

Managing diversity in the workplace

Corporate Governance Handbook

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BULLETIN



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Introduction

The Employment Equality (Age) Regulations 2006 come into force on 1 October 2006, banning age discrimination in terms of recruitment, promotion, and training and unjustified retirement ages of lower than 65, as well as removing the current age limit for unfair dismissal and redundancy rights. Then, in April 2007, the Gender Equality Duty (which has been called “the biggest change to sex equality legislation since the Sex Discrimination Act”) will also come into force, placing an obligation on all public bodies to promote gender equality and eliminate discrimination.

Legislative changes such as these are certain to turn the spotlight once again onto the issue of diversity. As this Bulletin highlights, managing diversity isn’t just a moral and legal obligation, it can present tangible business benefits as well. So what is the current situation in relation to diversity, how is this changing, and what improvements in organisational management will be required by legislation such as the Employment Equality (Age) Regulations?

What is diversity?

We in the UK are fortunate to live in a country that is rich in terms of the diversity of its population. Nowadays, your work colleagues might be any age, male or female, from any ethnic, religious or cultural background, married, single or living with a partner of the opposite or same sex, able-bodied or not. This has many advantages, but also presents organisations with the challenge of getting the best out of such a diverse workforce, while at the same time meeting their legal responsibilities. It is therefore important that companies give due consideration on how to achieve this if they want to maintain or ideally improve their position in the market.

The moral case for diversity

In the UK:

- **Women make up half the workforce, but just 9 per cent of management grades and 2 per cent of senior management (*The Observer*, September 2003).**
- **Ethnic minorities make up just 1.5 per cent of management, and are almost non-existent at senior levels (*The Observer*, September 2003).**
- **By 2011, only a third of the workforce will be male and under 45 (2002-based projections issued by the Government).**
- **By 2014, the working age population will increase by one million, and ethnic minorities will account for half that increase (2002-based projections issued by the Government).**

Introducing and promoting diversity is morally the right thing to do. Diversity not only assumes that all individuals are unique and different, but that difference is

“value added”. It acknowledges that everyone has the right to express their views and beliefs in a manner that is sensitive to those around them (i.e. free from racism, sexism, ageism and other forms of prejudice). Everyone should have the right to contribute to activities and grow within their workplace. A diverse work environment also demonstrates an organisation that it is caring, inclusive and respectful. So how is the UK performing in relation to diversity?

The gender gap

In *Facts about Women and Men in Great Britain 2006*, the Equal Opportunity Commission (EOC) highlights the changes in differences between the two genders since the 1970s:

- **In the 1970s, only one in four of both boys and girls in England and Wales passed five “O” levels by the time they left school, whereas now, 49 per cent of boys and 59 per cent of girls in the UK gain five high grade GCSEs or equivalent by age 16.**
- **In the 1970s, nine out of ten men and six out of ten women of working age were in employment. Now employment rates are 79 per cent for men and 70 per cent for women of working age.**
- **Then, around one in ten professionals were women. Now, women hold two-fifths of professional jobs.**
- **In the 1970s, the gap between women and men’s full-time hourly pay was 29 per cent. Now women earn an average of 17 per cent per hour less than men for full-time work.**
- **Then, half of mothers with dependent children worked, including over a quarter of mothers of under-fives. Now, two-thirds of mothers with dependent children work, and 55 per cent of those with children under five.**
- **Then, there were only 27 women MPs – 4.3 per cent of the UK Parliament. Now, women’s representation in Parliament has reached one in five. This contrasts markedly, however, with the Scottish Parliament (40 per cent women) and the National Assembly for Wales (50 per cent women), where more equal representation has been achieved through positive action by some political parties. There are also only two ethnic minority women MPs at Westminster, and 13 men. All four Muslim MPs are men.**

Other key statistics quoted by the EOC are as follows:

- **In the last 30 years, the population of Britain has grown from less than 55 million to 58 million. There are now one million more men and 0.6 million more women aged 65 or over than in the 1970s. (Source: ONS (2005) *Population Trends Winter 2005*.)**
- **There are 24 million households in Britain, and seven million families with dependent children. These include 5.2 million families headed by couples, 1.6 million headed by a lone mother and 180,000 headed by a lone father. (Source: ONS (2005) *Focus on Families*.)**

The population also includes an estimated:

- **10 million disabled people (reporting a limiting long-term illness or disability that restricts daily activities).**
- **4.6 million people from ethnic minorities.**
- **3.1 million belonging to a non-Christian religion.**
- **2.3 – 3.2 million gay, lesbian or bisexual adults.**

Sources: ONS (2004) Census 2001 National report for England and Wales; GROS (2004) Scotland's Census 2001; DTI (2004) Final regulatory impact assessment: Civil Partnership Act 2004.

In broad terms, the differences between women and men's jobs have declined dramatically since the 1970s. For example, in professional jobs the percentage of women has increased from one in 10 to 42 per cent. However, certain occupations are still mainly held by women or men, particularly in skill shortage areas: for example, fewer than one per cent of people in plumbing occupations are women and only two per cent of childcare workers are men.

White women and both sexes from ethnic minorities are also more likely to be concentrated in low-paid jobs – many Chinese and Bangladeshi men work as cooks or waiters; while care assistants are one of the most common jobs for white, Pakistani, black Caribbean and black African women. (*Sources: CSO (1974) Social Trends 1974; ONS (2005) Labour Force Survey Spring 2005 dataset; ONS (2004) Additional analysis from the 2001 Census; Blackwell, L & Guinea Martin, D (2005) Occupational segregation by sex and ethnicity in England and Wales, 1991 to 2001, Labour Market Trends December 2005.*)

Finally, in *Sex and power: who runs Britain?* (2006), the EOC published an annual set of indicators showing women's representation in a range of areas. These include:

- **Around three in 10 secondary school head teachers and Further Education college principals are women, compared with only one in nine university vice chancellors.**
- **A quarter of Civil Service top management are women.**
- **Only 10 per cent of senior police officers and nine per cent of the senior judiciary are women.**
- **Less than one per cent of senior ranks in the armed forces are women.**

What all this research clearly highlights is that while the "gender gap" may have closed over the last 30 years, it is still unquestionably there – as is the "glass ceiling", or, as it has prosaically been called, the "marzipan layer" (i.e. you're very close to the top of the cake, but haven't quite made it to the icing!). It also suggests that, if you come from a black or minority ethnic background, these differences are even more pronounced.

It is hardly surprising, therefore, that Jenny Watson, Chair of the EOC, has welcomed the new Gender Equality Duty, which, she says,

“places an obligation on all public bodies to promote gender equality and eliminate discrimination. Public service providers will need to look at who uses their services, and ask, ‘What are the different needs of women and men, and how can we meet them? Do our spending priorities reflect these different needs?’ Public sector employers will also need to consider their employment practices and the needs of all their staff, including those that identify as transgender or transsexual.”

“As well as marking a huge step towards true gender equality, the duty will lead to better public policy by requiring public bodies to recognise the implications of their policies for women and for men, and encouraging a better user focus in service development. It should also generate employment practices that challenge occupational segregation and remove the barriers to women reaching their potential, such as a lack of flexible working.”

The best person for the job?

By 2010, increased life expectancies – currently growing by two years per decade – mean that nearly 40 per cent of the UK population will be over 45. By discriminating against this ageing workforce, employers risk ignoring the skills and talents of a significant proportion of the UK population.

According to research by the Department for Work and Pensions (2001), one in four “older” people believe that they have suffered discrimination when applying for a job. Nearly half the organisations surveyed employed no staff aged 60 or over. Line managers, while insisting they were “age-friendly”, were often ignorant of relevant guidelines and ageism was seen as “more acceptable” than other types of discrimination.

So why does this discrimination continue to take place, especially when (according to Age Concern, 2002) 97 per cent of Britons believe that age should be ranked as the least important criterion when recruiting a new member of staff, with ability (57 per cent) and a good track record (40 per cent) counting for far more? Skills, knowledge and experience cannot be created overnight, yet many HR managers seem to see age (or lack of it) as a far more important factor in selecting employees to fill their vacancies.

This preference for younger employees becomes even more difficult to understand considering the length of time that employees of different ages expect to stay in their jobs. Research by the International Stress Management Association^{UK} (2002) found that 54 per cent of 18–24 year-olds expected to stay in their current job for no more than the next two years (and 32 per cent for no more than the next 12 months). This contrasted with 76 per cent of 35–44 year-olds and 74 per cent of 45–54 year-olds who expected to stay in their current job for at least the next five years.

One way of interpreting these results is that businesses appear to prefer employing individuals who are less experienced, require more training, and are

less loyal than others in the labour market, simply on the grounds of age. If they continue with this strategy, given that the ageing population profile will mean that “younger” talent will become an increasingly scarce commodity, they will also, presumably, end up paying more and more for the privilege. Another interpretation is that as employees become older, they know that realistically their chances of changing their jobs are significantly less, mainly due to ageism.

The Employment Equality (Age) Regulations 2006

Dealing with issues such as those discussed above is the goal of the Employment Equality (Age) Regulations 2006, which come into force on 1 October. The Regulations are the latest in a long line of initiatives aimed at reducing discrimination, which have also included key legal frameworks such as:

- **Pay discrimination (1970).**
- **Sex discrimination or marital status (1975).**
- **Race discrimination (1976).**
- **Positive action (1986).**
- **Disability discrimination (1995).**
- **Human Rights Act (1998).**
- **Gender reassignment (1999).**
- **Age discrimination (1999 Code of Practice).**
- **Genuine occupational qualifications (2000).**
- **Equality in sexual orientation (2003).**
- **Equality in religion and belief (2003).**

The Regulations (which will not affect the age at which people can claim their state pension) will:

- **ban age discrimination in terms of recruitment, promotion and training;**
- **ban unjustified retirement ages of lower than 65; and**
- **remove the current age limit for unfair dismissal and redundancy rights.**

They will also introduce a:

- **right for employees to request working beyond retirement age and a duty on employers to consider that request; and**
- **new requirement for employers to give at least six months notice to employees about their intended retirement date, so that individuals can plan better for retirement, and be confident that “retirement” is not being used as a cover for unfair dismissal.**

The Regulations apply to employment and vocational training. They prohibit unjustified direct and indirect age discrimination, and all harassment and victimisation on grounds of 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 five 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.**

Implementing the Regulations

To assist organisations with implementing the Regulations, the Government's Age Positive campaign have highlighted 10 key points that businesses need to know:

- **The Employment Equality (Age) Regulations come into force 1 October 2006.**
- **The Regulations cover employment and vocational training. This includes access to help and guidance, recruitment, promotion, development, termination, perks and pay.**
- **The Regulations cover people of all ages, both old and young.**
- **All employers, providers of vocational training, trade unions, professional associations, employer organisations and trustees, and managers of occupational pension schemes will have new obligations to consider.**
- **Goods, facilities and services are not included in these Regulations.**
- **Upper age limits for unfair dismissal and redundancy will be removed.**
- **A national default retirement age of 65 will be introduced, making compulsory retirement below age 65 unlawful (unless objectively justified). This will be reviewed in 2011.**
- **All employees will have the "right to request" to work beyond the default retirement age of 65 or any other retirement age set by the company, and all employers will have a "duty to consider" requests from employees to work beyond 65.**
- **Occupational pensions are covered by the Regulations, as are employer contributions to personal pensions. However, the Regulations generally allow pension schemes to work as they do now.**
- **The Regulations do not affect state pensions.**

In its publication *Age Diversity at Work – a Practical Guide for Businesses*, Age Positive also provides a range of advice to assist businesses in meeting the requirements of the new Regulations as follows:

Recruitment advertising

- Remove age limits from job adverts, so no-one is discouraged from applying because of their age.
- Use language and pictures to appeal to wide age groups.
- Avoid phrases like “applicants should be 25-35 years of age”, “young graduates”, “mature person” – they are discriminatory.
- Publicise vacancies in ways most likely to attract people of a variety of ages – consider national and local newspapers, free papers, the Internet, jobcentres, community and business networks.
- Be aware that older people increasingly make up a bigger proportion of the population. Ignoring this will reduce your choice of potential candidates.

Experience and qualifications

- Avoid specifying a minimum length of experience such as 10 years, as this disadvantages younger workers. The quality and relevance of experience is important – not the number of years.
- Avoid phrases like “only people with GCSEs need apply”. That would rule out many older people who left school before GCSEs were introduced, even though they may have the necessary skills.

Application forms

- Remove date of birth and put it on a separate monitoring form that interviewers don’t see.

Monitoring recruitment

- Check how effective your recruitment process is. Count the number of candidates of different age groups who applied; were short-listed; interviewed; appointed.

Graduate and specialist recruitment

- If you have special recruitment programmes for graduates or managers, make them open to all ages.

Recruitment agencies

- If you use a recruitment agency, check that they don’t exclude people because of their age.

Selection

- Focus on skills, not on stereotypes. For example, a manager can potentially be a younger or older person.
- Make sure you’re not making assumptions about the capability or medical fitness of someone based purely on their age.
- If the staff responsible for selecting and interviewing candidates are not trained in equal opportunities, they may be discriminating unwittingly and leave you open for prosecution.

Interviewing

- **Use people of different ages on the interview panel, to reduce the possibility of bias towards one age group.**
- **Ask job-related questions and be careful not to base decisions on prejudice and stereotypes.**
- **Use selection criteria to mark candidates against. This can help with decision-making and record the fairness of the process.**

Monitoring selection

- **Check the number of candidates of different age groups who applied, were short-listed, were interviewed and were appointed.**

Promotion

- **Avoid having a minimum or maximum cut-off age for promotion.**
- **Make your promotion opportunities open to all employees. Let your staff know that age is not a barrier and that they will not be regarded as “too young” or “too old”.**
- **Promote on the basis of performance that you can measure and potential that is demonstrated – rather than on age or length of service.**

Training and development

- **Make sure training is open to all, for example not overlooking an older person thinking they may not be interested in career development. Training can be worthwhile for employees of all ages – they could be working with you longer than assumed.**

Awareness of individual learning styles

- **A worker who has been away from formal learning for a few years might take a bit longer to adjust to training and may need some reassurance. Someone used to a formal learning environment might take a bit longer to adjust to on-the-job training.**
- **Ask employees who have benefited from training to be role models to inspire others.**

Redundancy

- **Beware of losing the skills your business needs. If you target older workers when selecting for redundancy, you may discover later that vital skills and company knowledge are lost.**
- **Base your redundancy decisions on job-related criteria and the needs of your business – don’t use age as a factor.**
- **Consider alternatives to redundancy – like part-time working, natural wastage, redeployment to other parts of the company, job-sharing, career breaks.**

Voluntary redundancy

- **Be aware that asking for volunteers might have a less demoralising effect**

on the workforce – but it could leave you with an imbalance in the remaining skills and experience in the company.

Last in – first out

- **“Last in – first out” is not necessarily the best approach, as the “last in” could be crucial to your business.**
- **Be careful not to lose the balance of skills and experience that comes from employing a workforce of various ages.**

Retirement

- **From October 2006, compulsory retirement below age 65 is unlawful – you would need to justify any enforced retirements below that age.**
- **You don’t have to set a compulsory retirement age – it isn’t required by law. In fact, compulsory retirement could mean you lose skilled people and affect your business productivity. Why train new staff or pay higher rates for agency workers, when an existing employee, who knows your business, could do the job?**

Flexible retirement

- **Flexible retirement can be a useful way of preparing employees to handle the change between full-time work and full retirement.**
- **There are alternatives to stopping work altogether – for example, reduced hours, job-sharing, part-time working.**
- **See if employees who have retired are seeking employment again. This could involve short-term contracts, re-employment as an advisor, temporary cover during holidays, sickness absence or busy periods.**
- **Being flexible about retirement can mean reducing capacity without losing valuable workers and their expertise.**

Mentoring

- **As older workers get near to retirement, involve them in mentoring other staff to pass on skills and experience.**

Performance

- **Use performance standards – they don’t have to be complex but they are essential when dealing with poor performers.**
- **Don’t use retirement as an easy alternative for poor performance – it is not cost effective.**

Managing diversity effectively

Sadly, legislation such as the Employment Equality (Age) Regulations 2006, or lawsuits – examples of which include the multi-million dollar discrimination lawsuits brought against pillars of the US corporate establishment such as: Texaco (a racial discrimination case settled for \$176 million in 1996); Coca-Cola (a sex discrimination case settled for \$192 million in 2000); and Wal-Mart (various disabili-

ity discrimination cases settled for in excess of \$7 million) – are often the only way to give businesses the stimulus they need to take actions that ought to have already been implemented. There are, however, many positive benefits that can be derived from managing diversity effectively.

The business benefits of diversity

According to a study published in 2003 by CREATE, an independent research centre, a more diverse workforce improves business performance. The study, which involved around 500 companies operating in the UK, USA and Europe, uncovered a range of business benefits including:

- **Higher staff retention.**
- **Reduced recruitment costs.**
- **More satisfied customers.**
- **Access to a wider customer base.**
- **Better supply chain management.**
- **Access to new ideas on process and product improvements.**

Diversity is also key to success in global markets – any organisation that wants to expand internationally cannot hope to do so effectively without a detailed understanding of the cultural background of the new markets in which it hopes to succeed. The study did however find that diversity management is a long-term process with no quick fixes. Two obstacles in particular were widely experienced:

- **Ingrained attitudes that make it difficult for senior managers to manage people who are very different from them.**
- **The culture of long working hours, which makes it difficult for women to aspire to senior management positions.**

The report concluded that diversity produces maximum financial impact when it is linked with business strategy and has the support of senior executives. According to Professor Amin Rajan, chief executive of CREATE and co-author of the report, companies are beginning to see that diversity in the workplace pays. Rajan says,

“Instead of thinking about diversity as about equality, that is, in terms of the law or compliance, companies are now seeing it as an issue of merit and merit alone”.

For instance:

- **Customers want to be served by a company they can identify with, so a white male sales force might be too limiting.**
- **Teams made up of mixed ethnicities, backgrounds and genders are likely to be genuinely more creative than teams made up of the same type of people.**

Other benefits of diversity are that diverse organisations will:

- **find it easier to recruit as there will be a far greater market to choose from;**
- **enjoy access to a greater wealth of experience, skills and talent;**
- **gain improved public image – as an employer and as a service provider;**

- **experience increased staff motivation;**
- **encourage and develop entrepreneurs;**
- **develop role models, therefore helping future growth in management;**
- **increase their market penetration; and**
- **show better overall financial performance.**

The keys to diversity

A diverse group inevitably draws on a wider range of experience, background and culture, but also benefits because, in the presence of diversity, the mind is encouraged to stretch and dares to move.

The key to making diversity work is self-esteem. People have to like who they are, they have to take pride in themselves and draw on what they know to be true from their real experience. If they are ashamed of the group to which they belong, they will try to blend into the dominant group and nothing interesting will happen. But if, on the other hand, they think and speak proudly as themselves, they will communicate with greater range, depth, freshness and insight.

Diversity is inclusive. It is about ensuring that the ideas, opinions and contributions of all are heard regardless of race, colour, culture, creed, sexual orientation, disability, age, religion or gender. Making diversity pay involves real and difficult choices. For instance, to attract more women, City and consultancy organisations are having to tone down their dominant culture of “long hours”, and pay attention to unfamiliar concepts such as mentoring and work-life balance.

Diversity has become a very important and profit-sensitive business issue;; research findings such as the above show that well managed diversity potentially adds a positive, practical and productive value to almost every business. Every organisation must therefore have a clear understanding of what it intends to achieve in living and working with its own diversity.

Developing a diversity strategy is a central part of this, with commitment from senior managers being absolutely critical to success. This could be expressed, for example, through the inclusion of statements related to diversity within an organisation’s corporate values;; or the setting-up of special teams to set targets for diversity, drive the process forward, and monitor and feed back the results.

Implementing a diversity policy

Research by Penna Consulting (2002) suggests that organisations that want to be successful in implementing diversity will need to adopt a practical approach including key elements such as the following:

- **Analyse your business environment. How diverse is your organisation, and is it representative of the local population? Does your workforce mirror your customer base? If not, you could be missing out on significant business opportunities.**
- **Define diversity and the business benefits. What will be the tangible bene-**

fits of implementing a diversity policy, both for your organisation and its employees?

- **Include your policy on diversity within your corporate strategy and values.**
- **Embed the policy within your core HR processes and systems. Make it part of your everyday operations.**
- **Ensure leaders implement the policy – and give it their full commitment.**
- **Involve staff at all levels. Implement awareness training, together with initiatives such as the creation of a diversity handbook, mentoring schemes, diversity councils etc.**
- **Communicate the content of the diversity policy and success of diversity initiatives.**
- **Understand your organisation's needs. Depending on its size, understanding of diversity and ability to change, it may benefit from external support.**
- **Monitor and evaluate. Benchmark your organisation's progress and the impact of diversity internally and externally.**

How can external organisations help?

Many organisations try to tackle the issues of managing diversity simply by providing their staff with a series of training sessions, as though it were an add-on skill that can be easily absorbed. Managing diversity means more, however, than just training your staff. It has to involve the organisation's culture, processes and systems, and may well involve the need for externally managed initiatives including:

- **diversity audits;**
- **the development of a diversity strategy;**
- **policy writing (an Equal Opportunities policy is mandatory as laid down by the EOC);**
- **training and development;**
- **coaching;**
- **recruitment and selection; and**
- **practical help and assessment on a continuing basis – to measure the benefits of cultural diversity within the organisation.**

Research confirms that diversity presents significant business opportunities – but only for those organisations that manage it effectively. Sooner or later, employers will have to realise that by failing to employ the best person for the job, for whatever (perceived) reason, the result will be a negative impact on their profit margins, and ultimately the viability of their business.

Further information

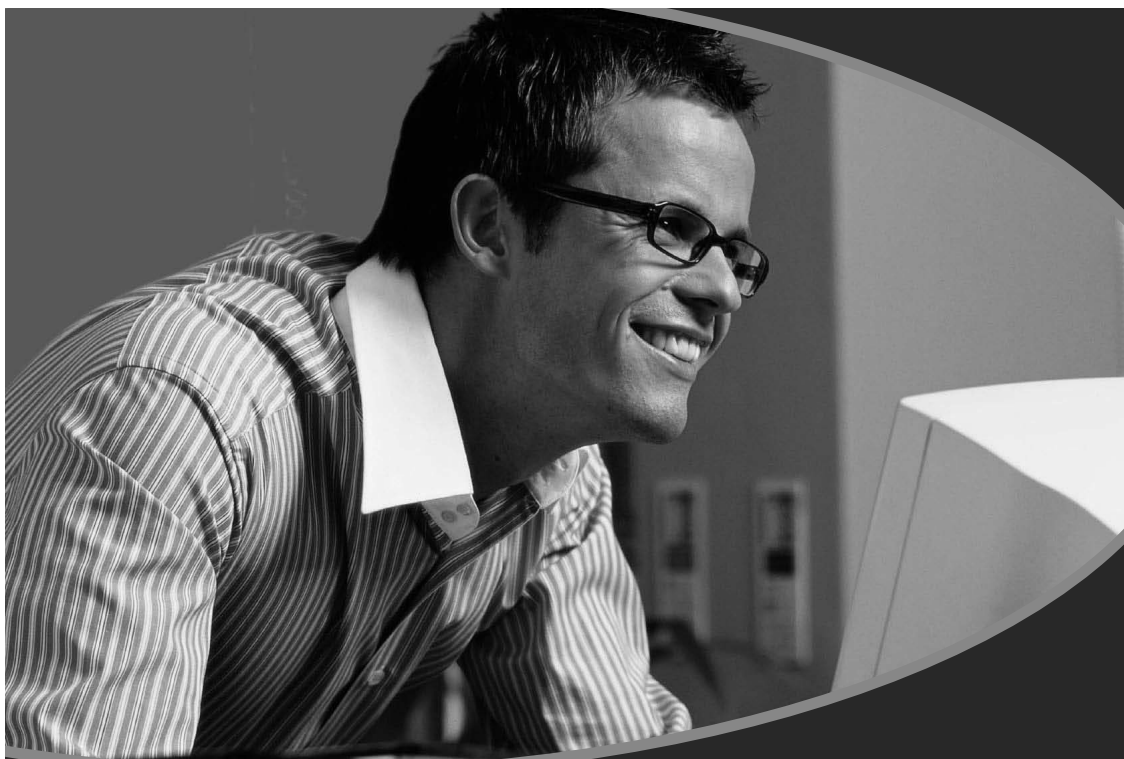
Equal Opportunities Commission – for free, confidential and impartial advice and information on sex discrimination and equal pay call 0845 601 5901 or visit

www.eoc.org.uk.

Age Positive – for good practice help and information, visit the Age Positive website at www.agepositive.gov.uk.

Acas (Advisory, Conciliation and Arbitration Service) is the nominated agency to provide advice and guidance on age issues. To contact their helpline call 0845 7474747 or go online at www.acas.org.uk.

Managing diversity – for help with designing and implementing an effective diversity policy for your business and managing diversity effectively, contact the Carole Spiers Group on 020 8854 1593 or visit www.carolespiersgroup.com.



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