

Ban on Age Discrimination in Services

After many years of campaigning by Age UK, its predecessor organisations and many of our partners, a ban on age discrimination in services (including the provision of goods and facilities), comes into force on **1 October 2012**. From this date it will be unlawful for service providers to discriminate on the basis of age unless the practice is covered by an exception from the ban, constitutes positive action designed to address disadvantage experienced by a particular age gro

services in implementing the legislation;
<http://www.dh.gov.uk/health/2012/09/briefing-age-discrimination/>.

When is it permissible to discriminate on the grounds of age?

The legislation recognises that not all discrimination on the grounds of age is harmful and service providers should not automatically adopt a 'one size fits all' approach in response to it. In some circumstances there may be good reasons for treating one age group differently or providing a discrete service for them. For example a specialist mental health service for older people which can offer expertise in age related conditions such as dementia. The legislation provides for a number of mechanisms in order to ensure that these beneficial age based differences in treatment able to continue. These are **exceptions, positive action** and **objective justification** as detailed below:

Exceptions

(i) General

The Equality Act 2010 already contains a number of general exceptions which will also apply to the ban on age discrimination in services. It will be lawful to treat people differently because of their age in the following circumstances:

where another piece of legislation allows or requires people to be treated differently because of their age. For example age-based state benefits will not be affected.

where charities provide benefits only to people of the same age group, if this is in line with their charitable instrument and if it is objectively justified or to prevent or compensate for disadvantage.

where a private club or association caters for a particular age group.

(ii) Specific¹

A number of further exceptions specific to age discrimination have been set out in the regulations which come into effect on 1 October 2012.²

Financial Services: Despite concerted lobbying on the part of Age UK and others the Government does not believe there is sufficient evidence of harmful age discrimination to apply the ban in this area. Therefore the regulations include a wide exception allowing financial service providers to continue to use age when assessing risk and deciding prices; and permitting the use of age banding and age limits. The regulations stipulate that any such use of age will need to be based on relevant information which is from a source on which it is reasonable to rely. The insurance industry has also put in place a voluntary signposting arrangement under which providers will refer people refused an insurance quote because of age to another provider who will quote or to a signposting service. Age

¹ For further details see <http://www.homeoffice.gov.uk/publications/equalities/equality-act-publications/equality-act-guidance/age-discrimination-ban?view=Binary>

² Equality Act 2010 (Age Exceptions) Order 2012

Legitimate aims can often be outcomes that are socially positive or generally in the public interest. Business needs and efficiency could be a legitimate aim, but there would normally need to be wider social factors too. By way of illustration, it is likely that a health screening programme that targeted a particular age group would be objectively justifiable if there is good evidence that this group was more likely to be susceptible to the disease.

For further details please contact:

Katherine Hill
Policy Adviser, Equality and Human Rights
Tel: Email: katherine.hill@ageuk.org.uk

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