

Age discrimination

1 . What the law says

Age is one of 9 'protected characteristics' covered by discrimination law (Equality Act 2010).

Age discrimination includes direct and indirect discrimination, harassment and victimisation. Age discrimination is sometimes also known as ageism.

Discrimination can happen in any area of work. It can result from decisions made at work or from how people behave towards each other. This includes ageist language and behaviour.

It could be a regular pattern of behaviour or a one-off incident. It can happen in the workplace, at work social events or when people are working remotely.

In some circumstances, treating someone differently because of their age might not be against the law.

How the law defines age

The Equality Act 2010 defines age as a person:

- of a particular age
- belonging to an 'age group'

The law does not say how wide an age group is. It can be quite wide, for example the under 20s or over 50s. Terms such as 'Gen Z' or 'millennials' can also indicate an age group.

Who is protected by discrimination law

Age discrimination can happen to people of any age.

At work, the law protects the following people against discrimination:

- anyone who works for an employer
- contractors and self-employed people hired to personally do the work
- job applicants
- former workers

Understanding more about discrimination

[Find out about the different types of age discrimination](#)

If you need more general discrimination advice, you can read [discrimination and the Equality Act 2010](#). This includes advice on employer responsibilities and on other protected characteristics.

Contact the Acas helpline

If you have any questions about age discrimination at work, you can [contact the Acas helpline](#).

2. Types of age discrimination

Age discrimination includes:

- direct discrimination
- indirect discrimination
- harassment
- victimisation

It's important to understand the different types of discrimination. This is so you know what your rights and responsibilities are under discrimination law (Equality Act 2010).

For full definitions of each type of discrimination, read our advice on [discrimination and the Equality Act 2010](#).

Direct discrimination

Direct discrimination is when someone is put at a disadvantage or treated less favourably because of:

- their age
- their 'perceived' age, which means thinking someone is a particular age when they are not – this is called 'discrimination by perception'
- the age of someone they have a connection with – this is called 'discrimination by association'

[Read the full definition of direct discrimination](#)

Example of direct discrimination

Pat is 55 and asks to do a management skills course to improve their chance of promotion. The manager refuses. They believe that it's not worth investing in someone who might be retiring in a few years. This is direct discrimination.

Example of discrimination by perception

Jaz is 25 but looks younger. Their manager thinks they do not look old enough to be a supervisor and rejects them for a job interview. Jaz has the skills and experience needed for the job so this is discrimination by perception.

Example of discrimination by association

Nicky is married to a much older partner. When Nicky's manager hears this, they treat Nicky differently. Nicky does not get invited to work events where partners are invited. Their manager thinks their partner would not fit in. The discrimination is because of the connection with their partner.

Indirect discrimination

Indirect discrimination is when a working practice, policy or rule applies to everyone but puts a person or group at a disadvantage because of their age.

[Read the full definition of indirect discrimination](#)

Example of indirect discrimination

An employer advertises for a 'recent graduate'. It's likely that recent graduates will be younger workers. So older workers are disadvantaged by this requirement. This is likely to be indirect discrimination.

Harassment

Harassment is when someone experiences unwanted behaviour related to age.

To be harassment, the unwanted behaviour must have either:

- violated someone's dignity
- created an intimidating, hostile, degrading, humiliating or offensive environment

It can be harassment if the behaviour:

- has one of these effects even it was not intended
- was intended to have one of these effects even if it did not have that effect

Examples include:

- ageist or other offensive language
- inappropriate comments and jokes
- threats
- abusive emails
- physical assault

[Read the full definition of harassment](#)

Example of harassment directed at a specific person

Kim is the oldest person in the team. In team meetings people usually stand but the manager keeps offering Kim a seat. Kim asks their manager to stop but they say they're only trying to help. Kim finds this humiliating because it feels like a silent comment on their age. This could be harassment related to age.

Example of harassment not directed at a specific person

Sam is 39. Their manager often makes ageist jokes about older workers. Instead of asking for the behaviour to stop, some of the others in the team join in.

Sam feels very uncomfortable in this work environment. This could be harassment, even though the behaviour is not directed at them.

When harassment can be a crime

Harassment because of age can sometimes be a crime. For example if someone has experienced a hate incident like:

- physical or verbal abuse

- threats of physical violence
- online abuse
- damage to their property

In Scotland hate crime law covers age-related incidents. In England and Wales it does not.

[Find out more about hate crime at work](#)

Victimisation

Victimisation is when someone is treated less favourably as a result of being involved with a discrimination complaint.

It does not matter if the complaint was made by them or someone else.

The law also protects someone from victimisation if someone else thinks they're involved with a complaint.

Ways someone can be victimised include being labelled a troublemaker, being left out, or not being allowed to do something.

[Read the full definition of victimisation](#)

Example of victimisation

Charlie's an 18 year old apprentice. Some older workers think it's funny to leave children's toys on Charlie's desk as a 'practical joke'. Charlie talks to their manager as they want this to stop. The manager says the organisation does not want people who cannot sort things out for themselves. They suggest ending the apprenticeship. This is likely to be victimisation.

When discrimination might not be against the law

In some circumstances, an employer might be able to make or justify a decision based on age.

An employer can make a decision that directly discriminates if:

- it's positive action – to address a situation where workers with a protected characteristic are at a disadvantage or underrepresented
- there's an occupational requirement – when being a particular age is vital for a job

An employer can justify a decision that indirectly discriminates if there's 'objective justification'. The employer must be able to prove both of the following:

- there's a 'legitimate aim'
- the discrimination is 'proportionate, appropriate and necessary'

This is a complex area of law. Before making any decisions find out more about:

- [positive action](#)
- [an occupational requirement in recruitment](#)
- [objective justification](#)

Special rules for age

In some circumstances, a decision based on age is not unlawful. Examples include:

- paying the minimum wage – National Minimum Wage rates depend on a person's age
- where the law says what age someone must be – for example, anyone selling alcohol must be 18 or over
- an occupational retirement age – such as for someone in the police or fire service
- statutory redundancy pay – which is based on age and length of service
- contractual redundancy pay – if it follows the same rules as the statutory scheme

Find out more about:

- [National Minimum Wage](#)
- [retirement](#)
- [redundancy pay](#)

Example of when a decision can be based on age

An employer is making redundancies and intends to offer enhanced redundancy pay. They use the same length of service and age criteria as for statutory redundancy pay. They then increase all payments by 50%. Although older people will be paid more, this is not age discrimination.

Pay and benefits related to length of service

Employers can offer additional pay and benefits linked to up to 5 years' service. Additional pay and benefits linked to more than 5 years' service would need to be objectively justified.

Contact the Acas helpline

If you have any questions about age discrimination, you can [contact the Acas helpline](#).

3. Making and handling complaints

If someone has experienced or witnessed age discrimination at work, they can make a complaint to their employer. The employer should take it seriously and look into it as soon as possible.

Age discrimination can be very distressing. It can affect someone's mental health and wellbeing.

Employers should make sure that:

- workers know how to report ageist behaviour and other discrimination
- anyone who's experienced or witnessed discrimination feels safe, protected and supported
- anyone accused of discrimination is treated in an impartial and fair way

If you've experienced discrimination

If you believe you've experienced discrimination related to age, you can make a complaint to your employer.

You should make a complaint as soon as possible. But if you make a complaint a long time after an incident has taken place, your employer should still take it seriously.

[Find out what to do if you've been discriminated against](#)

Witnessing discrimination

If you think someone at work is being discriminated against because of age, there are actions you can take.

This could include trying to stop it happening if you feel it's safe, supporting people or giving evidence.

Witnessing discrimination might also affect you personally. In some circumstances, you could make a harassment complaint yourself.

[Find out more about witnessing discrimination](#)

Handling a discrimination complaint

If you're an employer or manager, you should look into any discrimination complaint in a way that's fair and sensitive to:

- the person who made the complaint
- anyone who witnessed it
- anyone accused of discrimination

[Find out how to handle a discrimination complaint](#)

4. Preventing age discrimination

All employers should take steps to prevent age discrimination at work.

As an employer, you should:

- aim for a culture where everyone knows that age discrimination is not acceptable
- recognise and promote the benefits of a diverse and inclusive organisation
- make sure no one feels excluded because of their age

[Find out more about improving equality, diversity and inclusion](#)

Steps for preventing discrimination

Many ways to prevent discrimination apply equally to all 'protected characteristics'. You can find out more in our advice on [preventing discrimination](#).

Measures that can help to prevent age discrimination include:

- stopping inappropriate behaviour
- being aware of unconscious bias and stereotyping
- considering areas where age discrimination often happens
- understanding that people's needs can change through their working life
- recognising the impact of discrimination on mental health and wellbeing

If you're a small organisation with limited resources, you might not be able to take all measures. But you have a duty to prevent discrimination, and there's still a lot you can do. Making your organisation more inclusive does not have to be costly or complicated.

If you're a public sector employer, you also have legal responsibilities under the [public sector equality duty](#).

Stopping inappropriate behaviour

You should make it clear that ageist behaviour and language is not acceptable. This includes things some might consider as 'banter' or jokes.

Managers should:

- be a good example of inclusive behaviour for others to follow
- use appropriate language
- look out for discriminatory behaviour
- deal with any discrimination that happens

If your managers allow discrimination to happen, they are also discriminating.

For example, a manager hears some of their team telling jokes about younger workers being lazy. The manager knows this is not appropriate and some people could be offended. But nobody complains so they decide to do nothing about it. By not tackling this, the manager is also discriminating.

A manager might be able to handle a problem informally. For example, talking to someone about appropriate language might be enough. If this does not work, managers should be prepared to take formal action.

As an employer, you should support your managers to tackle problems. If you do not take discrimination seriously, managers will not be able to stop it from happening.

Being aware of unconscious bias and stereotypes

Discrimination is not always intended. It can happen when decisions or behaviour are based on assumptions. To prevent this it's important to be aware of:

- [unconscious bias](#) – when someone's thoughts or decisions are influenced by beliefs or assumptions they might not be aware of
- ageist stereotyping – having a fixed view of what someone's like or what they can do because of their age

Examples of unconscious bias could include:

- a manager feeling insecure about managing someone older than them
- a manager not realising they've ignored an idea from a younger worker then accepted the same idea from someone older

Examples of stereotyping could include:

- being surprised when an older worker is good with technology
- assuming that young people do not want to work hard or will not be reliable

Considering areas where age discrimination often happens

You should check your policies and practices to make sure they do not discriminate. For example, you should consider how you handle:

- recruitment
- pay and benefits
- performance and development
- menopause

- retirement

Having up-to-date and inclusive policies and practices can help to:

- prevent discrimination
- improve your reputation as an employer

Recruitment

You must not allow decisions about recruitment to be influenced by a job applicant's age. For example, you must not assume that:

- a younger worker does not have the credibility to be a manager
- an older worker is not strong enough for a physically demanding job

Job adverts should detail the requirements for the job and applicants must be assessed objectively and equally.

When interviewing you must not ask different questions depending on the applicant's age. For example, "How would you feel about managing people older than yourself?"

Find out more about:

- [how employers should recruit](#)
- [improving equality, diversity and inclusion](#)

Pay and benefits

Employers sometimes offer extra pay or benefits to reward workers who stay with them. These are sometimes called 'loyalty rewards' or 'in-service benefits'.

Pay or benefits linked to length of service could discriminate indirectly on the grounds of age. This is because young workers might be less likely to qualify for them. For example, someone who is 20 years old could not get a reward for 10 years' service.

Extra pay or benefits can be [objectively justified](#). For example, an employer might be able to show that they encourage loyalty. This reduces the costs associated with staff turnover.

Employers can give rewards in the first 5 years of employment. This does not need to be objectively justified. For example, an employer might give an extra day's holiday for each year of service up to 5 years. They do not need to show that this achieves a business need.

Performance and development

You must not treat workers differently because of their age, when making decisions around performance and development. For example, you must not:

- decide that workers who might be nearing retirement are not worth training
- ask younger workers to meet higher performance targets

Example of discrimination in performance management

A manager has 2 team members who are underperforming. Isa is 25 and Jo is 64. The manager treats them differently based on their ages.

Isa is put on a performance improvement plan and warned that not improving could lead to dismissal. But the manager assumes that Jo will be retiring soon so ignores their poor performance. This is likely to be age discrimination against Isa.

Later on the manager asks Jo when they plan to retire. Jo says they enjoy work and intend to carry on. The manager then puts Jo on a performance improvement plan. Jo sees this as putting pressure on them to retire. They make an employment tribunal claim for age discrimination.

[Find out more about managing and reviewing performance](#)

Retirement

There is no set age at which people should retire, except in a few occupations. There will be an age at which someone can get an occupational or state pension. But you should not assume that they will want to retire at this age.

Putting pressure on someone to retire is very likely to be age discrimination.

Depending on the circumstances, asking about someone's retirement plans could be discrimination. You should leave it to your workers to start a discussion about retirement. Once they do so it's okay to talk about their plans.

A worker can change their mind about retiring at any time before giving formal notice.

Having a policy on retirement can help to:

- encourage workers to be open about their plans
- prevent discrimination by showing managers how to handle the subject
- help workers plan for their retirement

[Find out more about retirement](#)

Changes through working life

A variety of things can motivate people to work and to be loyal to their employer. These include:

- a sense of achievement
- good work-life balance
- financial security
- training and development
- opportunities for promotion
- family-friendly working patterns
- working in a team

What motivates someone can change during their working life. But making assumptions based on age can lead to discrimination. The same opportunities should be open to everyone, regardless of age.

It's a good idea to have regular discussions with your workers. This includes talking about what's important to them now and how they want to progress their career. This can help you to:

- plan ahead
- demonstrate a caring and supportive approach to your workers

Menopause

Menopause is a natural stage of life which affects most women and other people who have a menstrual cycle.

Going through the menopause is usually related to the age of a person. But younger people can also go through medical or early menopause.

It's important for employers to be aware that some people going through the menopause will need additional support. This will ensure that they can continue to do their job effectively.

Treating someone less favourably because of menopause could be age discrimination.

Support could include:

- raising awareness of the menopause
- training managers to talk about the menopause and the support available
- making workplace changes where needed
- having a menopause policy
- making sure absence policies do not discriminate

[Find out more about menopause at work](#)

Supporting mental health and wellbeing

Age discrimination can affect someone's mental health and wellbeing. It can lead to someone feeling threatened and unsafe. It can also have an impact on their attendance and work performance.

If something happens to someone outside of work, they might still need support at work.

As an employer, you have a 'duty of care'. You must do all you reasonably can to support the health, safety and wellbeing of employees.

You do not have to be a mental health expert. But there are resources and support you can offer.

[Find out more about supporting mental health at work](#)

Get more advice and support

If you need help to deal with any challenges in your organisation, you can:

- [contact the Acas helpline](#)
- [get tailored support for your organisation](#)
- talk to your recognised trade union, if you have one