

The ageing workforce

Health and safety implications

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Introduction

This guide is intended to support UNISON branches and safety reps in representing and negotiating on behalf of older workers.

Although the term ‘ageing workforce’ is often used, of course in reality we are all ageing. Throughout our working lives our bodies undergo changes as we grow older. Employers need to take these changes into account when they manage the health and safety of their staff. The purpose of this document is to advise branches on how they can work with employers to ensure they meet these responsibilities in a fair and non-discriminatory manner.

This document is divided into four parts:

- the demographic and social legal context
- the legal background
- how ageing impacts on our capabilities and what type of adaptations employers can reasonably be expected to make
- a checklist for safety reps.

As with all of the work we do, it is vital that we continue to recruit older workers and identify older members who might become active in the union. By demonstrating our support for older workers, and our expertise and experience in representing and negotiating on their behalf, we should encourage older workers to join UNISON and take a full part in the union.

Demographic and social context

The average age of the British working population is rising. It is estimated that by 2050 it will have risen to 44, from its current level of 40. Whereas those aged under 45 will rise by 2.7 million, those over 45 will rise by nearly 8 million.

We shouldn't all have to work longer. Much has been made of the impact an ageing population will have on the proportion of those that are not working and therefore more likely to be economically dependent. However, this does not mean we have to force workers to work longer. In 2005 the Department of Work and Pensions calculated that an 80% employment rate would virtually offset the effect of an ageing populationⁱ, and as Frances O'Grady, General Secretary of the TUC, said:

“Most baby boomers are not retiring early to cruise round the world or go bungee jumping. They are being dumped out of work and on to the scrap heap and are scraping by on benefits or small work pensions”ⁱⁱ

There are many reasons why older people may not be in work, even if they are below the state retirement age. They may, for example, have caring responsibilities that mean it is not practical for them to work. They may wish to work but can't get a job because of the prejudices and misconceptions of employers. For example, some employers wrongly believe that older people are more likely to be off sick when there is actually evidence that older workers are likely to have fewer episodes of sickness absence than their younger colleagues.ⁱⁱⁱ

However although overall there is no evidence that older workers take time off sick, when they do it is more likely to be serious illness/injury that involves a lengthy period of absence. According to the TUC, 40-45% of workers between 50 and state pension age are likely to suffer from a health problem over

a 12 month period, and poor health is the most common reason for leaving a job.^{iv}

Successive governments have said they wish to increase the employment rates among older workers. However, if they are to achieve this, employers need to do more to adapt the work to the changing needs of workers as they grow older.^v

Legal background

Health and safety law: General health and safety laws apply. Regulation 3 of the Management of Health and Safety at Work Regulations says an employer must carry out “a suitable and sufficient assessment of the risks to the health and safety of their employees to which they are exposed while at work”. As a worker gets older their ability to do a job may change.

This does not necessarily mean their capacity to do a job is reduced, as the loss of, for example, physical capacity may be more than compensated for by other attributes that may increase with age, such as knowledge and experience. However, employers are required to take these changes into account when risk assessing how the worker can work safely and healthily. This process must be about assessing training needs and how work could be adapted to the worker, rather than looking for ways of excluding older workers from the workplace.

According to the European Agency for Safety and Health at Work (OSHA), “health and safety should not be used as an excuse for not continuing to employ an older worker, nor should age be used as a reason for not receiving training.”

The Equality Act; Age: The Equality Act 2010 makes it illegal to discriminate, either directly or indirectly, against a worker on the grounds of age without “objective justification”.

Direct discrimination occurs when a person treats another less favourably than they treat or would treat others because of a “protected characteristic”. Under the Equality Act age is a “protected characteristic”. A different approach applies to the protected characteristic of age, because some age-based rules and practices are seen as “justifiable” – in other words they are allowed. Less favourable treatment of a person because of their age is not direct discrimination if the employer can show the treatment is a proportionate means of achieving a legitimate aim. This is often called the ‘objective justification test’.

Case study

- *While being interviewed for a job, a social worker says that she took her professional qualification more than 30 years ago. The organisation decides not to offer the job because she is too old. This is direct discrimination. The employer could only justify the decision if it was taken on the grounds that the applicant had not kept up to date with the skills required.*
- *An organisation advising and promoting the rights of younger people says that it is essential that its communications officer is under 30. In order to prove there is a positive justification the employer must prove that only a person under the age of 30 can meet certain requirements of the job, e.g. be the public face of the organisation, able to communicate with younger people.*

Indirect discrimination occurs when a criterion, provision or practice is applied which disadvantages people of a particular age. It is also illegal to victimise or harass somebody on the grounds of age.

Case study

An organisation requires all job applicants to undergo a rigorous fitness test. This test was unlikely to be passed by a worker under the age of 45 and therefore indirectly discriminated against a worker over that age. However the employer may be able to justify the test if it could prove that the level of fitness required to pass the test was necessary for the job.

Equality Act; disability: As people grow older they are more likely to have a disability. According to the Department, Work and Pensions (DWP)^{vi} Four out of five disabled people (79%) aged over state pension age said their disability developed after the age of 50.

The Equalities Act defines three types of disability discrimination.

- Direct discrimination is less favourable treatment on the grounds of disability compared to someone without that disability where other circumstances are comparable. Note: such discrimination cannot be justified by the employer.
- Indirect discrimination through a provision or criterion or practice applied to everyone, but which puts people with a disability at a particular disadvantage.
- Treating a disabled person unfavourably because of something arising from, as opposed to because of, their disability.

In the case of discrimination “arising from disability” there is no need to compare a disabled person’s treatment with that of another person. It is only necessary to demonstrate that the unfavourable treatment is because of something arising in consequence of their disability. With both direct and indirect discrimination the employer cannot use as a legal defence that they did not know about the employee’s disability. However, in the case of discrimination arising from disability, it would not be considered discrimination if the employer can show that they did not know that the worker had the disability. As with indirect discrimination, the employer may avoid a claim of discrimination if the treatment can be objectively justified as a proportionate means of achieving a legitimate aim.

Reasonable adjustment. Discrimination against a disabled person occurs where an employer fails to comply with a duty to make reasonable adjustments imposed on them in relation to that disabled person. The duty to make reasonable adjustments is a cornerstone of the Equalities Act and requires employers to take positive steps to ensure that disabled people can access and progress in employment. However, what is considered reasonable will depend on:

- whether taking any particular steps would be effective in preventing substantial disadvantage
- the practicability of the step
- the type and size of the employer
- the financial and other costs of making the adjustment, compared to the extent of the

employer's resources and disruption caused.

Go to our guide *Disability and Health & Safety* (see p.11 for more details).

Case studies: The following are case studies provided by the Equality and Human Rights Commission.

Allowing a worker to take a period

of disability leave: *A worker who has cancer needs to undergo treatment and rehabilitation. Their employer allows a period of disability leave and permits them to return to their job at the end of this period.*

Adjusting redundancy selection criteria:

A worker with an autoimmune disease has taken several short periods of absence during the year because of the condition. When their employer is taking the absences into account as a criterion for selecting people for redundancy, they discount these periods of disability-related absence.

Making adjustments to premises:

An employer makes structural or other physical changes such as widening a doorway, providing a ramp or moving furniture for a wheelchair user.

How does our age affect the work we can do?

As we grow older, our bodies and our brains undergo changes. In many cases these are not significant and therefore have no detectable impact on a workers' performance. However, in other cases, the worker may require additional training or adjustments to the work. Managing these changes is part of the employer's duty to manage the health and safety of the worker. According to the Health and Safety Executive (HSE), employers need to consider the following:

- carrying out risk assessments routinely, not just when an employee reaches a certain age
- assessing the activities involved in jobs and modifying workplace design if necessary
- making adjustments on the basis of individual and business needs, not age
- modifying tasks to help people stay in work longer
- allowing staff to change work hours and content.^{vii}

Below are some issues that may arise from an ageing workforce, along with the adjustments and measures that employers may need to consider.

Sickness absence. As stated above there is no evidence that overall older workers have more time off, indeed there is evidence that older workers are less likely to have frequent short term absences from work.

However, older workers are more likely to suffer from chronic health problems involving long periods of absence.^{ix} Therefore sickness absence policies should have the flexibility to allow time off to manage such problems. In addition, if health problems are caused by a disability, such absence should be managed separately from other sickness absence.

Stress. Employers must manage and minimise stress regardless of the age of their workforce. As the HSE says, work related stress develops because a person is unable to cope with the demands being

placed on them. It is important to differentiate between jobs that are challenging and those that are stressful. Many challenging high status jobs that are often labelled as “stressful” actually score low on causes of stress such as the worker’s control over the work they do and their understanding of their role within the organisation they work for.

Therefore, if a worker has worked for a large part of their working lives in low paid, repetitive work where they have little control over the hours they work or what they do, there is strong evidence that this is likely to have a long term cumulative effect on their health^{viii}.

In order to minimise stress, employers should consider a number of measures. These may include adjusting the demands of the job to the skills and capability of the worker. However, they may also include other measures such as giving workers greater control over their working lives, such as family friendly and flexible shift patterns, which assist workers in balancing the demands of their job with commitments outside work. For more information on managing stress see UNISON’s *Stress at work* guide (see p.11).

Accidents at work. There is no evidence that older workers have an increased risk of occupational accidents compared to younger workers. Indeed, there is evidence that older workers are generally less likely to have accidents than their younger counterparts^{ix}.

Statistical evidence shows that accidents involving older workers are more likely to be serious and involve time off work. However, research has shown that such a correlation is caused by a higher proportion of older workers being employed in high risk occupations^{ix}.

There is some evidence that older workers are more likely to experience slips, trips or falls and that their recovery from such accidents is likely to be longer.

However, employers can prevent such injuries through basic good health and safety management. A robust risk assessment should identify all the

hazards and the appropriate control measures to put in place. Particular attention must be paid to older or disabled workers. Control measures that must be considered include:

- preventing floors from becoming wet or contaminated
- changing the design of the workplace or the method of work
- adequate lighting
- avoiding overcrowding
- adequate storage facilities
- pedestrian and traffic routes
- adequate ventilation to avoid the build-up of condensation
- maintaining equipment and the work environment to prevent leaks, etc
- using splash guards
- non-slip flooring – avoiding very smooth floors where wet and contaminated surfaces are inevitable, such as in kitchens and entrances (note that floors can be sufficiently rough to avoid/reduce slipping incidents and still meet food hygiene requirements)
- replacing worn floor coverings - good quality coverings may last longer and thereby be cheaper in the long run.

See the UNISON information sheet on *Slips and trips* for more details (see p.11).

Physical strength and stamina. Our physical strength (eg muscle density) does decline as we get older (one estimate puts this at a loss of 25% between the ages of 30 and 65 with the majority of the decline after the age of 45), as does our stamina levels or aerobic abilities (anything between 5 and 15% per decade over the age of 30)^{xi}. However, these figures will vary significantly between individuals, and in many cases these reductions in our physical capacity will not impact on their ability to do their job.

Even when they do, employers can manage these changes by making simple adjustments. For example, an employer may consider a reduction in an employee’s manual handling abilities by the

installation of mechanical lifting devices or a change in duties. Some adjustment may also be required for reduction in aerobic or cardiovascular capacity.

Although few jobs require high aerobic demand over a long period of time, a decline in cardiovascular capacity will impact on the ability of the worker to cope with extremes of temperature. Wherever possible, employers should avoid exposing such workers to extremes of hot or cold. In certain cold working conditions provision of additional warm clothing may suffice, especially if this only involves short periods of time. However, in other cases redeployment may be required.

Musculoskeletal disorders (MSDs). OSHA describes age as one of the factors that can lead to MSDs^x, and as pointed out above, muscle density does decline as we grow older. However, a study of acute low back pain among manual handlers showed that workers aged 45 – 54 had a lower injury density rate than those aged 44 or younger^{xi}. This would suggest that experience, knowledge of the risks, and most importantly of all, adjustments and support from the employer, can negate some of the effects of age.

According to the HSE, older workers “suffer more serious, but less frequent, workplace injuries than younger workers, and that MSDs are often the result of a failure to match the work-based requirements of a task to the functional capacity of workers”^{xii}.

MSDs are a risk for all age groups and should be risk assessed and managed accordingly. And of course, if a worker gets a serious injury when they are young, they are likely to have re-occurrences of the same injury in later life.

Employers' duties regarding manual handling are outlined in the Manual Handling Regulations, and these are covered in detail in UNISON's *Guide to the Six Pack* (see p.11). Employers must avoid hazardous manual handling operations as far as is reasonably practicable. This can mean redesigning the work, or the workplace, to see whether lifting or moving can be made unnecessary, or if that is impossible, introducing mechanical equipment.

Where manual handling cannot be avoided employers must assess the risk and remove or reduce any risk of injury through, for example, providing the appropriate training and eliminating lone working so that workers are not required to carry out any hazardous tasks without the appropriate support.

For more information on these injuries see the UNISON guide *Aches, Pains and Sprains* (see p.11).

Cognitive performance. There is evidence that as we grow older some cognitive abilities such as working memory, reasoning, attention and processing speed do decline. However, there is also evidence that cognitive performance does not generally show any marked decrease until after the age of 70. Before that, any deterioration is not likely to affect performance as other attributes of older workers, such as experience, education, motivation, better judgement and job knowledge, are likely to compensate.

Sight and hearing. There is clear evidence that as workers grow older their ability to see and hear does deteriorate. Although there are significant differences in the rates and extent of these declines, some level of deterioration in these sensory abilities is commonplace. However, these declines can generally be compensated for by adaptations to the environment, such as improved lighting or reduced background noise. Under the Display Screen Equipment (DSE) Regulations, employers are required to minimise the risk of computer work by ensuring that workplaces and jobs are well designed and that workers are given adequate rest breaks and know what to do to reduce the risks.

Where this does not work, personal aids such as spectacles or hearing aids will normally suffice. Employers are required to pay for a regular “sight test” for all users of computers (ie those who use DSE for an hour or more a day) and where the test shows that special corrective lenses are required specifically for DSE work the employer is obliged to pay for them. For further details on DSE and associated health and safety issues see the UNISON

guide *Aches, Pains and Strains* (see p.11).

Shift work. Although there is no conclusive evidence that shift working is specifically bad for older workers, there is evidence that the cumulative effect of a number of years spent shift working is a contributor to ill health ^(viii). For example, women who work rotating night shifts over a long period are more likely to develop breast cancer^{xiii}, while older workers may find it difficult to adjust to afternoon and night shifts ^(viii).

However, these effects can be negated by flexible working and by giving workers a greater say in the shifts they work. This may include, for example, transferring from late afternoon/night to early morning or day shifts. It also could include more opportunities for breaks and more frequent health checks.

Gender. We all age and as we age our bodies change and the nature of these changes and how they occur will differ between men and women. It is important that employers take account of these changes and differences.

For example, employers have been slow to recognise that women of menopausal age may need special consideration. UNISON has produced a guide for safety reps *Menopause at work* (see p.11).

The hazards men and women face will often largely be determined by where they work. For example, the concentration of men in the construction and maintenance sectors has led to a higher incidence of occupational cancers, such as mesothelioma, among men. However, the concentration of women in retail and office based industries has led to women having a higher incidence of upper limb disorders caused by highly repetitive manual operations. Both of these hazards are likely to be more prevalent in later life.

However, it is important that these trends don't lead to stereotyping. For example, it is often assumed that men are more at risk from manual handling injuries and it is true that overall there is

a higher incidence of heavy lifting injuries among men. However, women working in the health and social care sectors have also been shown to be at particular risk of these types of injuries as they can spend a high amount of their working lives manual handling heavy loads, adopting awkward postures, and using high levels of static muscular effort such as standing for long periods. These again are likely to result in injuries more prevalent in later life as the cumulative stresses on the musculoskeletal system takes its toll.

Women working in the education sector, such as teaching assistants, may, where asbestos has not been properly managed, be as much at risk as maintenance workers of contracting mesothelioma (see the UNISON schools website for more information).

It is important that employers are aware of the risks to all genders, particularly in industries where one gender is dominant. Adjustments to workplace redesign should take into account the needs of all genders. For more information on gender specific health and safety issues see UNISON's *Gender, Safety and Health Guide* (see p.11).

Checklist for safety reps

Below is a checklist of the key areas for safety reps to negotiate on, and employers to consider, when discussing measures to support the ageing workforce.

Sickness absence. Employers should make adjustments to sickness absence policies to take account of time off for chronic health complaints which are more likely to occur later in life.

Disability leave. As a reasonable adjustment, time off work caused by a disability should be managed separately from sickness absence.

Redeployment. Where, because of age, the capabilities of the worker change, employers should consider adjusting the demands of the job to the capability of the worker and, in some cases, full redeployment should be considered. This should be handled sensitively and with the full agreement of the worker.

Flexible working. Employers should consider offering flexible working and shift patterns. This may help workers adapt to changes to their body as they grow older by, for example, starting work earlier and finishing later. It also may help reduce stress levels by enabling workers to have greater control over their working hours.

Working environment. Employers must take account of the needs of older workers, and consider appropriate adjustments to the working environment. These include:

- access requirements
- lighting
- noise reduction
- temperature and, when working outdoors, provision of warm clothing
- risk assessing DSE and other equipment
- measures to minimise slips and trips.

Manual handling. Employers must, wherever practicable, eliminate manual handling either through work or workplace redesign or provision of lifting aids and devices. Where this is not possible, employers should consider adjustments to the worker's duties or redeployment for older workers in order to match the requirements of the job to the capabilities of the worker.

Gender sensitive. Adjustments to workplace design should take account of all genders and their differing requirements as they grow older.

Other UNISON publications of interest

All these publications can be found on the UNISON Health and safety website – www.unison.org.uk/safety/index.asp

Disability and Health and Safety
(stock number 3068)

Stress at work
(stock number. 1725)

Information Sheet on Slips and Trips

Guide to the Six Pack
(stock number 1660)

Menopause at work
(stock number 3075)

Asbestos in Schools

Gender, Safety and Health Guide
(stock number 1982)

Aches, Pains and Strains (stock number 3827)

References

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- ⁱⁱⁱ Ready, willing and able, TUC 2005, p.26 (<http://www.tuc.org.uk/over-fifties-employment.pdf>)
- ^{iv} Ready, willing and able, TUC, 2005 p.7
- ^v An update of the literature on age and employment (<http://www.hse.gov.uk/research/rrpdf/rr832.pdf>), HSE London 2011
- ^{vi} DWP, Experiences and Expectations of Disabled People: A research report for the Office for Disability Issues, 2006
- ^{vii} HSE: Health and safety for older workers (<http://www.hse.gov.uk/vulnerable-workers/older-workers.htm>)
- ^{viii} Ageing, work-related stress and health: a report for Age Concern and Help the Aged and TAEN, Amanda Griffiths, Alec Knight and Diana Nor Mohd Mahudin
- ^{ix} Robertson, A. And Tracey C.S. (1998). Health and productivity of older workers Scandinavian Journal of Work and Environmental Health, Vol. 24 (2) pp. 85 – 97
- ^x European Agency for Safety and Health at Work (OSHA): Safety and health at work European good practice awards: prevention of work related MSDs in practice.
- ^{xi} Peek-Asa, C., McArthur, D.L. and Kraus, J.F. Incidence of acute low-back injury among older workers in a cohort of material handlers. Journal of Occupational and Environmental Hygiene, (1) (8), 551 – 557.
- ^{xii} Ageing and work related musculoskeletal disorders: a review of the recent literature, prepared by the Health and Safety Laboratory for the Health and Safety Executive 2010.
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