

Managing Retirement



Introduction

The advent of Age Discrimination legislation has meant that an employer must be ever mindful of the way it recruits and rewards its employees in order to avoid potential Employment Tribunal claims. But what about the end of employment, how should the retirement process be managed?

The Statutory Retirement Procedure

An employer is able to impose a compulsory retirement age at 65 (or over) subject to following the Statutory Retirement Procedure outlined below.

At anytime between 12 and 6 months before the intended retirement date, the employer should notify the employee in writing of the intended date of retirement. The letter should also inform the employee of their right to request that they be allowed to continue working beyond this date. This is a legal duty and as long as the process is followed any liability for discrimination is avoided.

At any time between 6 and 3 months before the intended date of retirement the employee can request in writing to continue working beyond that set date.

The employer must then hold a meeting within a 'reasonable' period of time to discuss the request and then inform the employee of the decision as soon as is 'reasonably practicable'. The employee has a right to be accompanied at this meeting but only by a fellow worker.

If the employer rejects their request to work beyond the retirement date, the employee can appeal, setting out the grounds for the appeal in writing. The employer must then hold an appeal meeting and provide a written outcome to the employee.

As long as the procedure is followed the termination of employment due to retirement will be fair, the employee cannot contest the actual decision to retire them.

Generally Speaking

An employer cannot use retirement as a reason for dismissal prior to the normal retirement age or, if none, age 65. Where there is a normal retirement age below 65, the employer must be able to 'objectively justify' the reason for this and still follow the Statutory Retirement Procedure.

Watch this Space

There has been much debate recently about compulsory retirement at 65 and this is to be reviewed by the Government in **2010** but for now, the position remains as outlined above.

Can We Help?

If you would like further advice on any of the above or you have other employment issues you would like to discuss, please do call us. Simply telephone us on 01708 758958 or visit us at www.hrinsight.co.uk. We look forward to hearing from you!

HR Insight Ltd.
Orbital House 20
Eastern Road
Romford
Essex RM1 3PJ

T 01708 758958
www.hrinsight.co.uk

General enquiries:
enquiries@hrinsight.co.uk

Legal Department:
legal@hrinsight.co.uk

Heather Matheson:
HMatheson@hrinsight.co.uk