

## **Hatstand/ Footstool Services/ Footstool Consulting Services**

### **Age Discrimination Legislation 2006**

#### **Guidance Note: Recruitment, Selection and Promotion**

##### **Scope of guidance**

This guidance note addresses the implications of the Employment (Age) Equality Regulations, due to be implemented on 1 October 2006, for recruitment, selection and promotion arrangements within Hatstand Ltd, Footstool Services and Footstool Consulting Services.

##### **The regulatory framework**

As with most areas of anti-discrimination law, there are two potential types of discrimination on the grounds of age:

- 1• *Direct discrimination*, occurs where one person (the employer) treats another less favourably on the grounds of age. This is lawful only where the employer can objectively justify age related treatment or practices.
- 2• *Indirect discrimination* occurs where a provision, criterion or practice is applied generally but which disadvantages people of a particular age group, whether "young" or "old". This can occur anywhere in the employment cycle from recruitment, through an individual's working life, to retirement practices.

The Regulations provide that both direct and indirect age discrimination may be justified objectively. Objective justification means that the employer will have to show that the age discriminatory treatment, policy or practice is a "proportionate means of achieving a legitimate aim". The DTI's consultation paper states that the test of objective justification "will not be an easy one to satisfy". Therefore to seek, systematically, to rely on this statutory defence would be potentially hazardous. Hatstand hiring managers are advised to seek to comply with the spirit, as well as the letter, of the legislative requirements.

There are exceptions within the Regulations to the discrimination provisions, as follows:

- 1• Where there is a genuine occupational requirement for a person of a particular age.
- 2• On the grounds of positive action (i.e. encouraging persons of a particular age or age group to take advantage of opportunities for doing particular work where it reasonably appears to the employer that this prevents or compensates for disadvantages linked to age).
- 3• The provision of enhanced redundancy payments.
- 4• Salaries covered by age related statutory minimum wage and statutory apprenticeship rates.
- 5• Specific length of service provisions

## **Recruitment**

### **General**

In all cases of recruitment within the Company's the criteria should be based on the skills and abilities needed to do the job. It is important to avoid unnecessary standards relating to experience, personal qualities or qualifications that could be discriminatory on grounds of age. For example, unnecessary minimum requirements for experience or qualifications may constitute indirect discrimination against younger persons. It is preferable to state what experience is required rather than how much. Similarly there will be no undue emphasis on formal qualifications that may discriminate against older candidates who have acquired the necessary skills through experience rather than by formal education.

### **Job descriptions and person specifications**

- 1• Job descriptions and person specifications (e.g. descriptions of the 'essential' and 'desirable' characteristics required) should be objective, based solely on the skills, relevant experience and competencies required to do the job.
  - Specific details should be used to explain job requirements, for example, instead of saying 'needs to be physically fit', the person specification might say 'needs to be able to occasionally stack heavy books onto library shelves'.
  - There will be no use of criteria that might be deemed to be indirectly related to age. For example, the government's consultation document gives the example of an advertisement which included a requirement to have held a driving license for five years. A higher proportion of those aged over 40 will have fulfilled this requirement than those aged in their mid-20s. Similarly, ACAS advise employers to avoid asking for 'so many years' experience as this may rule out younger people who have the skills required but have not had the opportunity to demonstrate them over an extended period.

### **Advertising**

- 1• Job adverts will state clearly what the job is and the skills, competencies, qualifications or equivalent experience the candidate needs to do the job effectively, based on the job description and person specification.
- 1• Age, age-related criteria or age ranges will not be used in adverts except to encourage applications from those age groups where it can be shown applications are low or non-existent, i.e. 'positive action'. Where this is the case it should be clearly stated.
- 1• The Company will also be wary of language that may imply a certain age-group e.g. 'youthful' 'mature' or 'young graduates', as such terms might be indirectly discriminatory.
- 1• In order to maximise the pool of candidates, the Company will consider where the advert is

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being placed. We will also ensure that any images used reflect age diversity.

## ***Application forms***

1• The Company is aware that it is not age-discriminatory in itself to require a birth date or age on application forms. However this information will be used to make discriminatory decisions. In line with best practice for all forms of diversity monitoring, forms will be designed so that, wherever possible, selectors do not see unnecessary personal details and there is no unnecessary dependency on chronological information. For example, a 'tear-off' section of the application form could be used to capture personal information, including age, which could then be used for monitoring purposes only.

## ***Recruitment and search agencies***

1• If a recruitment or search agency is used for any part of the Company's recruitment process, then their equal opportunities policies and general approach to age diversity will be checked to ensure compliance with best practice on equality and diversity.

## **Selection**

### ***General***

1• All Company staff will be made aware of the Company policy and where necessary will be trained in equal opportunities selection techniques. This training should highlight the need to avoid subjectivity, based on, for example, physical characteristics, and related but unfounded assumptions. It should advise against the kinds of questions that might be seen to be discriminatory, such as "aren't you over-qualified for the job"?

1• The selection process will ensure that all elements of the process in their design and content, e.g. interviews, team exercises, psychometric tests, do not directly or indirectly favour or hinder any age group, and that assessment is marked in accordance with genuine job requirements.

1• The Company will not make assumptions about the health status of older candidates.

### ***Shortlisting***

1• Application forms will be reviewed in accordance with the requirements laid out in the job description and person specification. The criteria will be applied objectively and consistently for all applicants.

1• The sifting process will be conducted by more than one person, using a simple marking system to show how the candidates meet your requirements. The Company's will ensure that we are able to justify the decisions made, and will record the decisions and retain the records for a 12 months period.

## **Interviewing**

1• Interviewers will follow normal equality guidelines in respect of the process and questions to be asked. For example, interviews will preferably be conducted by more than one person, and candidates should be marked against selection criteria, excluding unfounded assumptions based on physical characteristics or an individual's personal circumstances, such as expectations about when an individual might want to retire. Again, in all instances, decisions should be recorded and will be held for 12 months from the date of the interview.

## **Medical information**

1• An individual's age will not be used to make assumptions about their abilities or fitness. Where a health related judgment is required, for example in response to information on a medical condition provided by the candidate, an assessment by an occupational health or medical practitioner will be sought.

## **Promotion**

In addition to following the above guidance, promotion processes and practices will be reviewed to ensure that the focus is on the skills, abilities and potential of the candidates. In particular:

1• Explicit or implicit reference to age will be ruled out when this is irrelevant.

1• The Company will ensure that opportunities for promotion and training are made known to all employees and are available to everyone on a fair and equitable basis, regardless of age.

1• The Company will ensure that job-related training or development opportunities are available to all employees regardless of age.

1• Length of service criteria will not be used; there will be no minimum period of service before an individual could be considered suitable for the next grade – neither will the process discriminate in favour of applicants with the longest service.

1• The Company's will distinguish clearly between the promotion process and the process used to re-evaluate jobs under the terms of the job evaluation scheme.

1• Salary on promotion will reflect the Company's policy relating to salary on appointment or promotion. This policy will seek to minimise the possibility of bringing discrimination into the Company by adopting discriminatory practices from other organisations.

## **Recommended Actions**

Hiring Managers will:

- 1• Scrutinise all recruitment, selection and promotion related practices, policies and procedures to establish whether they contain age related or length of service criteria. If so, they need to be examined to test whether the criteria used can be justified. If they can, any evidence from which it can be concluded there is a benefit to the institution should be identified and documented. If they cannot be justified, they should be revised, in consultation with relevant stakeholders.