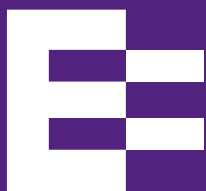


# Introduction of the Employment Equality (Age) Regulations

## Survey Findings 2006





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**Survey Findings 2006**

*For Human Resources and Equality and  
Diversity Staff*



Equality Challenge Unit

Equality Challenge Unit supports the higher education sector in its mission to realise the potential of all staff and students whatever their race, gender, disability, sexual orientation, religion and belief or age, to the benefit of those individuals, higher education institutions and society.

Equality Challenge Unit was established in 2001 to promote equality for staff employed in the higher education sector. Its role was expanded in 2006 to cover equality and diversity issues for students as well as staff.

The Unit is funded by Universities UK, GuildHE, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales and the Department for Employment and Learning in Northern Ireland. The Scottish Funding Council also funds the Unit to collaborate with Equality Forward in Scotland.

## Acknowledgements

With many thanks to all those staff who took the time to respond to the survey and who assisted with follow-up conversations and commented on the recommendations.



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## Executive summary

The **Employment Equality (Age) Regulations** came into force on 1 October 2006. Between October and November 2006, Equality Challenge Unit (ECU) conducted an online survey of directors of human resources. Responses were received from 47 out of 169 institutions surveyed, a response rate of 28%.

The purpose of this survey was to:

- = obtain an overview of the impact of the Age Regulations on employment practices in higher education
- = enable the sharing of lessons learned and dissemination of emerging practice
- = identify where advice and support are still required sector-wide
- = establish what ECU could usefully do to meet continuing needs for support.

This report details the survey results and suggests ways in which institutions could be supported in promoting age equality. The survey findings were as follows.

Forty-five higher education institutions either already have a policy on age, or are in the process of developing one. Twelve of these institutions reported that their policy has been translated into an action plan.

The immediate response to the Regulations by almost all 47 institutions was to review policy and procedures around recruitment, and selection and retirement. Somewhat fewer institutions have reviewed promotion, retention, occupational health or the related issues of workforce planning and performance management.

Almost without exception, all respondents reported a retirement age of 65, with only one institution reporting that it has removed the retirement age.

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Unsurprisingly, retirement and the 'right to request' working beyond retirement age are causing significant concern. A third of respondents see the major challenge of the Regulations as how best to cope with the new right to request. Respondents point to the administrative burden of the system, the difficulties in managing the expectations and performance of older staff, and workforce planning.

Over three in four of responding institutions have developed a right to request policy. In most cases, institutions have simply followed the basic legal requirements.

Thirty-two of the respondents now offer flexible working to all staff of any age. Of the remaining 15, 12 intend to do so in the very near future.

Forty-one of the responding institutions are providing age equality training. Of these responding institutions, 24 reported that age equality training will form part of existing equality and diversity training. Seven institutions have targeted managers by including age equality issues in recruitment and selection and in general managers' training.

The results of this survey highlight the emergence of an initially cautious approach to the Employment Equality (Age) Regulations. More work needs to be done to promote age equality in the sector.

## 1. Introduction

This report and its findings are based on an online survey of directors of human resources (HR) in UK higher education institutions (HEIs) conducted by ECU between October and November 2006, and supplemented by a small number of one-to-one follow-up telephone calls to some of the survey respondents in February and March 2007.

### Context

The **Employment Equality (Age) Regulations** came into force on 1 October 2006. The Regulations apply to both staff and students.

This survey relates to employment practices. ECU has undertaken a number of projects relating to the application of the Regulations to students, but students were not the subject of this survey.

Publications currently available are:

- = **The Employment Equality (Age) Regulations 2006: General Guidance Note on Age and Student Issues**
- = **Age Limits on Access to Medical, Health and Social Care Professions**
- = **Age Equality and Admissions to Higher Education.**

Age equality also features in the current projects '**Inclusive campus: students' unions, clubs and societies**' and '**Student and staff accommodation and social spaces**'.

In the 18 months before implementation of the Regulations, ECU provided a range of advice and guidance to staff working in HR and to equality and diversity practitioners. In addition, ECU and the Universities and Colleges Employers Association (**UCEA**) convened a joint working group on age, with the purpose of identifying the most effective way of supporting the sector in preparing for and implementing the Age Regulations. This resulted in a series of **Guidance Notes** on various aspects of the Regulations.

Following on from these activities, ECU was keen to:

- = obtain an overview of the impact of the Age Regulations on employment practices in higher education

- = enable the sharing of lessons learned and disseminate emerging practice
- = identify where advice and support were still required sector-wide
- = establish what ECU could usefully do to meet continuing needs for support.

### **Methodology**

An online survey was designed and piloted with a number of HR and equality and diversity staff in August/September 2006. The final survey was conducted between October and November 2006. The survey sought to determine:

- = the nature and level of institutional activity in response to the Regulations
- = what specific actions had been taken in a range of employment-related activities, including recruitment, selection, promotion and retention, occupational health provision, flexible working options, and especially in relation to retirement policy, procedures and practice
- = what further work might be required.

The survey also requested institutions to submit, either confidentially or openly, any relevant policy or planning documents that arose directly from their implementation of the Regulations.

The survey looked to future action with regard to:

- = workforce planning
- = data collection and usage
- = perceptions of the challenges and benefits of the legislation.

Finally, questions were asked about the usefulness of current sources of advice and guidance, in particular guidance produced by ECU alone or jointly with UCEA, and about the need for further support.

An email link to the survey was sent to all HR directors, and equality and diversity contacts were alerted to the survey and their assistance was requested. The original closing date for responses

was the end of October 2006. This deadline was subsequently extended to give staff more time to reply and to increase the response rate. The final deadline was the end of November 2006.

## **Respondents**

The email link to the survey was sent to institutions in England, Scotland, Wales and Northern Ireland. Responses were received from 47 institutions out of 169, a response rate of approximately 28%. The range of institutions responding was representative of the sector, with 15 pre-1992 and 32 post-1992 institutions, including eight small specialist institutions. Of the 47 respondents, 36 were HR directors, deputy directors or senior administrators; nine were equality and diversity staff, some of whom were located in HR; and two were organisational development staff.

The survey was circulated at the beginning of a new academic year, when many HR staff in institutions were still involved in discussions relating to the **Framework Agreement**. In these circumstances, the response rate was positive and welcome.

## 2. Survey findings

### **Level of institutional activity**

Forty-four HEIs either already have a policy on age, or are in the process of developing one. Only three institutions reported having neither an age equality policy nor an age equality plan. Policies are not normally stand-alone, but are more often incorporated in the institutional equality and diversity policy.

Twelve of the 45 institutions that had or were about to develop a policy also had an age equality action plan. Plans, where they exist, are either stand-alone or incorporated into the equality and diversity action planning and/or institutional equality schemes.

Those with age equality action plans are, in the main, post-1992 institutions. In these institutions, the work has usually been taken forward not by one person but by a working group, usually chaired at a senior level and including HR staff, sometimes equality and diversity staff, and trade union representatives, lawyers, senior academics and occasionally student admissions staff.

Membership of age working groups is generally limited to staff with an interest in HR. One group had imaginatively included an internal communications officer and a publications officer as members.

There were no references at all to training and development staff being involved in any age action group.

In terms of priority, 14 institutions – both pre- and post-1992, but not including any of the small specialist institutions – rated action on age equality as a high priority. Respondents who rated age equality as a high priority were almost exclusively HR staff. Twenty-eight institutions rated age equality work as medium priority and four as low priority, with one not answering this question. Three of the four institutions that rated age equality work as low priority were small specialist institutions.

Follow-up phone calls to two of these three confirmed that, while they did consider age equality work important, in small organisations day-to-day responsibility for action planning on

equality and diversity is often carried by just one person. Other, more pressing issues were reported as concerning them, including work on job evaluations and on disability, race and gender equality schemes. 'We simply don't have enough pairs of hands' was how one respondent described the problem.

### **Recruitment, selection and promotion**

An immediate response to the Regulations by 41 of the 47 institutions has been to review policy and procedures around recruitment and selection and retirement.

Many respondents referred to having incorporated age equality considerations, particularly in relation to recruitment and selection and pay and benefits, into their work on the Single Framework Agreement.

Thirty-two institutions reported removing questions about age from application forms, removing requirements for years of experience, and renewing and refreshing the guidance and/or training given to those involved in recruitment and selection to ensure they are aware of the new age equality laws and their implications.

One institution, the University of Swansea, has produced a short leaflet on what age discrimination looks like and how to avoid it, which it now gives to all interview panel members (**Panel Member Guidance – Age**).

Fewer institutions appear to have reviewed promotion policy and process. Twenty institutions reported activity in this area, with seven conducting reviews within their work on the Framework Agreement. But many report that they have done nothing in this area so far.

### **Retirement policy**

Almost all respondents reported a retirement age of 65. A few pre-1992 institutions have a small number of academic staff with a historical contractual retirement age of 67.

Some institutions have harmonised previously different retirement ages for different groups of staff.

Only one institution of those responding, Middlesex University, has removed its retirement age, both as a matter of policy and as a positive response to the age equality laws.

Sixteen respondents see the major challenge of the Regulations as deciding how best to cope with the new 'right to request' to continue working beyond any retirement age.

Institutional concerns about this were expressed in a range of ways:

*'... managers are concerned about the evidence that will need to be presented if we are to turn down such a request'*

*'... the Regulations place a huge administrative burden on HR ... we have a lot of older workers here, and keeping on top of paperwork will be hard'*

*'... [the challenge is] managing the expectations of staff who will want to continue indefinitely within a role that may impede the development of others'*

*'...we could end up with an ageing workforce'*

*'... [we foresee possible] conflict between the desire to retain experienced staff and the need for new blood'*

*'... in a rapidly changing and dynamic market place, a healthy level of turnover is required to introduce new skills and approaches.'*

### **Retirement procedures**

The survey provided some evidence of positive attitudes to the practical implications of the right to request. For example, a respondent spoke of the need to *'balance the desire to retain skilled and experienced staff with the need to provide opportunities for staff on the career ladder'*.

Over three in four responding institutions had developed a policy and process for handling the new right to request. In most cases, these simply followed the basic legal procedural requirements, without further practical guidance.

A small number of institutions had undertaken structured consultation with staff groups, leading to the development of

explicitly articulated grounds on which managers could base their decisions.

Examples of institutions that have developed guidance on the right to request, and that are willing to share their policies and guidance, are Roehampton University (**Planned Retirement Procedure**) and the University of Bristol (**Guidance for Managers on Considering Requests to Work Past Retirement Age**).

One institution has produced policy guidance indicating that managers who turn down requests to stay on should give a reason for their refusal.

Two institutions reported that their policy is to restrict the length of any extension beyond retirement age, in one case to one year only, and in the other case to two years only. This results in a new retirement date, and staff may make a fresh request to continue working beyond this date.

Five institutions have no policy or procedures for handling the right to request; three of these are small specialist institutions.

### **Flexible working**

More than two in three respondents (32/47) now offer flexible working to all staff of any age. Of the remaining 15, nine intend to do so in the very near future.

### **Impact on other employment-related policies**

In relation to pay and benefits, seven institutions reported that as a result of the legislation they have now limited their incremental scales to five. Nine institutions have incorporated considerations around age equality in the work they had been doing on the Framework Agreement. Several reported that, in future, they intend to monitor pay and grading by age.

One institution reported a review of its governance and statutes in response to the legislation.

The survey asked about intentions to review occupational health service provision in the light of the Regulations. It may be that this

question was not clear: it was intended to investigate any steps taken by institutions to anticipate the implications of having a proportionately older workforce. But the institutions that stated they had reviewed their provision were, on closer examination, simply referring to the fact that they had now dispensed with a previous age-related requirement for a medical (at 55, 60 or 65, depending on the HEI).

### **Age equality training**

Forty-one of the 47 respondents reported plans to provide age equality training. 24 respondents indicated that they planned to include age equality training with other equality and diversity training provision. A minority responded that training would be targeted at managers, either in specific management training or as part of recruitment and selection training. Respondents said:

*'Changing ingrained attitudes – it is sometimes hard to get people to accept that ageism is legally now on a par with sexism and racism, as it is not commonly thought to be as socially unacceptable as the other "-isms":'*

*'It has widely been regarded by attendees as "another piece of diversity legislation":'*

*'Changing culture, attitude and individual behaviours. Age discrimination and ageism are ingrained in society in general. Such behaviours will not be changed overnight. It will need ongoing education and awareness raising.'*

### **Communication and consultation with staff**

Twenty-nine institutions reported consulting with staff and trade union representatives when shaping their institutional responses to the age legislation. Fifteen reported no consultation, and several of these indicated that they did not need to consult as they had already decided against any policy changes, in particular in relation to the retirement age.

Twenty institutions reported taking steps to alert all staff to the age equality legislation. Various methods had been used, including

heads of department and/or heads of faculty meetings; briefing notes to managers and governing body members; roadshows; union meetings; leaflets, emails, intranet sites and institutional magazines.

One institution referred to the need to ensure all employees were aware of their rights under the new laws; another had provided basic information on the legislation to all staff with their payslips. The three that had so far taken no action to communicate with staff were small specialist institutions.

Asked specifically about any research on attitudes and intentions on the right to request, 39 institutions said they had not conducted any research; of those 39, 24 have no plans to do so in the future. Two institutions, which have conducted some research, managed to do this using HR staff who were working towards a Master's degree.

### **Workforce planning and data collection**

Just under three in four (33/47) respondents systematically profile their staff by age; 22 of these profile by department or function. Fourteen do not systematically profile staff by age, other than for reporting to the Higher Education Statistics Agency. Sixteen monitor age in relation to appointments, but very few monitor the age of candidates put forward by third-party recruitment agencies. Only 10 monitor successful promotions by age. Just five responding institutions monitor disciplinarys and grievances by age; and four monitor exit behaviour by age.

Twenty-two institutions reported collecting some age-related data for strategic and planning purposes, but many others that reported collecting data indicated that they did not subsequently use it.

A small number said they did use their data, for example in discussions in equality and diversity committees to promote the need for positive action. A few referred to the imminent introduction of better management information systems software, which they believed would enable collection of more helpful information in this area in future.

## Perception of the regulations

The survey brought to light a significant number of positive responses to the Age Regulations. Respondents talked of:

*'... keeping skills and encouraging managers to concentrate on retaining talented staff based upon their competence ...'*

*'... offering a more flexible approach to working life, which everyone can benefit from ...'*

*'... giving older and younger staff an equal and fair chance ...'*

*'... an opportunity to break away from the "x years of experience" mindset and start identifying what skills and competencies are needed to do this job'*

*'... reduced costs as a result of improved retention.'*

When asked about the challenges of the Age Regulations, respondents highlighted being able to accommodate employees wishing to work beyond retirement age and the related workforce planning issue, and the need to change culture.

*'Managing the expectations of staff who will want to continue indefinitely within a role, which may impede the development of others.'*

*'Providing enough satisfying opportunities for staff on the career ladder while trying to accommodate those who want to stay on beyond 65. There is a limit to what we can do, for either category, and succession planning.'*

Also, as the section on age equality training illustrates (page 19), respondents noted that the need to make managers and staff aware of their rights and responsibilities under the Age Regulations, and to begin to change the culture, are significant challenges in themselves.

Six respondents mentioned the issue of students under the age of 18 on campus.

## Sources of advice and guidance

The majority of respondents (42/47) reported that they found both ECU briefings and updates, and the jointly produced ECU and UCEA **Guidance Notes**, were either useful or very useful. However, while over half of respondents found ECU's **FAQs** either useful or very useful, 13 institutions, representing the full spread of type of institution, were unaware of this resource.

Four respondents had not found either ECU's materials or the jointly produced guidance helpful. For one institution in this group, it was not that the guidance was not good, but that it had not been sufficiently timely.

*'Advice must be timely. It is frustrating to get good guidance after all the hard work has been done. The guidance was no longer useful as there was no need for it.'*

Respondents reported that they required further advice from ECU in three broad areas:

- = student-related issues
- = workforce planning
- = the lessons other institutions were learning and that case law has to offer.

As well as drawing on ECU's materials, institutions had used the following for guidance and support:

- = **UCEA** (35)
- = **Employers Forum on Age** (24)
- = **Advisory, Conciliation and Arbitration Service** (41)
- = government websites (29).

A significant number of institutions reported that advice and guidance from individual lawyers and formal presentations from law firms had been helpful.

### 3. Discussion

#### **Overview**

The survey responses highlight that guidance for the sector should not be couched in a one-size-fits-all approach. The extent to which institutions can actively promote equality, and the priority they assign to it, depends in part on their size and internal structure, and the immediate challenges facing them.

Age equality action plans are effectively policies turned into action, and it is significant that a quarter of respondents have already moved on from a policy to positive action in areas such as staff development for targeted groups of staff.

However, 36 respondents have not yet developed an age equality action plan. For these institutions, the response to the Regulations so far has centred almost exclusively on HR procedural and policy matters.

Institutions that have not already done so may wish to consider developing age equality action plans detailing how they will promote age equality. They may find it useful to do so in the context of a single equality scheme and action plan.

#### **Recruitment, selection and promotion**

Experience in other countries where age discrimination legislation is in place suggests that most claims taken to court involve either recruitment and selection or promotion decisions, suggesting that this area deserves more attention.

Discriminatory behaviour in recruitment, selection and promotion decisions is the responsibility of the institution, which has a duty to take action to prevent such discrimination taking place. Any institution that has not yet provided updated guidance on age equality to staff involved in making these decisions is exposing itself to potential risk of vicarious liability.

## Retirement policy

**Heyday**, Age Concern's membership organisation, is currently challenging the Government's decision to permit mandatory retirement ages that allow employers to force workers to retire. The High Court has referred the challenge to the European Court of Justice and a decision is expected in 2009.

The implications of this decision are different for the private and public sectors. The private sector can, for the time being, continue with the retirement procedure, whereas public sector institutions, as 'emanations of the state' (which may or may not include universities), may be in a more difficult position if they compulsorily retire people at 65. Public sector employees may be able to argue that a compulsory retirement age of 65 is unlawful direct age discrimination, in that the exemption in the Age Regulations for compulsory retirement is inconsistent with European law. What this would mean in practice is that public sector organisations may face retrospective challenges from employees who have been required to retire at the age of 65.

For up-to-date information on the latest position of the default retirement age and Heyday's challenge, see ECU's [Age Homepage](#).

Higher education institutions are entitled to remove compulsory retirement ages as a matter of policy. This was the decision taken by Middlesex University. The decision was taken in the light of a careful analysis of staff profiles and retirement patterns, and took into account a range of factors, including the robustness of existing performance management systems, the fact that flexible working was already available to all staff, and the University's organisational needs and mission.

An underlying issue that emerged from the survey responses was concern about the relationship between older workers and performance management. Some respondents were quite explicit about their worries in this regard. One spoke of concern about *'how to manage the performance of older staff nearing retirement'* and another wrote *'depending on what happens to the retirement*

*age judicial review, there is potential for that to create challenges, as a complete removal of a retirement age will require a greater focus on performance management’.*

However, a third respondent welcomed the Regulations for the reason that *‘they will give impetus to effective management of performance throughout someone’s career’.*

Performance management is central to any argument about keeping or removing the retirement age. Across all sectors, managers are reluctant to lose the retirement age, as it provides them with a method of easing out underperformers without recourse to performance management or competency procedures.

At a recent Employers Forum on Age conference, Dominic Johnson spoke about tackling this.<sup>1</sup> He argued that not dealing with poor performance is never acceptable, and allowing underperformance to continue for 7–10 years before retirement is simply bad management. However, this is a problem that has to be tackled holistically, not left to individual managers to resolve. Johnson suggested three ways of supporting managers:

- = training should be provided to provide the skills needed to undertake difficult conversations
- = motivation to tackle poor staff performance must be built into the system, and should be one of the measures by which managers themselves are monitored
- = HR should provide support to managers.

The Employment Equality (Age) Regulations highlight an aspect of employment-related practice in the higher education sector that is, as yet, rather underdeveloped, as acknowledged by the Higher Education Funding Council for England (HEFCE) in **The Higher Education Workforce in England: A Framework for the Future**.

One of the many advantages of removing an institutional retirement age is that it avoids the need for time-consuming administration of

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1. Dominic Johnson, Group Director of Employee Relations, Barclays Bank plc, speaking at the EFA Conference ‘The end of the line for a mandatory retirement age?’, 26 April 2007, London.

right to request procedures or for difficult conversations round the refusal of a request to stay on. More importantly and significantly, a positive message about the institution's commitment to promoting age equality is immediately communicated to all.

ECU believes that mandatory retirement ages are against the spirit of the regulations and serve to further entrench age discrimination. As one respondent to the survey noted:

*'... some of the provisions are contradictory – it is supposed to outlaw discrimination on the grounds of age, yet sets a default retirement age of 65 and still allows discrimination in redundancy payments and National Minimum Wage.'*

There is some anxiety around the issue of extending working life. Respondents to the survey make particular reference to 'job blocking' and workforce planning issues, and managing the performance and expectations of older staff. Yet there is no evidence that these fears of job blocking are grounded on sound evidence or predictions. More research on workforce and succession planning is required (see Next steps, page 22).

### **Retirement procedures and emerging practice**

The survey reveals that most institutions have adopted only the basic legal procedural requirements around the right to request. This does present institutions with the difficulty of ensuring that decisions in response to requests to stay on are made consistently and fairly across the institution. For individual managers, the basic procedure may not be sufficient to provide them with a framework for making what might be a difficult decision on a staff request to be retained. The lack of a clear framework can be compounded by a lack of training for managers on how to handle requests to continue working beyond retirement age.

As previously recommended by ECU's 2006 Update **Taking Action Now**, it may be advantageous for institutions to develop a framework for making such decisions. The Update suggests developing a number of clearly articulated, business-related grounds on which to base decisions on requests to keep working.

Such grounds could include:

- = the nature and value of the overall contribution made by the employee to the institution's activities and objectives – their social contribution, their skills and competencies, their financial contribution, if appropriate
- = the demographics of the workforce in that department or area
- = the shortage (or oversupply) of certain skills sets in an area
- = the need to encourage movement within departments or functional areas, to plan succession and provide opportunities for staff with less experience to acquire more
- = the future strategic plans for that area in terms of volume and type of work and the implications of these for the kind of workforce the institution needs in the future.

The retirement process does expose institutions to the risk of a challenge, and managers require training on how to handle these requests. A published framework, such as the one suggested above, would assist managers in making these decisions and would make the process transparent to all. A published framework and retirement policy would also assist in providing a defence against any challenges or complaints.

As part of an institution's response to requests, it is in the spirit of the Regulations to avoid rigid age-related policies. The obligation on all institutions is to consider all such requests on an individual basis.

With regard to introducing an automatic time limit on any extension to working beyond retirement age, this may well add to the administrative burden of right to request and the corresponding 'duty to consider'. Setting a limit of one year, for example, would mean that the employee and HR officer are permanently in the retirement procedure – no sooner would the new retirement date be agreed than it would be time to begin the process over again. This may again point to the advantages of abandoning compulsory retirement ages.

Improving and extending flexible working options for all staff will

increase the chance of an institution being perceived by applicants as an employer of choice, and should prove a useful tool for managing the balance between providing career development opportunities and retaining skilled staff who wish to work beyond their official retirement date.

### **Impact on other employment-related policies**

The link between increasing age and the increasing likelihood of a disabling condition is a direct and proven relationship.<sup>2</sup> That this is so does not mean older people are more likely to be ill or off work – disability is not the same as illness. But in order to keep working effectively, disabled staff need to be able to draw on efficient, well understood processes through which they can request any reasonable adjustments to their work environment that might be necessary.

Institutions may decide that, as part of any package of measures extending the working life of employees, occupational health policies and practices should be reviewed to ensure they are robust and responsive enough for a workforce of more diverse ages.

### **Age equality training**

When asked about the challenges of implementing the Age Regulations, respondents highlighted the difficulties in changing culture and attitudes. There was also recognition that tackling age discrimination would not be the same as for sex or race discrimination, as there is a lack of sensitivity about age as an issue compared with other equality issues. This illustrates the need for effective and sustained training and communication on tackling age discrimination and promoting age equality.

It may also be the case that there is a need for training targeted at managers. Managers may require specific guidance on recruitment and selection and performance management and appraisal.

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2. For an excellent booklet on this, see **Facts and misconceptions about age, health status and employability** (K. Benjamin and S. Wilson, Age Partnership Group/Department for Work and Pensions, Crown Copyright, 2005).

Guidance and training may be essential to ensure managers can make fair and consistent decisions on requests to continue working beyond retirement age. This is particularly important if there is a lack of policy or framework for making such decisions.

### **Workforce planning and data collection**

Data collection is important for both monitoring activities and workforce planning.

Institutions require reliable data on areas including recruitment and selection, promotion, take-up of training and development opportunities, and outcomes of decisions around retirement. This will help evaluate the extent to which the Age Regulations are being implemented in a fair and consistent fashion across the institution. It will also provide a basis for defence against any complaints or challenges on the grounds of age.

In terms of workforce planning, institutions may need information on staff profiles and retirement patterns across the institution.

Effective workforce planning will also require good information on national and international demographics. An excellent publication on this issue is NHS Employers' **Age diversity in the workforce: how age profiling can benefit your organisation**.

### **Conclusions**

The Employment Equality (Age) Regulations are a significant piece in the equality and diversity jigsaw. The Regulations are complex and sometimes contradictory, and have been challenging to implement. This is compounded by the fact that the Regulations were introduced at a time when the sector was deeply engaged with internal work on the Framework Agreement.

This survey was aimed at HR directors, and focused on staff issues. Despite this, six respondents specifically asked for advice and guidance on student services issues. Similar requests have been made at various events that ECU has either hosted or attended.

Institutions have specifically required guidance on:

- = the impact of the Age Regulations on the range of student services and student care
- = advice and support on workforce/succession planning and the associated issues of performance manage and data collection and monitoring
- = lessons from other institutions and case law.

In addition, responses to the survey question on occupational health illustrated that information and guidance on the impact of an age-diverse workforce on occupational health provision would be useful.

## 4. Next steps – 2007–08

Equality Challenge Unit is taking the following steps to meet the needs of the sector as outlined above.

### **Impact of the Age Regulations on the range of student services and student care**

In response to these requests from the sector, ECU has focused its efforts on the impact of the Age Regulations and students and student-facing services. Current ECU projects covering age include:

- = **Inclusive Admissions** – this project has been developed to promote fair admissions and to share inclusive practice examples with the sector. A briefing has been published on **Age equality and admissions to higher education**.
- = **Student Unions** – this project investigates equality and diversity issues relating to student unions' activities, including democracy and the provision of services.
- = **Accommodation and Social Spaces** – this project will provide guidance for relevant higher education services staff in identifying current equality issues connected to residential accommodation and social spaces, and highlight examples of inclusive practice.
- = ECU also proposes to develop further guidance on the issue of under-18s on campus.

### **Advice and support on workforce/succession planning**

Workforce/succession planning is an enormous area. It encompasses strategic planning, recruitment and retention, performance management, and data collection and monitoring. This is clearly a significant concern for the sector. HEFCE published **The higher education workforce in England: a framework for the future** in 2006, and is continuing to develop its work in this area. ECU is involved in this work, and will ensure the issues around an age-diverse workforce and the hopes and concerns expressed in this survey are fed into that work.

The Leadership Foundation for Higher Education Board's **diversity strategy** includes a goal to emphasise diversity in its succession planning and talent development initiatives. ECU will be working with the Foundation towards realising this goal, and the findings of this survey will also be used to inform discussions.

ECU will be part of the steering group for a major, sector-wide research exercise. The Centre for Diversity Policy Research is conducting research on 'Developing good practice in managing age diversity in the higher education sector'. The results of this survey were used to help develop the objectives for this research exercise. The objectives are to:

- = support institutions to implement the age discrimination legislation by understanding how to balance its requirements with other strands of equality legislation and develop age-neutral policies
- = assist institutions to gain an understanding of the likely impact of demographic changes in the HE sector workplace
- = support institutions to develop good practice in managing age diversity effectively and improve succession planning
- = identify innovative approaches to career management for older staff, flexible retirement, and the use of positive action to increase age diversity
- = bring about organisational cultural change on age-related issues.

For further details on this project contact Dr Simonetta Manfredi, smanfredi@brookes.ac.uk.

### **Lessons from other institutions and case law**

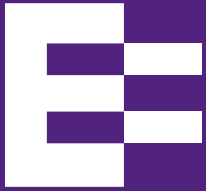
This report is a first step in assisting institutions to share their experiences and good practice with the sector.

ECU's **Age Homepage** provides up-to-date information on case law and developments in age equality that are relevant to the sector. The **FAQs** page shares the concerns of institutions, and provides useful answers and responses to those questions.

## **Occupational health**

Responses to the question on occupational health showed that any review of this area had been limited to removing age-related requirements for a medical. Consequently, ECU will develop a project to consider the equality and diversity aspects of occupational health provision in an age-diverse institution.





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