

## Appendix 3

### AGE DISCRIMINATION POLICY

The Equality Act 2010 made it unlawful to discriminate against employees, casual workers, agency staff, job applicants and trainees because of their age.

Age discrimination happens when someone is unfairly disadvantaged for reasons which cannot be objectively justified relating to their age. Lewes District Council is committed to the removal of age discrimination within the organisation because it is not an efficient use of employee resources. This policy sets out how the Council will ensure that age discrimination does not occur.

#### 1. Statement

All employees have the right to equal access to all employment opportunities within the Council including recruitment and selection, terms and conditions, promotion and transfers, secondments, training and development, pay and benefits, retirement and redundancy and any other employment benefits offered by the Council irrespective of their age.

The Council will not treat any individual employee, prospective employee, worker, casual employee, agency worker, consultant, contractor or trainee less favourably than another because of their age and will take positive action to redress any discrimination if we deem it necessary.

#### 2. Age discrimination can:

- affect anybody regardless of how old they are.
- adversely affect employment opportunities, especially those of older people and younger people.
- result in failure to consider skills-based abilities, potential and experience in the workplace.

#### 3. Types of discrimination

Within the Equality Act there are a number of different types of discrimination:

**3.1 Direct Discrimination:** This is treating someone less favourably because of their actual or perceived age, or because of the age of someone with whom they associate.

There are certain situations when this may be justified;

***“If it is a proportionate means of achieving a legitimate aim which means it must be appropriate and necessary.”***

**3.2 Indirect Discrimination:** This occurs when there is a policy, practice or procedure which applies to all employees but particularly disadvantages people of a particular age. Indirect Discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

**3.3 Harassment:** When unwanted conduct related to age has the purpose or effect of violating an individual’s dignity or creating an intimidating hostile, degrading, humiliating or offensive environment for that individual.

**3.4 Victimization:** Unfair treatment of an employee who has made or supported a complaint about age discrimination.

**3.5 Perceptive discrimination:** This is treating someone less favourably because it is perceived that they have a protected characteristic, whether they do or not. For example: refusing to appoint someone because it is wrongly thought that they are a particular age.

**3.6 Associative discrimination:** This is treating someone less favourably because they associate with an individual who has a protected characteristic. For example: someone is treated unfairly because they are part of a group of young employees, even though they themselves are older.

#### **4. Recruitment and Selection**

The efficient and effective use of candidates skills means that recruitment and selection decisions will be based on competencies, relevant qualifications, skills, potential and objective job-related criteria obtained through careful analysis of job requirements and job performance.

Decisions on recruitment and selection will be based upon the individual’s merit and competence and not their age.

##### **4.1 Advertising;**

Job advertisements including external, internal and expressions of interest will not make any reference to age nor will adverts make any reference to the required years of experienced required for the successful performance of the role.

## **4.2 Justifying Age Limits for Job Applicants:**

The Equal Treatment Directive (2000/78/EC) (the Directive) Article 6 states that treatment on the grounds of age will not constitute unlawful direct age discrimination provided that they are objectively justified.

***Objective justification means that difference of treatment on the grounds of age can sometimes be justified.***

Examples:

- The setting of special conditions on access to employment, vocational training, employment and certain occupations, including dismissal and remuneration condition, for young people, older workers and persons with caring responsibilities, in order to promote their vocational integration or ensure their protection.
- The fixing of a minimum conditions age, professional experience or seniority for access to employment or to certain advantages linked to employment, such as a reasonable period of employment before retirement.
- The fixing of a maximum age for recruitment which is based on a training requirement of the post in question.

## **4.3 Shortlisting**

Recruiting Managers will not have sight of the Equality Monitoring Form completed by applicants during the application process which contains information about their age. Shortlisting of application forms will be based upon which applicants have completed their application forms according to the required criteria set out in the job description and personal specification and can show that they meet the job requirements and competencies required.

The short listing manager will use the AAF (Application Assessment form) to decide who to shortlist for interview. It sets out the criteria on the Person Specification and the short listing manager will assess each application form to see whether or not it indicates that the criteria are met.

## **4.4 Interviews**

Interviewers and those concerned with selection will be trained to make sure they understand about age discrimination, what causes it and how to avoid it, so they make recruitment decisions based on objective criteria relevant to the job, personal merit and the competencies required. All managers responsible for shortlisting, interviewing and appointing staff are supported by a fully qualified HR Officer.

#### **4.5 Offering employment**

Employment will be offered on merit and will not be refused or deliberately not offered on the grounds of age.

All job applicants are protected throughout the recruitment process against any form of discrimination related to their age, unless specifically justified.

Specific aims that might be used to justify the difference in treatment of job applications on the ground of their age include;

- Health and Safety - There might be a particular need to protect young workers
- Employment Planning – There may be a situation when a number of people are likely to retire around the same time.
- The need for a reasonable period of employment – during the recruitment process someone who is in their 60's, 70's or older may be declined employment if the cost and length of time required to train that person would be unreasonable compared to the amount of time they would spend working for the Council. When making this difficult decision there will not be an assumption of the date that they will retire.

#### **4.6 Medical clearance**

Candidates who have been offered a position subject to Occupational Health clearance will complete a confidential questionnaire which will be sent directly to the Councils Occupational Health providers. The person's age will not be used to make judgments about their abilities or fitness. Where such a judgment is required, Occupational Health will make that decision.

### **5. During employment**

Employees are protected against all forms of age discrimination in every aspect of their employment this includes terms and conditions, access to training, promotions, transfers, secondments and general treatment at work.

#### **5.1. Training and development**

Employees of all ages are eligible for training and development programmes. There will not be any automatic exclusion of any age groups, such as those nearing retirement or employees on the Apprentices Scheme. Training opportunities will be made available to all employees irrespective of their age, there will be no upper limit imposed for access to training unless there is a justification as outlined in the Equalities Act 2010.

Employees of all ages will be encouraged to take up opportunities for relevant training and should be actively involved in identifying their own development needs.

## **5.2. Promotion**

Opportunities for promotion will be made available on an equal basis for all employees irrespective of their age. Promotion will be based upon merit, ability and competencies it will not be based upon length of service and decisions to promote employees will be made without prejudice or stereotyping and will be based upon an objective, systematic and planned approach.

Employees who are promoted will be competent to perform the job or have the ability to gain the competencies required after an initial period of induction, training and support regardless of their age.

## **6. Retiring from work**

The Employment Equality Regulation 2011 abolished the default retirement age of 65 years. This means that there is no longer a compulsory retirement age and employees are able to choose when they retire once they reach their normal state retirement age.

Compulsory retirement of an employee at any age is unlawful; employees over the retirement age will not be dismissed because of their age, if there are any concerns about their employment these will be dealt with under the normal policies and procedures.

### **6.1 LGPS-Normal Pension Age**

Employees who have built up contributions in the Local Government Pension Scheme from 1 April 2014 the normal pension age will no longer be fixed at 65 but, instead, will be the same as their State Pension Age (but with a minimum of age 65).

Normal Pension Age is simply the age when employees can retire and take the pension they have built up in full. However, employees' will have increased flexibility from April 2014 over when they retire and can take their pension. They will be able to choose to retire and draw their pension at any time between the age of 55 and 75.

This policy has been screened through a competency framework and crossed referenced with relevant policies to ensure consistency.

