects

It seems particularly appropriate to end the situation whereby those aged over 65 lose their right to the basic award. A large majority of managers feel that it is wrong to reduce either the rights or benefits of older workers.

However, there is some concern that calculating the award on the basis of one week's pay per year of service would represent a 'levelling down', and in some senses a loss for many senior workers. It would seem to reduce the penalty for unfair dismissal. A fuller and clearer assessment of the implications of this proposal and its likely impact on those who are unfairly dismissed will be required.

Rewarding loyalty

Rewarding the loyalty of experienced staff who stay with an organisation is regarded as a legitimate and important business practice, and providing incentives to increase staff retention rates is often a key employment strategy.

However, there is a difference between rewarding experience that has resulted in added-value to the organisation and pay benefits that are given on the basis of "time-serving" without necessarily demonstrating performance improvements.

Impact of legislation

Half of the managers surveyed believed that new legislation will require a review of their organisation's employment policies and practices. As a result, 54 per cent of managers are concerned by the consequent costs in changing recruitment practices.

56 per cent of managers predict that there will be increased legal costs and 62 per cent believe that there will be a greater risk of employment tribunals as a result of the new legislation.

Overall less than half of managers think that too much time will be spent in achieving compliance.

Business benefits of legislation outlawing age discrimination

Managers believe that the benefits of the legislation are likely to outweigh the costs of implementation:

- 84 per cent think more flexible retirement options will be achieved
- 79 per cent agree that the legislation will result in a more age-diverse workforce
- 69 per cent believe that morale among employees will improve
- 59 per cent agree that staff turnover will reduce
- 55 per cent perceive benefits for themselves as they approach retirement.

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