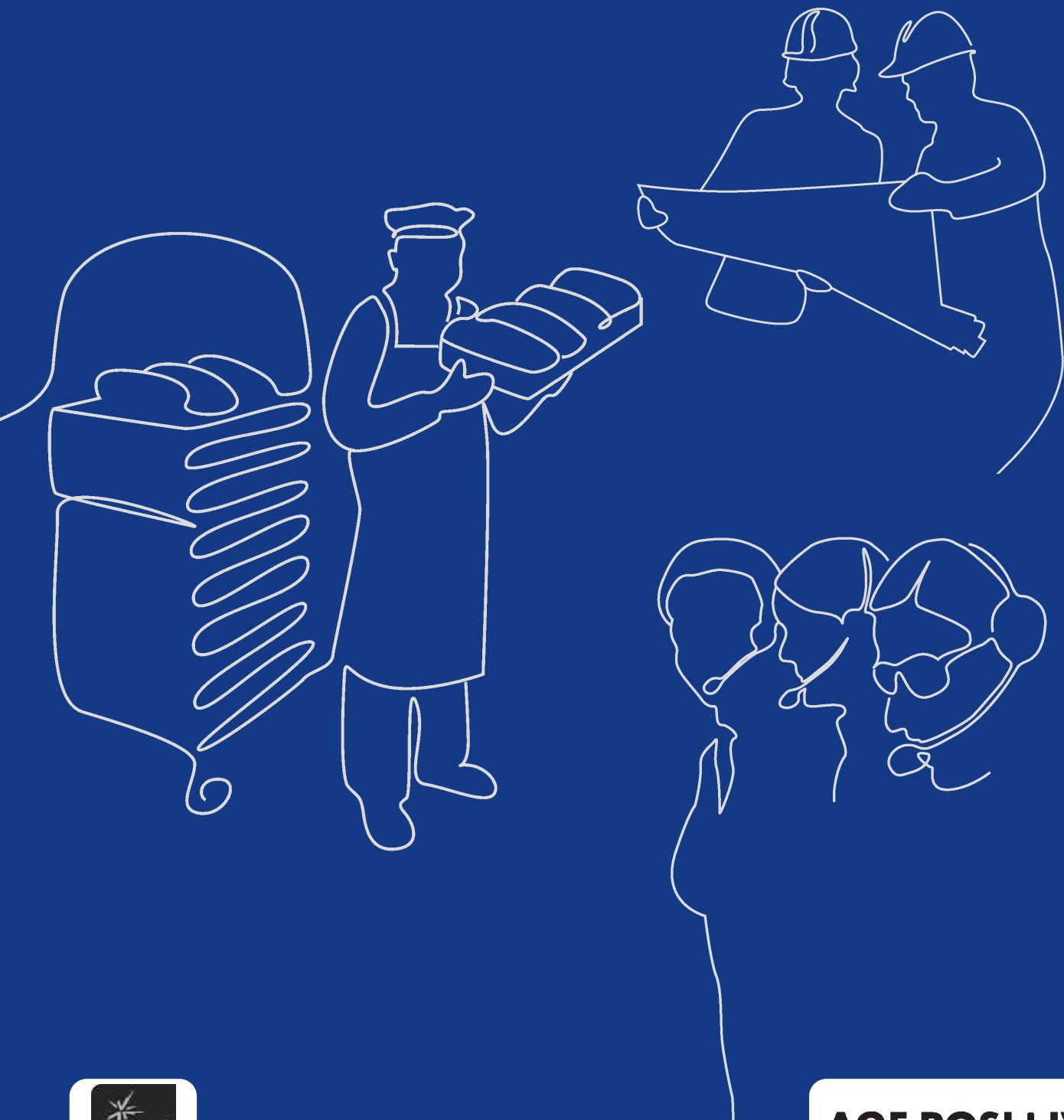


# Retirement Practices

- Making the right choice!

An Employer's Guide



**AGE POSITIVE**

# Retirement Practices

## - Making the right choice!

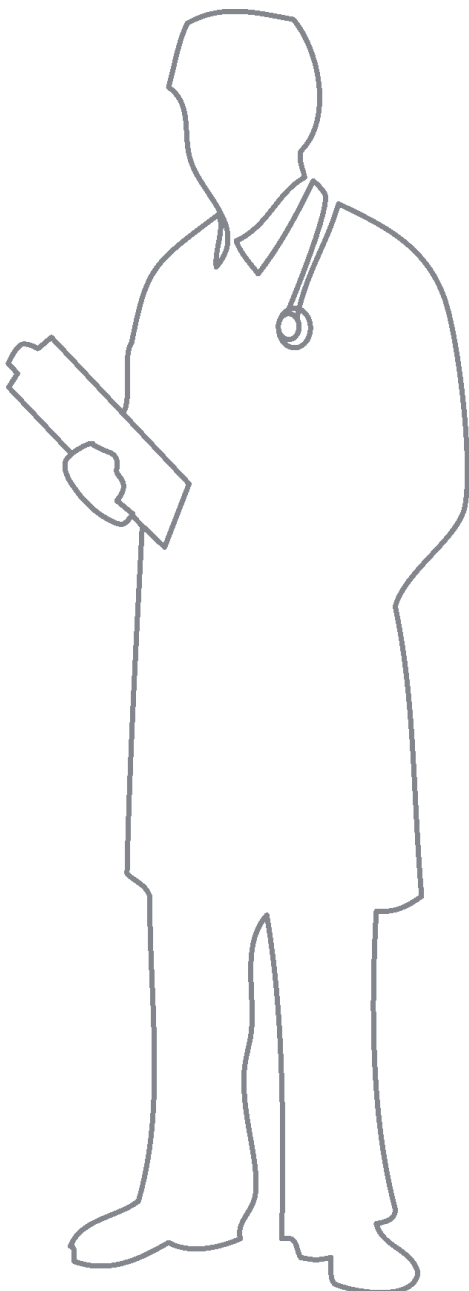
### Welcome

We are currently facing really challenging times and modern solutions may be required to these 21st Century problems. We are an ageing society and this is likely to have a dramatic impact on your workforce. By 2020, almost a third of the workforce will be over the age of 50. With regard to our workplace practices, now is the time to review what changes or improvements can be introduced.

The challenge for employers is to attract and retain the best people for the business. The procedures your business has on retirement is one area that impacts directly on staff retention and can be critical to your bottom line. You can't afford to lose key people that can help pull you through these difficult times. Traditional retirement practices may no longer be fit for purpose and losing valuable skills and expertise of older workers is the last thing you want to do.

It is your decision whether your business should work with or without a fixed retirement age but there are some legal implications to consider. The Government is currently reviewing the default retirement age. This could lead to changes in or removal of the default retirement age which could make compulsory retirement ages generally unlawful. If it is some time since you reviewed your procedures or you want to be sure that you are currently matching the practices of your competitors, this toolkit, jointly published by Age Positive and the Chartered Institute of Personnel and Development with assistance from ACAS, will give you the help and information you require to make the right choice.

# Should your business work with or without a fixed retirement age?



**This guide provides you with important information to help you make decisions based on good practice and on making the right choice on retirement practices.**

It comprises:

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|--|----|
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Please note this is for help and information only. It is not meant as an authoritative statement of law, and future changes in the law will make it gradually less accurate. Members of the Department for Work and Pensions and the Chartered Institute of Personnel and Development take no responsibility for your use of the information. You should always take professional advice on any specific legal or financial matter.

# An action plan

## – how to conduct a review of your retirement procedures

### **A review of your retirement practices is recommended :**

- if it is some time since you last reviewed them
- if they are mainly historical in nature or
- if you need to further reflect on them in the current economic climate

### **Follow the clearly defined steps in the Action Plan below to carry out this review:**

**STEP 1** – Determine who will lead and participate in the review, including any Trade Union officials and employee representatives, and who will ensure the change processes are well communicated.

**STEP 2** – Complete the check-list on Page 5. The boxes you have been unable to tick will highlight the areas where you need more information or an improved understanding of the impact of your retirement procedures on your business and ultimately bottom line.

**STEP 3** – Further enhance your understanding of this issue by considering and taking account of the Important Facts listed on Page 6.

**STEP 4** – Study the detail set out on Pages 7 to 10 regarding the procedures which relate to the retirement choices you have. Dependent on which retirement policy you decide to adopt, ensure that you are fully familiar with all the procedures you need to have in place, particularly those relating to compliance.

**STEP 5** – Discuss and improve if necessary, proposed changes with those affected to ensure everyone is on board prior to implementation. Action any changes or improvements required by making sure personnel, line managers, staff and pension scheme managers receive and understand the relevant information.

**STEP 6** – Agree a process of periodic review of awareness, training and communication requirements to ensure your chosen procedures continue to meet your business need.

**STEP 7** – As a final check and to ensure you have covered all aspects of your decision making, use the additional sources shown on Page 11 to access and consider any further sources of information and help available.

# A self-assessment check-list

## – to assess current practices and determine what is best for your business for the future

- Have you recently reviewed your retirement practices?
- Are you sure they match your current business requirements and are not purely historical?
- Do your retirement procedures fully take account of the critical business need to retain experience and expertise, which can be lost by enforced retirement?
- In our ageing society, are you ready to respond to an increase in requests from employees to extend their working life?
- If you are operating without a formal retirement age, have you communicated this to all employees and supervisors?
- If you have a fixed retirement age are you sure that you are acting within the law and fulfilling the LEGAL REQUIREMENTS which apply and also acting in accordance with fair dismissal procedures?
- Are you aware that compensation, of up to 8 weeks pay and substantial legal fees, may be incurred where an employer does not give sufficient notice of the intended retirement date?
- Have all those responsible for administering retirement processes been trained and are they up to speed with the requirements of the law and regularly kept up to date?
- Do you check that all your employees, including older workers, have access to training to ensure their skills are kept up to date and that hard to fill skills gaps are not being created?
- Do you have regular discussions with your employees to recognise their contribution and motivate them sufficiently to help improve their performance and contribute to the success of the business?
- Can you match or better the flexible working options and retirement choices of your competitors?
- Have you removed age as a factor in any redundancy considerations?

## Getting it right on retirement practices - 10 important facts

- FACT** It is NOT a legal requirement for businesses to have a compulsory retirement age.
- FACT** The majority of employers work without a fixed retirement age.
- FACT** When asked, many businesses that operate a fixed retirement age are not able to give a reason for doing so or cite 'historical reasons'.
- FACT** If you are working with a fixed retirement age, you must act within the law and follow strict compliance procedures.
- FACT** Having a fixed retirement age can restrict your business growth and there is no firm evidence that having one provides improved workforce management.
- FACT** Offering employees choices to work on and have better flexible working options around retirement helps you to retain skilled and experienced workers.
- FACT** Having no fixed retirement age can be less costly for you and is welcomed by employees.
- FACT** A fixed retirement age represents an unnecessary 'cliff-edge'. Removing it need not increase your administrative and training costs.
- FACT** Working without a retirement age need not involve extensive or expensive alignment work to existing pension and insurance arrangements.
- FACT** If you work without a fixed retirement age you must be clear on the operation of 'fair dismissal' procedures for staff of all ages.

# Working without a fixed retirement age - the procedure

This practice enables you to have an improved way of working, in terms of allowing and encouraging later years working and lessening the risks of the business losing valuable skills which can result from enforced retirement. The procedures set out below will help facilitate discussion and agreement with your employees on their continued working and eventual exit from the workplace, whether that arises by way of their own choice, retirement or using 'fair dismissal' procedures, if required.

## Communication

- Ensure clear and transparent to all employees and worksite representatives to show how your organisation is thinking. Demonstrate that working without a formal retirement age is a well thought out policy.
- Your communication should promote the benefits of this policy i.e. more choice for employees, more opportunities for the business to retain productive, experienced staff and the opportunity to reduce compliance procedures and costs.

## Managing employee expectations

- Your employees will appreciate more choices in later years working. You should ensure they know that you support flexible approaches to work and retirement and want to encourage employee participation in discussions regarding their retirement options and eventual exit from the workplace.
- The remainder of the workforce will be encouraged to see older workers being presented with a range of retirement options, something they will appreciate when considering their own retirement in years to come.

- Make sure that the benefits are clearly apparent to all. The procedure is more likely to make sense and be better accepted when employees can see what it means for them.

## Informal discussions / performance reviews

- Ensure that your performance reviews, including where this is dealt with by informal discussion, are delivered in a meaningful way to employees, regardless of age.
- Ensure these reviews are used to motivate and encourage improved performance by basing them on clarity of job roles and giving clear feedback on how the employee is doing now and expectations for the future.
- For those not meeting required standards, offer guidance and help to improve performance through wider job options or a refreshed approach to training, duties or hours worked etc.

## Working without a fixed retirement age - the procedure

- The Government is currently reviewing the default retirement age. This could lead to changes in or removal of the default retirement age which could make compulsory retirement ages generally unlawful.\*

### Fair Dismissal

- Whether you have or don't have a fixed retirement age policy, when someone is dismissed for reasons such as conduct, redundancy or capability, you must ensure that 'fair dismissal' procedures are applied – these are unaffected by someone's age. You should also ensure that those involved in administering this process are trained on how to do it. Full details of the 'fair dismissal' procedure can be found at [www.acas.org.uk](http://www.acas.org.uk) or via the Acas Helpline on 08457 47 47 47.



*South Wales Forgemasters is a medium-sized engineering company which supplies forgings to the automotive industry. The company has removed its retirement age and some of its workforce choose to continue working.*

*“We have no retirement age. There are no concerns about reduced progression opportunities and the process of training younger staff has been improved greatly by involving experienced, skilled, older workers as trainers on the company's apprenticeship scheme.”*

*Spokesperson, South Wales Forgemasters*

\* Employers might still, in certain circumstances, be allowed to objectively justify use of a fixed retirement age, but may be called upon to present evidence in support of that justification at a tribunal or court.

# Working with a fixed retirement age - the procedure

The law currently includes a default retirement age of 65 for employers who believe they need to set a retirement age. It means that compulsory retirement below 65 is unlawful except where an employer can objectively justify, with evidence an earlier retirement age.

## Be aware that the law requires you to:

1. Follow the right procedures for any enforced retirement.
2. Ensure that all processes are in place where legal compliance is required by the Employment Equality (Age) Regulations introduced in 2006, including:

- Notify your employee of your intention to retire them, no more than 1 year before but no later than 6 months before the Intended Retirement Date (IRD)
- Notify your employee of their right to request to continue working. This must be within 6 months of the retirement date
- Give consideration to requests to work longer, when received
- Arrange a meeting with your employee, within a reasonable period
- Consider the request and notify the employee of your decision as soon as possible
- If you agree to the employee's request, write to confirm the new retirement date
- Employee then continues in employment – make note of the retirement notification procedure for the following period, unless the new date is less than 6 months from the original IRD
- If you don't agree to the employee's request, decide whether you still want to dismiss the employee on IRD
- If so, inform employee you still intend to retire them – the procedure you have used can be appealed by the employee
- If an appeal is made and rejected, you may retire the employee
- If the appeal is accepted, the employee would remain in your employment and the procedure would be repeated the following period

# Working with a fixed retirement age - the procedure

## You should also:

3. Ensure all staff involved in delivery of these legal processes are trained and are aware of the legal consequences of non-compliance - clear, transparent and timely communication to all staff and worksite representatives is essential.
4. Ensure that the 'gaps' left by the inevitable loss of company expertise, experience and skills that will follow compulsory retirement procedures can be filled.
5. Ensure that your financial planning includes the expenditure associated with the ensuing recruitment and training costs of replacing these retired workers.
6. Continually assess the impact that enforcing compulsory retirement has on your bottom-line, including feedback from your employees who would have chosen to work longer and whether your competitors are more attractive where they offer more choice in later years.

*"We have removed the contractual retirement age altogether. It simply doesn't make sense to retire an employee because of their age. All that should matter is competency to do the job. Employees can continue in our pension scheme past 65 and draw on their pension, while they work for the Group"*

Head of Diversity, the Co-operative Group

**NB: Compensation can be awarded where age discrimination is proven at a tribunal and additional legal fees may also be incurred. Failure to comply fully with the process could result in a claim for unfair dismissal.**

## Further help & information

### **ACAS**

Helpline: 08457 47 47 47

[www.acas.org.uk](http://www.acas.org.uk)

### **CIPD**

[www.cipd.co.uk](http://www.cipd.co.uk)

### **Age Positive**

[www.businesslink.gov.uk/agepositive](http://www.businesslink.gov.uk/agepositive)

### **Business Link**

[www.businesslink.gov.uk](http://www.businesslink.gov.uk)

### **Employers Forum on Age (EFA)**

[www.efa.org.uk](http://www.efa.org.uk)

### **Equality & Human Rights Commission (EHRC)**

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)





## AGE POSITIVE

Working with employers to remove  
age discrimination in employment

**DWP** Department for  
Work and Pensions

If you require further copies, please email: [agepositive@dwp.gsi.gov.uk](mailto:agepositive@dwp.gsi.gov.uk)

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