



Northern Ireland

Employment Fact Sheet: Age Discrimination

Age discrimination at work

It's against the law to treat you unfairly at work because of your age. This is called age discrimination. It's against the law to discriminate against you for being too young or for being too old. The law only covers work, adult education and training. There is no law to cover age discrimination in other areas. For example, insurance companies are still allowed to treat you differently because of your age.

Who does the law apply to?

The law about age discrimination applies to you if you're in work or if you're applying for a new job. It doesn't matter how many people work at your firm or how long you've been working for them.

What does the law mean?

Your employer can't have rules or practices which put you at a disadvantage at work because of your age. For example, they can't say you need to have had 12 years experience after you've qualified to apply for a job. This would put younger people at a disadvantage and it's against the law.

Also, employers can't bully or pick on you because of your age (this is known as harassment). For example, they mustn't allow people to make offensive jokes about your age in the workplace.

There are some exceptions to the general rules. For example, an employer may occasionally be allowed to discriminate against someone because of their age but only if they can show this is justified. If you don't accept the justification, you can make a claim to an industrial tribunal and they will look at each case individually.

Retirement and age discrimination

Most employers **can't** force you to retire until the normal retirement age (65 or what it says in your contract). This applies to both men and women. If they dismiss you because of your age before then, this may count as age discrimination, unfair dismissal or both. You should get advice, as you may be able to make a claim to an industrial tribunal.

Your employer **may** be able to force you to retire once you reach the normal retirement age. This won't count as age discrimination or unfair dismissal as long as they can justify why they are forcing you to retire, and they can show they have followed the proper procedures and there is not some reason other than retirement why they are dismissing you.

FACTSHEET

If your employer forces you to retire at 65 or over, there are rules about how they can do this, for example, they have to give you written notice at least six months before retirement.

You have the right to ask your employer to work beyond the age of 65. Your employer must consider your request but they don't have to agree. If they don't consider your request, your dismissal will count as unfair and you might get compensation. It won't be unfair dismissal if your employer has considered your request and turned it down.

If your employer agrees, you can still retire before you get to the age of 65.

The law does not affect the age at which you can get state retirement pension. This is 60 for women and 65 for men.

Job applications and age discrimination

It's generally against the law for employers to refuse to take you on or promote you because of your age. This means that, in most cases, employers shouldn't advertise jobs aimed at certain age-groups. However, there are some exceptions to this rule, for example, if an employer can justify that it's necessary to refuse to employ people over or under a certain age. An employer can refuse to consider employing you if:

- you're 65 or over
- you're over the company's normal retirement age if this is higher than 65
- you reach the age of 65 (or whatever the normal retirement age is in the company if it's more than 65) within six months of when you applied for the job.

Also, there are some laws about the age that you have to be to do certain work. For example, bar staff serving alcohol must be at least 18. Obviously it isn't against the law to advertise for bar staff over the age of 18.

An employer is allowed to ask for information about your age in a job application. However, if you think an employer has used this information to discriminate against you, you have the right to complain to an industrial tribunal.

Unfair dismissal

If you are sacked unfairly, you can make a claim for unfair dismissal, whatever your age. It's unfair to dismiss you because of your age. You may be able to make a claim for unfair dismissal if you've been sacked for this reason.

Redundancy pay and age discrimination

If you're made redundant, you're allowed to get redundancy pay regardless of how old you are. You must have worked for your employer for at least two years. The amount of redundancy pay you will be able to get isn't covered by the law about age discrimination.

When they're making staff redundant, employers aren't allowed to discriminate against older or younger employees. But they're allowed to choose people for redundancy based on how long they've been working for them.

What can I do if I'm being treated unfairly or harassed at work because of my age?

If you are being treated unfairly or harassed at work, take action as quickly as possible:

- **get advice.** A Citizens Advice Bureau may be able to help or refer you to a specialist. Details of how to find your nearest CAB are at the end of this fact sheet
- If you're being harassed, **ask the person to stop.** Only do this if you feel it is safe. You may find it helpful to have a colleague or trade union representative with you when you do this
- **tell your manager** that you're being harassed or discriminated against. Put it in writing and keep a copy. Your employer is required by law to try to prevent the harassment. If the person harassing you is your manager, tell someone higher up in the organisation
- **talk to your personnel department or trade union.** They might be able to help you stop the unfair treatment or bullying
- **collect evidence.** This could include keeping a diary or record of the time, date and location of any incidents, what was said or done, if there were any witnesses and evidence of any similar incidents against other colleagues. Record the names and jobs of those you think are treated more favourably than you, or details of the rule or policy that puts you at a disadvantage and why
- the law allows you to ask your employer to provide information through a **questionnaire** procedure. This can help you get information to support your case. Get advice early on as there are strict time limits for this procedure.

Raising a grievance

If you've tried to stop the discrimination or harassment without success, you can **raise a written grievance.** All workplaces are required by law to have a grievance procedure. Your trade union or an adviser can help. Although the law can help protect you against victimisation, think carefully about taking out a grievance or making a complaint as this could put your job in danger or make your life at work even more uncomfortable.

Taking your case to an industrial tribunal

If you have not been able to solve your problem through raising a grievance, you may have to complain to an **industrial tribunal.** You must have raised a written grievance with your employer before you do this. Industrial tribunals resolve disputes between employers and employees over employment rights, including discrimination at work. You don't need to have worked for your employer for any particular length of time before you can make a claim for discrimination. If you have been dismissed, you may also be able to make a claim for unfair dismissal. You'll have three months from the date the discrimination first took place to make a claim.

The Labour Relations Agency (LRA) offers a conciliation service in Industrial Tribunal complaints. If your complaint cannot be resolved by you and your employer through conciliation it will go on to a tribunal hearing. The tribunal is a panel of up to three people who will consider all the arguments, make a **legally-binding decision** and award **remedies**, for example **compensation.** If you're considering complaining to an industrial tribunal, get advice straight away.

Work pension schemes and age discrimination The rules about work p

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