

## Your Legal Questions

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**Q. I run a business employing staff of all ages. I have heard of the Age Regulations. Are they important?**

A. The Employment Equality (Age) Regulations 2006 ("the Age Regulations") make it unlawful to discriminate against workers, job seekers, employees and trainees due to their age. They apply, among others, to all employers and are very wide ranging covering recruitment, terms and conditions, promotions, transfers, dismissals and training. They make it unlawful on the basis of age to:

- Discriminate directly or indirectly against anyone unless it can be objectively justified
- Subject someone to harassment i.e. to bully or ridicule them because of their age
- Victimise someone because they have made or intend to make a complaint on the grounds of age

The Age Regulations apply to the whole of the recruitment process - advertising, selecting, interviewing and the job offer. Employers seeking candidates in the "first five years of their career" or "with youthful enthusiasm" have been held to be discriminatory resulting in awards of compensation by tribunals. Similarly, rejecting applicants because they are "over experienced" is likely to be challenged.

Linking benefits to age can also be risky but can be justified if it can be shown to be a proportionate means of achieving a legitimate business objective e.g. encouraging loyalty by awarding extra holiday to longer serving employees. Employers receiving applications for training or promotion should avoid communicating that they consider the employee to be "too old" to change his ways. Focus on the skills exhibited irrespective of age. This applies equally when managing poor performance or going through a redundancy selection process.

So, yes, the Age Regulations are important and failure to understand and apply them could result in expensive claims. There is no limit on the compensation that a tribunal can award. See a Solicitor to review your policies and procedures.

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