

Age Discrimination

Age as a factor in determining the eligibility of an applicant for job recruitment, is a matter that is expected to create resentment in most quarters within the labour market environment. It is also expected to generate a similar level of concern when it is used as a means of determining whether an individual should remain employed. In order to avoid this, national policies have been developed to guide the action of employers.

The national policy is usually dictated by the provisions of the constitution of a country and its labour laws. As in the case of Barbados, the constitution does not support discrimination by age, race, sex, and religion. With respect to the employment policy, the law stipulates that an individual can be legitimately employed from age 16, and that the age of mandatory retirement stands at 66½ as at 2016.

In the United Kingdom, The Employment Equality (Age) Regulations 2006 bans intentional age discrimination. In the United States of America, the Age Discrimination In Employment Act – 2013, makes it illegal for a company to embark on programme that leads to the laying off of all older employees as part of an effort to promote a youthful company image and culture.

In some parts of the world, some professions establish an age of retirement for those employed in various sectors. In most instances, mandatory retirement is enforced because of the demands of the job. With this as a standard within the sector, the issue of discrimination in retirement doesn't arise. Compulsory retirement of an employee becomes an issue where it cannot be objectively justified. This is more likely to occur where the employer on the guise of restructuring the organization, embarks on a retrenchment programme. It is then that the offer of separation packages is often touted by the employer.

Once the age of retirement has been set, the employee is afforded the option to work until that age has been attained. The individual however has the option of exiting the system prior to the date of retirement. It becomes a matter of interpretation of the law, of the legality of the action, should the employer opt to retire an employee(s) prior to the stipulated retirement year. Does such action constitute an act of discrimination, which could be deemed as an act of unfair dismissal? It is contended that the employer may have a case should grounds be provided for retiring employees below the legal retirement age, where it can be shown that having a lower retirement age is both appropriate and necessary.

The concern of age discrimination in employment starts at the recruitment level, where an applicant has the required skills and competencies for the job, but is not considered based on the age factor. For this action to stand up to scrutiny, Human Resources Managers must be in a position to objectively justify why an applicant of a particular age will not be considered. To get around this problem, it may be necessary in the advertising of a job position, to stipulate the age ranges of applicants being sought.

The points are to be reinforced that it is unlawful to force an employee into early retirement. It is established that those who complain of age discrimination are more than likely to be over age forty. Moreover, it is possible that they may have encountered some adverse action being taken against them, or having been overlooked for a job promotion for which they were qualified and had a good performance record, or had a younger person favoured over them or more favourably treated in one way or another.