

## Progress against the Age Discrimination Legislation Action Plan

### Report of the Chief Fire Officer

For further information about this report please contact Alan Taylor, Chief Fire Officer, on 01743 260201 or Louise McKenzie, Assistant Chief Officer, on 01743 260201.

#### 1 Purpose of Report

This report updates Members of the Human Resources Committee on activity against the action plan identified to prepare the organisation for the introduction of age discrimination legislation on 1 October 2006.

#### 2 Recommendations

That the Committee note the contents of the report.

#### 3 Background

In November 2005 a report was brought to the Human Resources Committee detailing an action plan to prepare the organisation for the introduction of the of age discrimination legislation on 1 October 2006. Attached for Members' information is an update of that action plan. The update shows the activity taken to date and that matters identified have either been completed or, since being identified, have been resolved through national guidance or national changes.

#### 4 Financial Implications

There are no direct financial implications arising from this report



## **5 Legal Comment**

The Employment Equality (Age) regulations 2006 came into force on 1 October 2006 and apply to employment and vocational training. They prohibit unjustified direct and indirect age discrimination, and all harassment and victimisation on grounds of age, of people of any age, young or old.

As well as applying to retirement they

- remove the upper age limit for unfair dismissal and redundancy rights, giving older workers the same rights to claim unfair dismissal or receive a redundancy payment as younger workers, unless there is a genuine retirement;
- allow pay and non-pay benefits to continue which depend on length of service requirements of 5 years or less or which recognise and reward loyalty and experience and motivate staff;
- remove the age limits for Statutory Sick Pay, Statutory Maternity Pay, Statutory Adoption Pay and Statutory Paternity Pay, so that the legislation for all four statutory payments applies in exactly the same way to all;
- remove the lower and upper age limits in the statutory redundancy scheme, but leave the current age-banded system in place; and
- provide exemptions for many age-based rules in occupational pension schemes (they are contained in Schedule 2 to the Regulations).

## **6 Equality Impact Assessment**

This report is purely an update on activity against a previously agreed action plan. An Initial Equality Impact Assessment has not, therefore, been completed.

## **7 Appendix**

Organisational Recommendations to Meet the Requirements of Age Discrimination Legislation - 1 October 2006

## **8 Background Papers**

There are no background papers associated with this report.



Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balanced Score Card		Integrated Risk Management Planning	
Business Continuity Planning		Legal	*
Capacity		Member Involvement	
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	
Efficiency Savings		Retained	
Environmental		Risk and Insurance	
Financial		Staff	*
Fire Control/Fire Link		Strategic Planning	
Information Communications and Technology		West Midlands Regional Management Board	
Freedom of Information / Data Protection / Environmental Information		Equality Impact Assessment	*



## Organisational Recommendations to Meet the Requirements of Age Discrimination Legislation - 1 October 2006

Recommendation	Activity to Date
<b>Recruitment and Application Procedures</b>	
Recruitment procedures must be reviewed, in particular the following areas: <ul style="list-style-type: none"> <li>• Adverts,</li> <li>• Interview panels and processes,</li> <li>• Job descriptions - if we state that someone must have xx years' service in a particular area, or xx years' driving licence (indirect discrimination) we must be able to <b>objectively justify</b> this.</li> </ul>	Equality Impact Assessments have been undertaken on the advertising process.  Completed and ongoing
The application form has recently been updated and the date of birth is on the tear-off monitoring information.	Completed and ongoing
<b>Retirement Procedures</b>	
Retirement age of 55 must be looked at in conjunction with pension revisions. The default retirement age is 65 and anything below this must satisfy the test of objective justification. Must also consider whether we need to keep retirement ages, both for operational and non-uniformed employees.	Retirement Brigade Order now allows people to request to work past retirement age.
Need to change the process and include this in Brigade Orders, about how we write to people, who are nearing compulsory retirement. This should now include the 'duty to consider': <ul style="list-style-type: none"> <li>• Must notify employee in writing not more than 12 months but not less than 6 months before the date of retirement.</li> <li>• Must inform employee of their right to request working beyond the intended retirement date</li> <li>• The employee can make a request to extend working between 12 months and 6 weeks before the retirement date.</li> </ul>	Completed and ongoing  Completed and ongoing  Retirement Brigade Order is now in place.



Recommendation	Activity to Date
<p>If the employee makes a request, the employer will have to:</p> <ul style="list-style-type: none"> <li>• Hold a meeting with the employee to discuss it (unless they have automatically agreed)</li> <li>• Notify the employee of the decision within 2 weeks of the meeting</li> <li>• Employee has 2 weeks to appeal to the employer about the decisions</li> </ul>	<p>) ) ) ) Detailed in Retirement Brigade Order ) ) )</p>
<p>Must consider the approach to employees due to retire between 1 October 2006 and 31 March 2007 inclusive.</p>	<p>This date has now passed.</p>
<b>Employment Practices, Rules and Procedures</b>	
<p>All Brigade orders, policies or practices must be reviewed for age discrimination before the new legislation is implemented. <b>This should be completed if the Equality Impact Assessments are completed within the next 12 months.</b></p>	<p>Equality Impact Assessments (which look at age) are completed when Brigade Orders are reviewed and when new ones are completed, this process has been formalised within our templates.</p>
<p>Employment terms and conditions, handbooks, procedures etc must be reviewed to ensure no discriminatory practices are held within these, must also review the benefits that we provide to employees. These are particularly important after 5 years' service, as this is when the exemption ends. Look at:</p> <ul style="list-style-type: none"> <li>• Long service awards</li> <li>• Health insurance – does this have any age stipulations?</li> <li>• Extra annual leave for long service – general provision covers us up to 5 years but after this need to fulfil conditions, which giving extra leave at 10 years may not do (p49 5.1.14)</li> </ul>	<p>Reviewed and no discriminatory practices identified</p>
<p>Minimum joining age of 18 for firefighters – we must be able to objectively justify this – possibly through health, safety and welfare? (p33 4.1.17)</p>	<p>This is set nationally and can be justified on the grounds of the working time regulations and health and safety.</p>



Recommendation	Activity to Date
Maximum joining age of 54 – might be able to objectively justify this through training required and/or reasonable time in employment before retirement. (p31 4.1.7)	Shropshire Fire and Rescue Service no longer has a maximum joining age.
Training will need to monitor who receives this and ensure it is not linked to age.	Training is allocated based on need and all staff in the same roles get the same training irrespective of age
Fitness or health tests may have to be objectively justified if people of certain ages are less likely to pass due to age. Need to show that it is justifiable to do their role.	Occupational Health Doctor consulted and no change at present. Fitness standards are being reviewed nationally.
It is also good practice to monitor the age profile of employees. Need to devise a report for doing this.	This is done for operational posts and as required for other positions. The new human resources system will have an integral reporting system for this.
A Brigade Order should be written on the process for extending employment beyond national retirement age.	Retirement Brigade Order now in place.
Review redundancy arrangements. If these are more than the statutory minimum, may want to look at changing these, as redundancy payments will now be given to people over 65 and no tapering, so may cost the organisation more money. Also the sickness payment scheme should be reviewed (after 5 years' service 6 full, 6 half). Union consultation would be required for this and for other changes to be implemented.	Redundancy arrangements need to be updated generally and nationally  Sickness payment is not an issue as qualifying period is 5 years and is agreeable under guidance.
<b>Age related harassment or discrimination</b>	
We must ensure that all managers and staff are aware of the new legislation. As an employer we will be held accountable for any harassment or victimisation unless we have taken reasonable steps to prevent this behaviour.	All retained duty system staff have had equalities training, which includes age. Wholetime staff are receiving this training during 2007. All managers have had equality impact assessment training which includes elements of age and the other 5 strands of diversity.
Look at what type of information they receive and how this should be delivered, during training or part of their induction pack.	Supervisory Management Development Programme includes training in diversity issues and is mandatory for new managers.

