

Age Discrimination & the Credit Crunch

Since the introduction of age discrimination laws in 2006, older workers are bearing the brunt of lay-offs

On the second anniversary of the Age Discrimination Act, research shows that claims are fast catching up with those levied for sex discrimination and already outweigh disability, with 11% of the older workforce reporting negative treatment in the workplace.

As the credit crunch tightens and cutbacks and redundancies increase, employers face their toughest test yet. "An employees' age may once have been a traditional factor in cutting staff but such methods are no longer legal. Employers who are in the process of laying off staff must tread very carefully or they could face significant compensation awards" notes Andrew Milverton. "Any discrimination in the selection of employees or in the payment of redundancy money is unlawful under the Employment Equality (Age) Regulations 2006 - unless it can be shown to be objectively justified and proportionate. Caps have been removed from the damages which can be awarded for such discrimination – and the burden of proof lies with the employer. It is up to them to demonstrate innocence to employment tribunals."

Wise employers can protect themselves against the risk of substantial losses with employment Practice Liability Insurance, which provides comprehensive cover against all major Employment Law disputes. According to the latest Government statistics, unemployment amongst older workers – those aged 35-49 and 50 to 64 – jumped by 21,000 and 20,000 respectively in May to July last year, the largest rise of any age group. Some employees still feel that the responsibility for policing ageism in the workplace should fall to the HR teams but realistically it is a burden that should be shared across the entire company, with Directors holding the final responsibility.

Need to know more?

For more information contact Colin Bailey or Andrew Milverton on 0118 940 6175 at Cassey Miller James today.

Details of our offices and telephone numbers can be found on our website at www.cmj.co.uk



The Law

Under the Employment Equality (Age) Regulations 2006, which came into force on October 1 2006, it is unlawful to:

- Treat someone less favourably because of their age
- Apply a provision or practice which disadvantages some actual or potential employees because of their age
- Harass someone or allow them to be harassed, because of their age. 'Harassment' is legally defined as "conduct which violates someone's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them" (ACAS guide 'Age and the Workplace')

Protect yourself

Employment Practice Liability Insurance provides cover for damages, judgements, settlements and defence costs in actual or alleged breaches of Employment Law, including:

- Unfair or wrongful dismissal, discharge or termination
- Unlawful discrimination (for example, age, gender or race)
- Discrimination against "whistleblowers"
- Breach of an implied contract
- Constructive dismissal
- Failure to employ or promote
- Failure to grant tenure or negligent employee evaluation
- Failure to provide adequate employee policies and procedures