

Not work till you drop, but choose when to stop

Throughout the UK we are living longer and healthier lives. Many older people enjoy the social and financial benefits of working and don't want to retire at 60 or 65.

As part of the age discrimination laws new retirement procedures are being introduced. The procedures will enable a constructive dialogue between employees who want to continue working after retirement age and their employers.

The new regulations will affect workplaces from 1 October 2006.

A more transparent retirement process

When the new laws are in force employers will not be able to retire employees below the employer's normal retirement age, or below the default retirement age of 65. If the employer's normal retirement age is below 65, it must be objectively justified.

The new procedures will also allow employers and employees to benefit from a longer notice of retirement, meaning both parties will be able to plan for the future more effectively.

Employers who want to terminate an employee's service *before* the normal or default retirement age must have another fair reason for this and follow the

normal dismissal procedures. In this instance retirement will not be a fair reason for dismissal.

Understanding the new procedures

Employers should notify employees of their intended retirement date not more than one year, but no less than six months in advance. If they do not, the employee may be liable for compensation.

If the employer fails to notify the employee six months in advance they will have an ongoing duty to do so, up to two weeks before the intended retirement date. Failure to notify up to two weeks before the intended retirement date will make the dismissal automatically unfair.

If an employee has been properly notified of their retirement they must make their request to continue working at least three months before the proposed retirement date.

The employer must consider all requests not to be retired. Where possible the employer must meet the employee to discuss their request and must inform them of their decision as soon as is reasonable.

The employee may appeal against the decision. If this happens an appeal meeting should be held as soon as is reasonable.

If it's not possible to hold an appeal meeting within a reasonable period, the employer can consider the request without a meeting, as long as the employee's case for continuing to work is taken into account.

An appeal can be made if:

- the employer refuses the request in its entirety; or,

- if the employer accepts it, but decides to continue employment for a shorter period than the employee requested.

This procedure must be repeated each time an individual nears the agreed extended point for retirement, unless the agreed extended period is less than six months.

Illustrative example

Kathy Blake is a 64-year-old administrator from London. She is good at her work and loves her job. She worries about the social and financial implications of having to retire at 65.

Her employer has decided to use the default retirement age for its employees. Under the new legislation the employer will have to inform Kathy of her statutory right to request to work beyond 65.

By keeping Kathy on, her employer will continue to benefit from a productive and experienced member of staff, and will avoid the expense and disruption of a recruitment exercise.

If Kathy does request to continue working, her employer will have to consider the request. She will also have the right to be given at least six months notice of her intended date of retirement.

The full regulations can be found at

<http://www.dti.gov.uk/employment/discrimination/age-discrimination/index.html>

Detailed guidance on the laws can be found at www.acas.org.uk from late April

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