

# Managing an ageing workforce in health and social care

A report for employers

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Produced for the Department  
for Work and Pensions  
By the Centre for Research  
into the Older Workforce

age**partnership**group  
Targeting Employers®





## Age Partnership Group (APG)

This research is one of a number of projects commissioned by the DWP on behalf of the APG as part of the National Guidance Campaign (NGC).

The APG was formed in 2002 and consists of a number of national organisations who represent different aspects of employers needs, for example, small business representatives, trade unions, HR and Personnel managers, local government, other government departments, accountancy, insurance and training organisations. There are separate groups representing England, Scotland and Wales.

The NGC aims to raise employers' awareness of, and ability to adopt, practical information and guidance on age diverse employment practices. This includes flexible employment and retirement opportunities in order to increase the recruitment, selection, promotion, training and retention of older employees prior to the implementation of age legislation in October 2006.

You can view the Age Partnership Group website at [www.agepositive.gov.uk/agepartnershipgroup](http://www.agepositive.gov.uk/agepartnershipgroup)

## Legislation

In March 2006, the Employment Equality (Age) Regulations 2006 were published. The regulations are the last major stage of the European Employment Directive and will come into effect on the 1st October 2006.

The regulations prohibit age discrimination in employment and vocational training. They apply to individuals of all ages in work, seeking work or looking to access vocational training and to all employers, and to all providers of vocational training and vocational guidance (including further and higher educational institutions).

The regulations can be viewed on the Department of Trade and Industry website at [www.dti.gov.uk/employment/discrimination/age-discrimination/index.html](http://www.dti.gov.uk/employment/discrimination/age-discrimination/index.html)

## Disclaimer

This report has been commissioned to provide information only. Responsibility for the views expressed in this report rests solely with the authors. The members of the Age Partnership Group (APG) and the Department for Work and Pensions (DWP) do not accept responsibility for the views of the authors.

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# Introduction

This report is about how organisations in the health and social care sector are managing an ageing workforce. It has been written for the Department for Work and Pensions (DWP) by the Centre for Research into the Older Workforce (CROW) to help employers to make better use of older workers. It also helps to raise awareness of the new Employment Equality (Age) Regulations 2006 which become law in October 2006, and prohibit age discrimination in work or training against people of any age.

Workforce ageing presents a growing challenge to most employers. Birthrates have been falling for many years, and in the next few years the numbers retiring will outnumber young people entering the labour market. The government believes that the resulting skills gaps and labour shortages in many industries can be reduced if employers can find ways of making better use of older workers, and encourage people to stay in work longer.

However, every industry has its particular features, and this report outlines the special issues affecting the health and social care sector, based on a large national survey

of employers. It highlights employment practices in the sector which will be 'hazardous' under the Age Regulations, and aims to stimulate discussion and improved practice in organisations.

This report is not intended to be an authoritative statement on the age discrimination law itself. Details of how to obtain the Regulations, and advice about them, can be found at the end of the report. However, while the Regulations make some activities unlawful, it is for the Courts and Employment Tribunals to interpret this in specific cases. The term "hazardous" is therefore used in this paper to describe activities which might be ruled unlawful if a case is brought. We suggest that employers need to review their practice in these areas.

During 2006, CROW will explore these issues in more depth through case studies of organisations in seven sectors, and DWP plans to publish the resulting Research Report in 2007.

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<sup>1</sup> The Age Regulations define what activities will be unlawful, but it is for Employment Tribunals and the Courts to interpret them in individual cases. The term "hazardous" is used in this report for practices which are likely to be ruled unlawful if and when cases are considered.



# 1. Summary: key age issues for health and social care organisations

The health and social care sector has an unusually old workforce, which, combined with anticipated expansion needs over the next decade, makes strategies for extending working life, and worker retention, particularly important.

By comparison with other sectors, health and social care employers are better prepared for the Age Regulations, and the issues are more a matter of making better use of an age diverse workforce, than overcoming hazardous practice. Awareness of the Age Regulations is high, and employers are more likely to have formal equal opportunities policies and the supporting mechanisms of implementation and monitoring to ensure that they are put into practice.

Health and Social Care employers generally have positive attitudes to the older workforce. They are more likely to allow employees flexibility in choosing their retirement dates, and to allow them to stay in work past retirement age, than employers in other sectors. In some organisations there are strongly positive measures designed to encourage retention of experienced staff, although employers are less likely to consider recruiting people over normal retirement age.

Despite this positive picture, however, a number of hazardous practices exist, some of which are incorporated in national agreements. These will need review and renegotiation to comply with the regulations, unless a clear and proportionate business benefit can be demonstrated.

## Common hazardous practices in Health and Social Care

Common practices in this sector which may need review if employers are to avoid breaking the Age Regulations include:

- **using years of experience as a selection criterion in recruitment:** This affects two thirds of all employers. Length of experience is a substitute for assessing competence, and is hazardous, since it disadvantages younger workers.

- **applying long incremental pay scales.** This is a particular issue in Social Care, although most such scales are currently being eliminated in the NHS. Incremental scales extending beyond five years will need objective justification.

## Unlawful practices in Health and Social Care

The following practices are less common, but unlawful, and firms who use them will need to make changes if they are to remain within the law:

- 40% of establishments use **length of service to select for redundancy.**

- 42% of establishments set **contractual retirement ages.**

- 31% of establishments set **maximum recruitment ages** more than 6 months below retirement age.

- 6% of establishments set **maximum age limits on access to sick pay.**

## 2. The shape of the health and social care sector

The nature of the age management issues facing a sector depends on factors like the average size of organisations, the age and skills profile of the workforce, and future expectations of growth or contraction. This section outlines this context for the health and social care sector.

Health and social care<sup>2</sup> is a large employer, with a workforce of 3.4 million people (11% of the national total) in 14,000 establishments. It covers all aspects of human health, together with social care, social work and veterinary activities. Professionals and Associate Professionals account for 38%, and personal service workers for 31% of the workforce.

The sector is supported by two Sector Skills Councils:

- Skills for Health; and
- Skills for Care and Development.

The sector is broadly divided between a largely public sector health service, comprising relatively large and formal establishments, and a social care sector with a much larger private sector component. A common factor is the influence of Government regulation and professional requirements on practices and policies. Combined with high levels of unionisation this results in more formalised employment relations than in most other sectors, and very few organisations have no formal planning of any kind.

Overall, the majority of establishments are small, with 56% employing under 11 people, and a particularly high concentration in the 11-49 range. However, in terms of total employment the reverse is true, with a large proportion of employees working in large establishments.

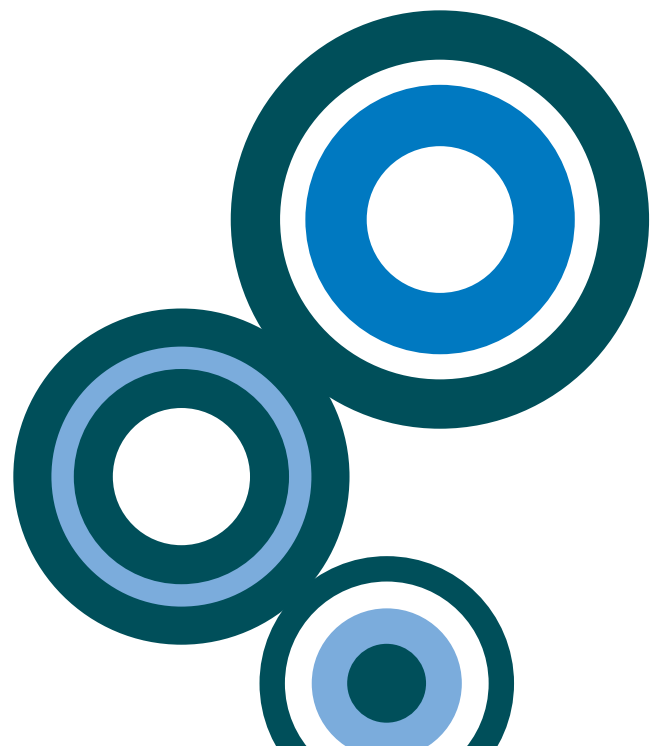
The number of establishments in Social Care is relatively stable, but in the public sector, the Health service is going through a major reorganisation.

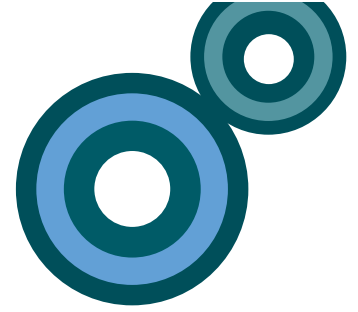
Expected rates of employment growth in the sector are well below those for the economy as a whole but the size of the sector means that this is still a substantial call on the potential labour pool, requiring by 2014 an additional 1.6 million people (equivalent to 47% of the current workforce) to meet needs for expansion and to replace those leaving and retiring.

The workforce in health and social care is much older than the broader workforce, with a high proportion of employees over 45. Employees in general are much more highly qualified than in any other sector (except education), although there remains a small proportion (15%) who have no qualification above level 2. Other distinctive features of the workforce are a high proportion who are: part-time, female, and from ethnic minority groups.

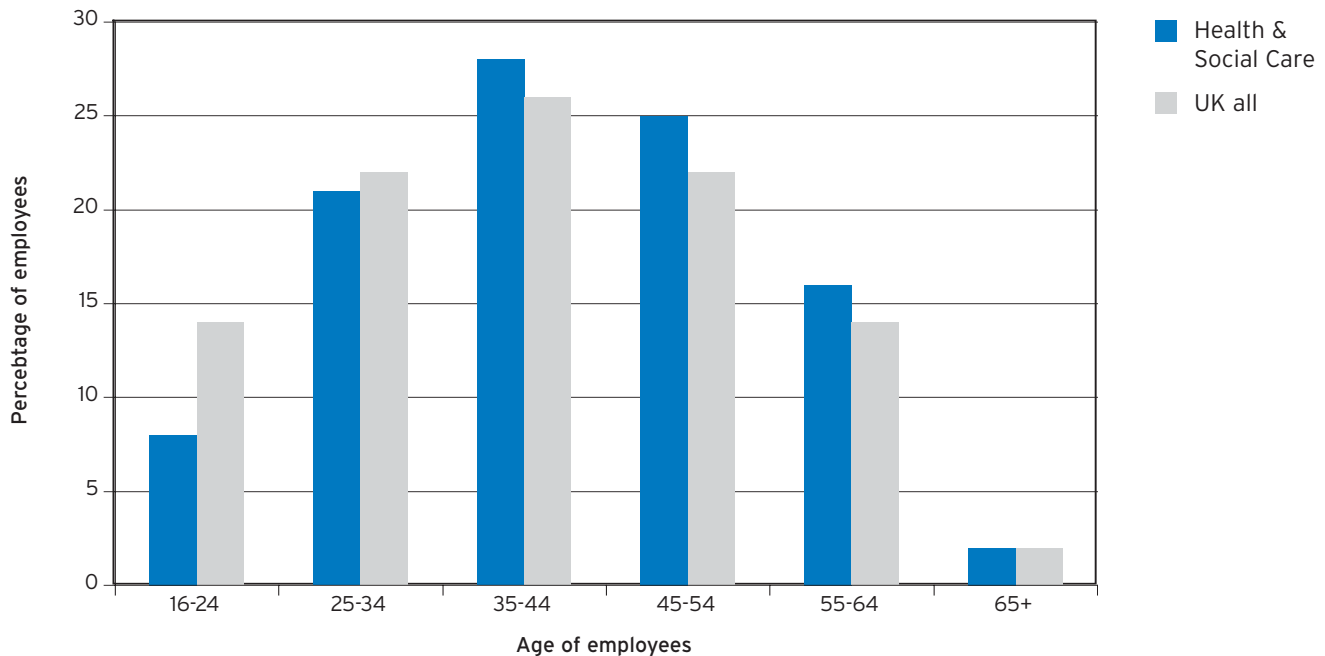
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<sup>2</sup> This definition corresponds to the Standard Occupational Classification Code (SIC code) 85, but veterinary activities are excluded from this analysis.





**Figure 1 Health and social care workforce age profile**



Labour shortages are a serious problem in the sector, partly as a result of recent expansion and the long training times for many of its professions, and a quarter of all establishments report vacancies. These are concentrated among Personal Services roles, which account for the largest proportion of vacancies, half of all hard to fill vacancies and the largest numbers of both skills shortage vacancies, and skills gaps.

However, there are similar problems with Associate Professionals and Technical staff. Levels of participation and investment in training are very high in establishments of all sizes. The sector has a long tradition of education and training with well established institutions and a heavy engagement with the Higher Education system.

# 3. Age discrimination in employment

Age discrimination at work is common. It can affect people of any age, but is particularly likely to involve older people, and more than one in five workers over the age of 50 say that they have experienced it either when applying for jobs or in the workplace<sup>3</sup>. In countries where age discrimination law is already in force, it is the commonest cause of discrimination cases in the courts.

From October 2006, it will be unlawful for any employer in the United Kingdom to discriminate against or harass anyone on grounds of age, directly or indirectly, in relation to either employment or vocational training. This will cover arrangements for recruitment and promotion, pay and conditions, education and training, and retirement and redundancy.

There are exceptions: in relation to retirement, where it will be lawful to make an employee retire at a given age, provided this is not below 65 (for men and women); and where an existing statutory provision exists (like the Minimum Wage Regulations). An employer may also be able to justify discrimination if it is designed to correct an age imbalance in his workforce; if there is a legitimate business reason (and the discrimination is proportionate); or if there is an objective justification (likely to be very rare). The Regulations, and advice on their interpretation, can be found on the DTI and ACAS websites<sup>4</sup>.

Some features of age discrimination are common to most employers<sup>5</sup>.

- Indirect discrimination is more common than direct discrimination. DWP and DTI's joint survey, conducted by the National Institute of Economic and Social Research (NIESR), found few examples of direct discrimination, but one in five employers believes that some jobs are better done by people of particular ages. Where such beliefs exist, discrimination is more likely.
- Discriminatory attitudes are more likely to be found in private sector organisations, and especially small ones<sup>6</sup>, in sectors like manufacturing and construction. These are also the organisations and sectors where there are least likely to be formal procedures and policies to protect against unfair discrimination.
- The most common hazardous practices involve setting age limits on recruitment, especially for those over 50, and using age as a basis for decisions on compulsory retirement and redundancy.
- About half the workforce is covered by a compulsory contractual retirement age. In most cases this is already 65, which is the new "national default retirement age". However, even where organisations plan to retire staff at 65, they will have to give formal notice of retirement dates and seriously consider requests to stay longer.

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<sup>3</sup> Discrimination is difficult to measure precisely, since it is subjective, and affected by levels of public awareness of age issues, and many people regard it as "normal". In a CROW postal survey of workers over 50 in 2004, 20% reported age discrimination. In research by the University of Kent for Age Concern England 29% of people reported experiencing age discrimination (compared to 24% for gender).

<sup>4</sup> See "Further Information" at the end of this report.

<sup>5</sup> Information is based on the national DWP/DTI joint survey (see "Further Information"), although because this is new secondary analysis not all figures are directly comparable. Also, for certain policies and practices respondents were asked to answer in respect of their largest occupational group rather than for the workforce as a whole.

<sup>6</sup> In this report "micro" firms have 5-19 employees, "small" employ 20-49, "medium" employ 50-249, and "large" employ 250 or more (the survey excluded firms employing fewer than 5 employees).

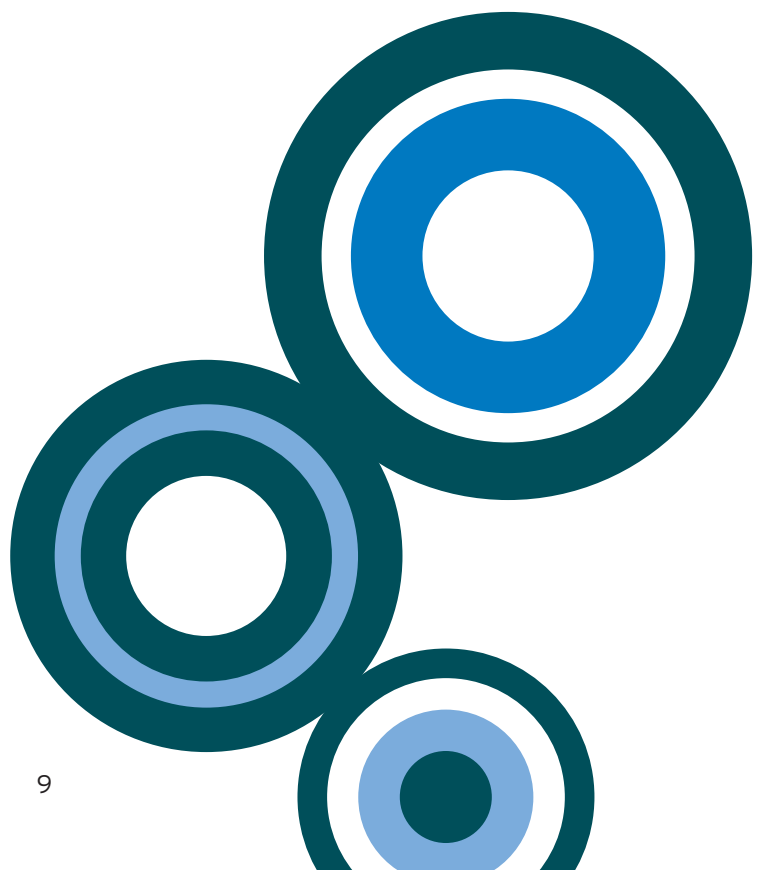


- Public sector and large private sector organisations, are more likely to have formal procedures (like appraisal schemes or equal opportunities policies) to protect against discrimination, especially where a Trades Union is recognised. However, these organisations are also more likely to have long standing formal agreements which include provisions which are hazardous under the Age Regulations, including contractual retirement ages below the new national default retirement age of 65.
- Two occupational groups are particularly at risk from discriminatory practices. These are professional and associate professional/ technician staff, both of whom are particularly likely to be exposed to discrimination in setting pay, long incremental pay scales, and access to training.

The tables in this paper identify hazardous practices identified in DWP/DTI's employer survey, indicating those which are most common among employers in health and social care, and among employers in general.

Some of the provisions in the Regulations allow an employer to claim an "objective justification" for a practice which would otherwise be unlawful. Such justifications require the employer to be able to show that his or her action is a proportionate means of achieving a legitimate aim. It will be for Employment Tribunals and the County Courts to rule on what is justifiable under these provisions.

The Regulations also allow some practices, like incremental scales, where pay or terms of employment improve with length of service, but only up to five years, beyond which they will need to be objectively justified.



## 4. Recruitment and promotion

The key principle in all selection for employment or promotion is that decisions should be fair, and based on the individual's competence for the job, and not on arbitrary factors like age (or gender or race etc).

The research evidence shows that work performance in most jobs does not decline with age before the late 60s, provided individuals are healthy, motivated and kept up to date.

Across the workforce as a whole, the commonest hazardous practices in recruitment and promotion involve excluding applicants, either

directly (by specifying ages), or indirectly (e.g. by specifying years of experience, rather than specific capabilities) in advertisements, job descriptions and interview criteria.

Table 1 below shows the most common areas of hazardous practice in the Health and Social Care sector (with figures for organisations in general for comparison). Practices followed by more than half of organisations in the sector are highlighted:

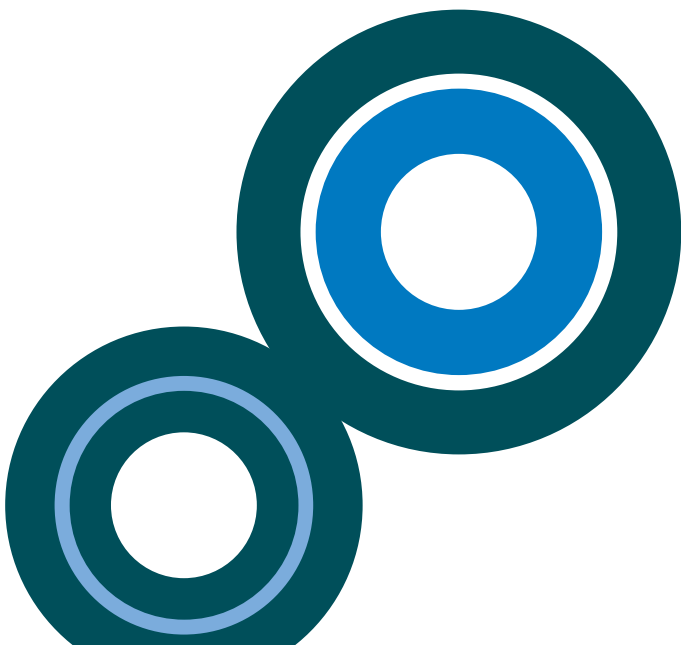


Table 1

Recruitment and Promotion	Comments	% of organisations reporting in Health and Social Care	% of organisations reporting, all sectors
Selection criteria specify qualifications	Lawful if the qualification is directly relevant to the job, and equivalent qualifications are accepted for candidates of different ages.	68	60
Selection criteria based on length of work experience of any kind	Indirectly discriminatory. The criterion must be based on individual capability not experience, unless an objective justification can be demonstrated.	66	62
Application forms ask for date of birth/age	Lawful to use for monitoring purposes and conforming with Statutory requirements. Potentially discriminatory. ACAS recommends to remove this information (as with other equal opportunities information) before shortlisting.	56	48
Age information is provided to recruiting staff	Increases risk of discrimination.	34	44
Maximum recruitment ages are specified	Unlawful if set below six months before the company's retirement age or if objectively justified <sup>7</sup> .	31	29
Selection decisions are based on remaining period to retirement	Discriminatory unless a clear business justification can be demonstrated <sup>8</sup> (like the cost/time required to train, relative to the expected years of work).	8	18
Age criteria are used directly in recruitment, or particular age ranges are targeted	Unlawful unless required by Statute, or for positive action reasons (e.g. to compensate for the under representation of a particular age group).	4	9
Selection decisions are based on expected length of service, judged by age	Unlawful	3	7
Job advertisements specify age	Unlawful, unless there is a genuine occupational requirement (e.g. a young actor for a young part).	3	6

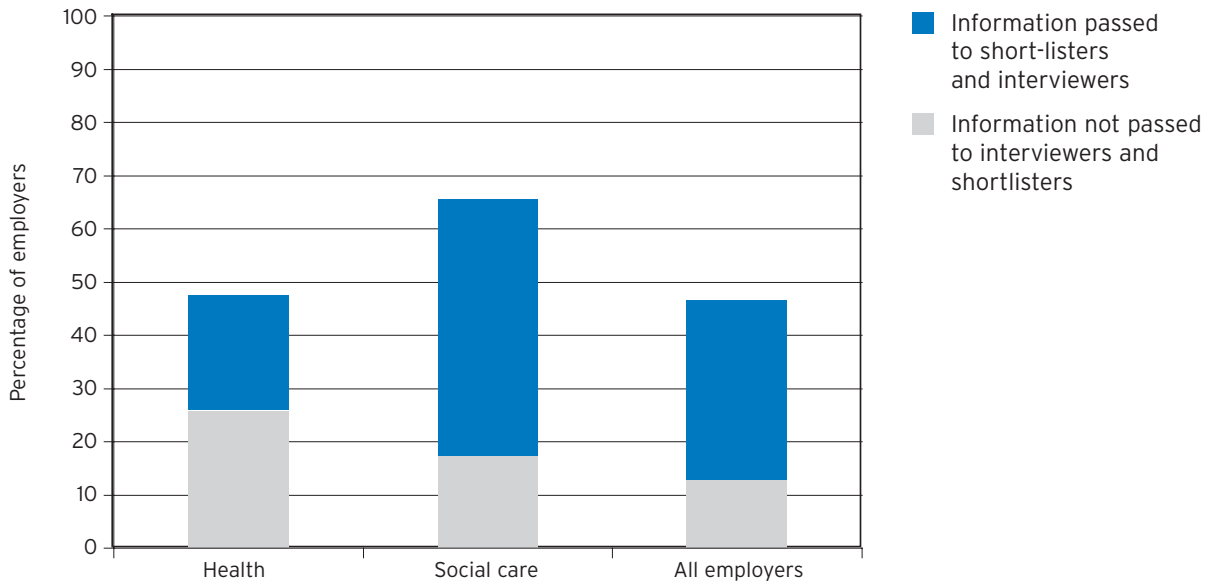
Recruitment practices in health tend to be different from those in social care. While both use application forms in the recruitment process, employers in social care are more likely to request age details on application forms, and more likely to pass this information to shortlisters and interviewers. Health employers, on the other hand, are less likely than either social

care organisations or employers generally to do this (Fig 2). While it will be lawful for employers to collect age information, introducing it into the selection process increases the risk of unfair discrimination, which can be reduced by processing this information separately (as is normal with monitoring information on race, disability or gender).

<sup>7</sup> If the employer does not have a compulsory retirement age, he can set a maximum recruitment age of 64 1/2.

<sup>8</sup> See also "maximum recruitment age".

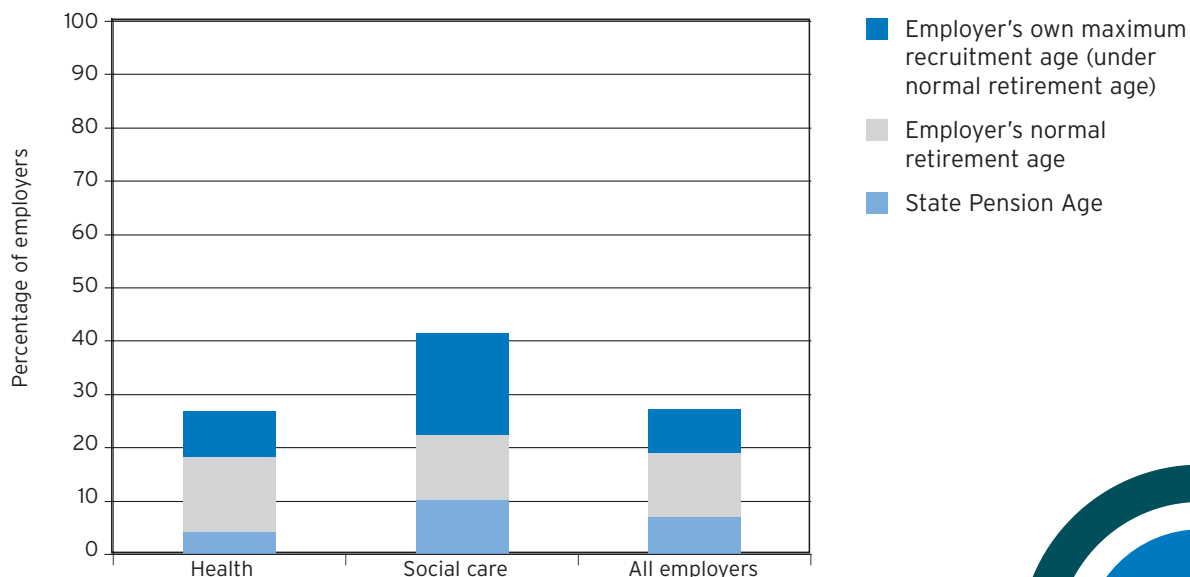
**Figure 2 Employers who request date of birth information on application forms**



However, despite a generally older workforce, employers in social care are less willing than those in health, and other sectors, to recruit employees above state pension age (Fig 3). They are also more likely to set maximum

recruitment ages below their normal retirement ages. Maximum recruitment ages which are more than 6 months before the employer's retirement age will be unlawful under the Regulations.

**Figure 3 Employers who would not recruit people over a specified age**



# 5. Pay and conditions

The key principle in setting pay and conditions should be fairness. Where individuals are treated differently, this should be on the basis of a different contribution or skill, not on age, or on a factor which is a proxy for age (like years of service). This applies to people of all ages, and those over an employer’s normal retirement age are equally protected by the law<sup>9</sup>.

The Regulations do, however, allow different treatment where this can be “objectively

justified” as a “proportionate” way of achieving “a legitimate business purpose”. Rewarding long service can, for example, be justified if it can be shown to benefit the business by increasing staff retention, and the sums involved are reasonable<sup>10</sup>.

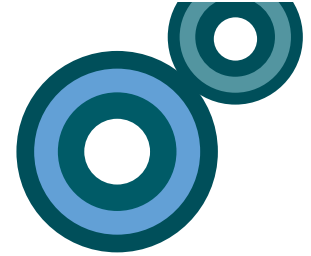
The table shows the most common areas of hazardous practice in the Health and Social Care sector.

**Table 2**

<b>Pay and Conditions</b>	<b>Comment</b>	<b>% of organisations reporting in Health and Social Care</b>	<b>% of organisations reporting, all sectors</b>
Incremental pay scales are used	Unlawful if scale covers more than 5 years (which occurs in 5% of all organisations), unless it can be objectively justified. Such scales have recently been abolished for most Health staff, but remain for Social Care.	65	36
Annual leave entitlement is based on years of service	Lawful if five years or less or it fulfils a business need like retaining experienced staff. More common in large organisations (affects 44% of all organisations but 58% of all employees).	60	44
Starting salary takes experience into consideration	Potentially discriminatory, since experience relates indirectly to age, and does not directly measure competence.	52	58
Long service awards	Lawful if five years or less or it fulfils a business need like retaining experienced staff. More common in large organisations (affects 33% of all organisations but 54% of all employees).	32	33
Separate youth rates of pay	Only lawful in specific circumstances relating to the National Minimum Wage or Apprenticeships.	8	11
Selection for training depends on period to retirement	Potentially indirectly discriminatory (7% of all organisations set a limit of more than 1 year). Objective justification is possible in terms of business benefits like the cost set against predicted return.	7	8
A maximum age is set for eligibility for sick pay	<b>Unlawful</b>	6	6
Starting salary is dependent on age	<b>Unlawful</b>	4	13

<sup>9</sup> The upper age limit for unfair dismissal claims is being lifted under the new regulations, and employees over their organisation’s retirement age will have full protection against discrimination.

<sup>10</sup> This is a complex area. Advice is available on the ACAS website (see “Further Information” below).



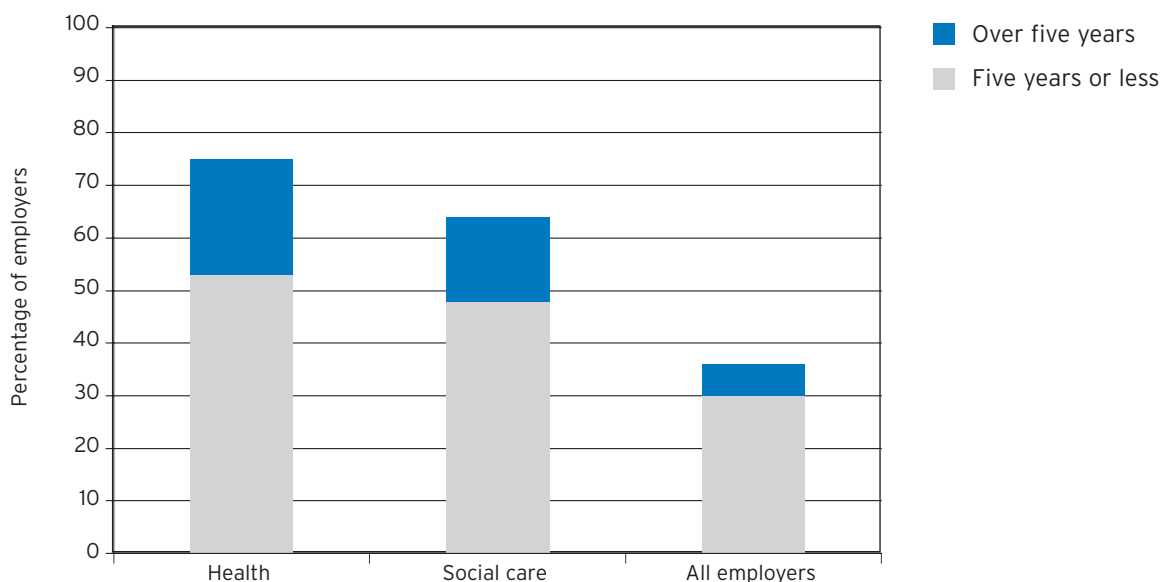
While health and social care employers are generally more sympathetic to employing older workers, they also have a number of practices, often enshrined in long standing collective agreements, which are hazardous under the new regulations. They involve the use of long incremental scales (in Social Care), and using length of service to give access to a range of benefits.

Employers in this sector are less likely than other employers to use age directly in setting starting pay or salary levels, or in promotion decisions, although a small proportion of establishments do still operate pay schemes directly related to age, which will only be lawful where they relate to the Minimum Wage for young people or involve the first year of Apprenticeships.

Using length of service as a basis for setting pay and benefits is hazardous, since older employees are more likely to benefit, unless an objective justification can be demonstrated.

At the time of the DWP survey three quarters of health sector employers, and nearly two thirds of social care employers used incremental pay scales (a practice which is more common in the public sector generally) (Fig 4). In both cases they are more likely to extend beyond five years than incremental scales in other sectors. Incremental scales of no more than five years are permitted by the regulations, but scales which extend further will need to be objectively justified. However, under the Agenda for Change reforms, such scales have been abolished across the NHS, with exceptions for certain specific occupational groups like doctors.

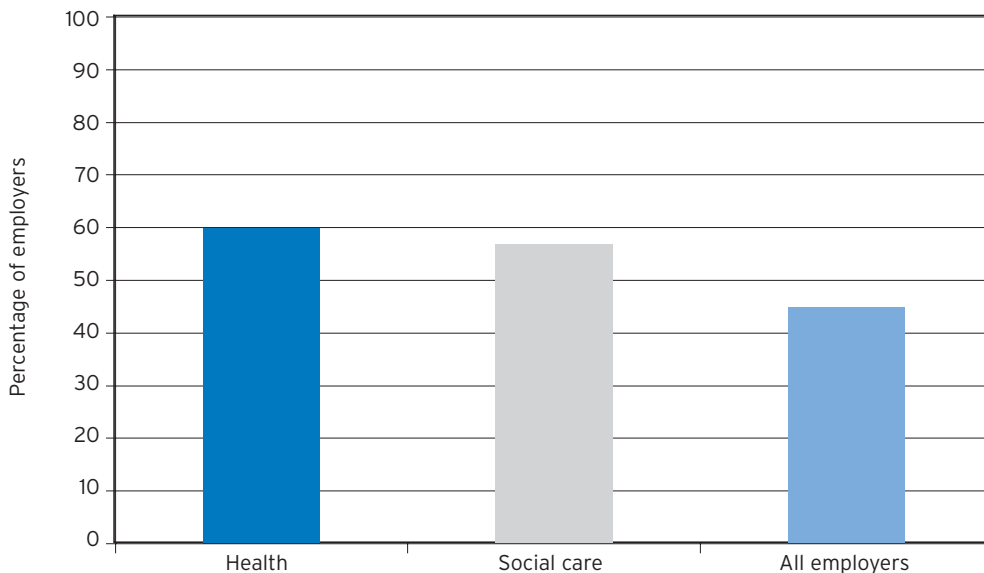
**Figure 4 Employers who use incremental pay scales**



Length of service also affects annual leave entitlement in both sectors (Fig 5). This is hazardous since it discriminates indirectly against younger employees, and employers will need to

be able to demonstrate that this is a proportionate means of achieving a legitimate business need, like increasing retention of experienced staff.

**Figure 5 Length of service affects annual leave entitlement**



Both health and social care employers are more likely than employers in other sectors to set maximum ages for entitlement to sick pay. If based on age alone this will be unlawful, even if the maximum age is above the employer's retirement age or state pension age, since there is no age limit on the legal protection for the employee.

Health and social care employers are more likely than employers in other sectors to use age to calculate compulsory redundancy pay. There are specific constraints on how this can be done if it is to remain within the law.



## 6. Retirement and redundancy

The Age Regulations introduce a new national Default Retirement Age of 65 for both men and women. An employer can lawfully set a retirement age at 65 or above, but can only set a lower retirement age if there is an objective justification (which is expected to be very rare, since age itself is rarely a qualification for a job). Whatever retirement age the organisation adopts, the employer will be required to give individuals formal advance notice of their retirement date, and must consider requests to stay on after that.

The key principle here is that, up to the organisation's retirement age, exit from the organisation through either retirement or redundancy should be based on individual capability and contribution, and personal preference, not on age.

In relation to redundancy and unfair dismissal, the Regulations extend the same rights to all employees, whatever their age, removing the previous age limits. Statutory redundancy entitlements remain unchanged. An employer can use age or length of service to enhance redundancy payments, but only in accordance with the rules specified in the Age Regulations.

In this area, the greatest hazards concern the setting of compulsory retirement ages and the use of age in selection for redundancy or setting levels of redundancy pay.

The table shows the most common areas of hazardous practice in the Health and Social Care sector.





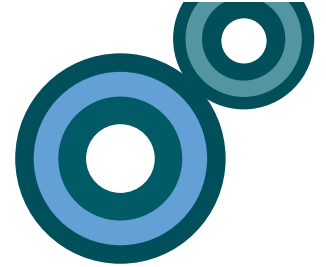


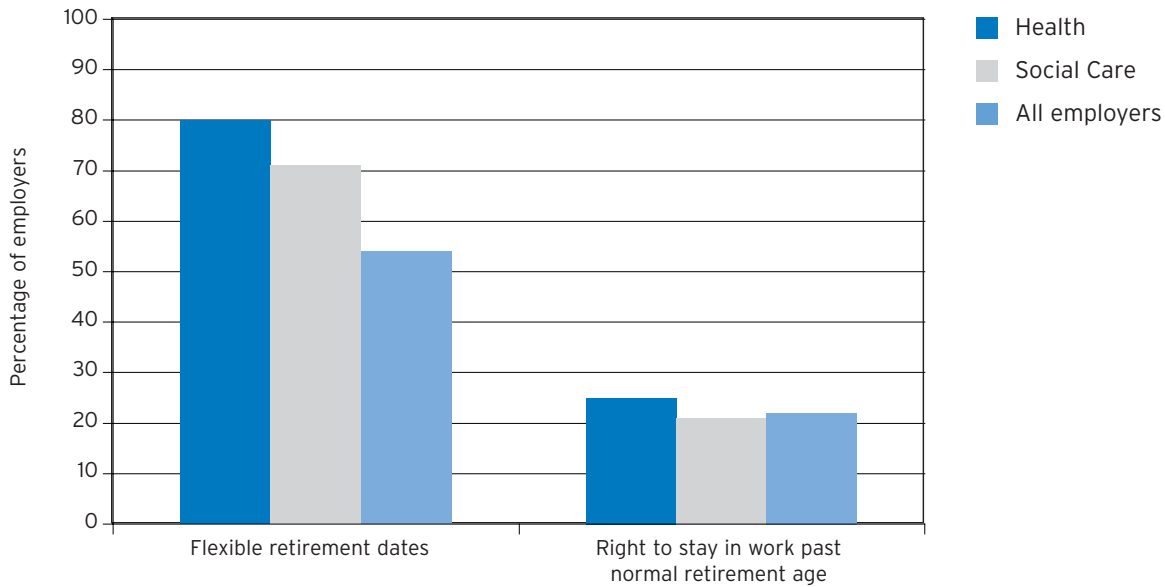
Table 3

Retirement and Redundancy	Comment	% of organisations reporting in health and social work	% of organisations reporting, all sectors
Compulsory retirement ages	<b>Unlawful</b> if below 65 (which affects 6% of all employers), unless it can be objectively justified. 50% of the UK workforce is affected by compulsory retirement ages (because this is more common in large organisations). However, in most cases the fixed age is 65, which will remain lawful, although employers must consider requests to stay on.	42	37
Redundancy decisions based on length of service	Indirectly discriminatory since longer service correlates with age.	40	49
Compulsory redundancy decisions are based on "last in first out"	Likely to discriminate indirectly against younger employees.	22	28
Level of redundancy pay based on length of service	Can be indirectly discriminatory against younger employees. Length of service is used in compulsory redundancy decisions by 27% of all organisations but affects 38% of all employees. For voluntary redundancy it is used by 23% of all organisations but affects 34% of all employees.	12 compulsory 11 voluntary	27 compulsory 23 voluntary
Age is used in selection for redundancy	<b>Unlawful</b> , unless the decision must be based on requirements of job and competence of staff, or positive action to maintain an age balance.	10 compulsory 7 voluntary	14 compulsory 5 voluntary
Level of redundancy pay is affected by age	<b>Unlawful</b> . Affects only 10% of all organisations, but 17% of all employees (because it is more often used in larger organisations).	5 compulsory 5 voluntary	10 compulsory 9 voluntary
Redundancy decisions based on current salary	Likely to discriminate indirectly since salary levels generally correlate with age.	0	7

"Last in/first out" selection criteria for compulsory redundancy are more common in social care than in other sectors, but less common in health. This is hazardous, since its likely to discriminate against younger employees. Health and social care employers are more

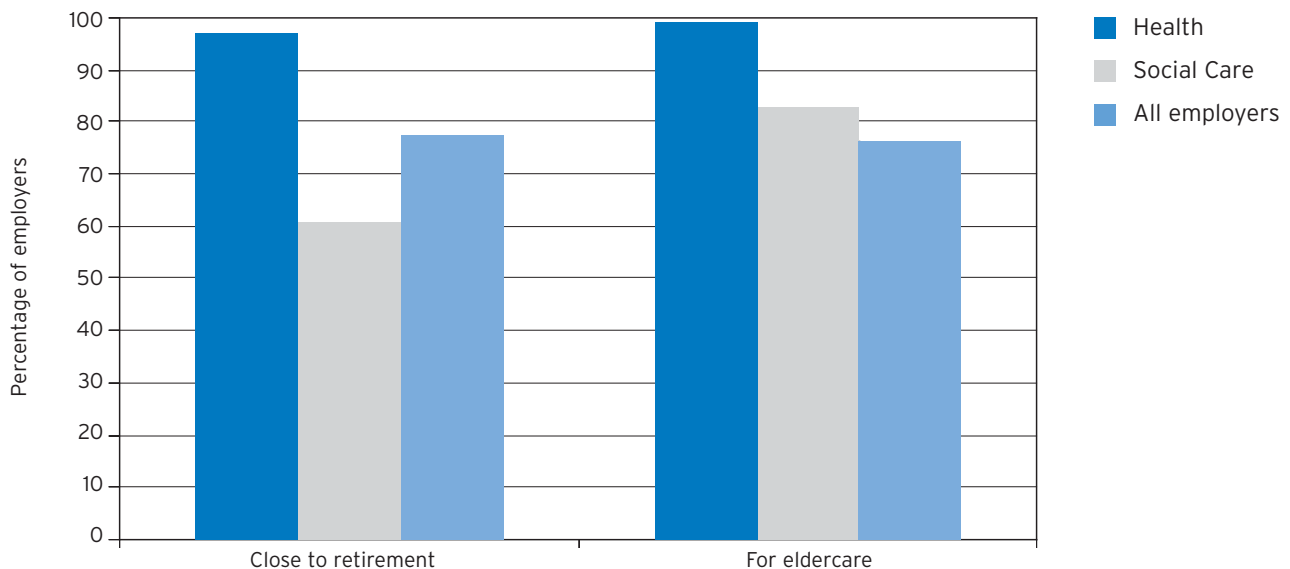
likely than employers in general to offer flexible working arrangements to older workers). Almost four in five employers offer flexible retirement dates, and almost one in four give all staff the right to stay in work part normal retirement age (Fig 6).

**Figure 6 Employers offering flexibility in retirement dates**



Health employers are more willing than those in social care to consider requests for flexible working (including part-time) for staff who are either close to retirement or who have caring responsibilities for elderly dependents (Fig 7).

**Figure 7 Employers who are “very” or “quite” likely to offer flexible hours to employees**



On the other hand, a small, but significant, number of both health and social care employers (4%) retain mandatory retirement ages below 65, which will be the new statutory default retirement age. This will be unlawful, and although exceptions for genuine occupational

reasons are possible, these are expected to be extremely rare, since there are few, if any, circumstances in which age, rather than capability of some kind, determines someone's suitability to work.

# 7. Management and training

There are a variety of management practices which can reduce the risk of legal disputes under the Age Regulations. Table 4 identifies the

commonest ones, and shows what proportion of organisations in the health and social care sector, and the economy in general, use them at present.

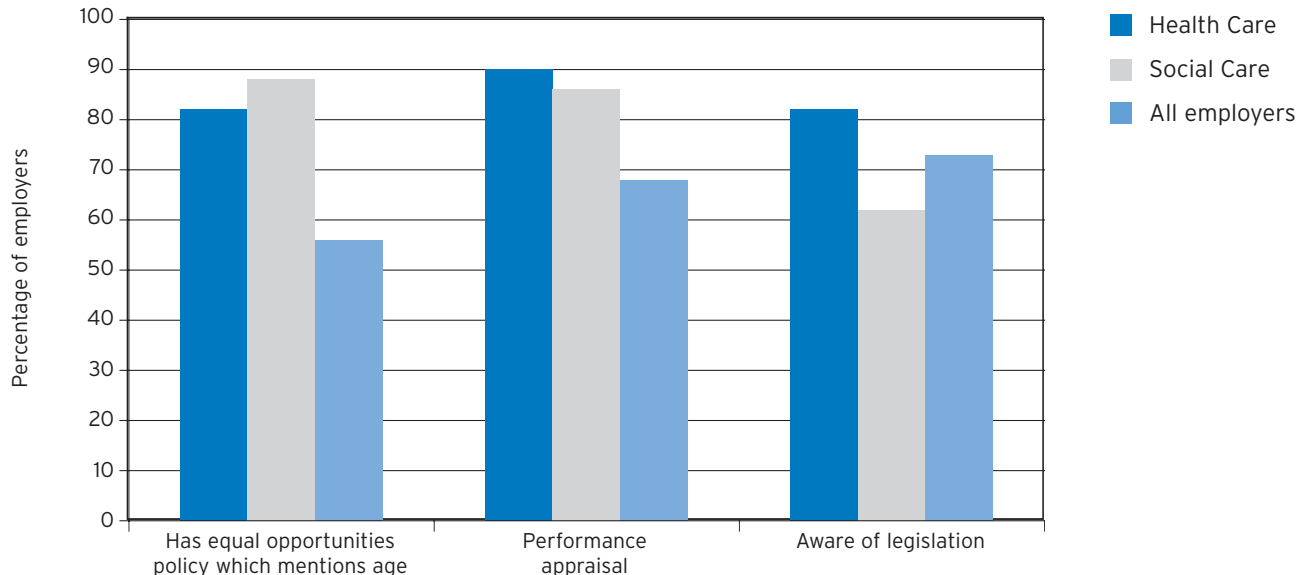
Table 4

Management and training	Comment	% of organisations reporting in Health and Social Care	% of organisations reporting, all sectors
Equal opportunities policy	Having a policy makes expectations clear to managers and staff, and makes monitoring easier.	98	72
	Equal opportunities policy explicitly mentions age.	84	56
	Policy implementation by age is monitored (only those with age policies).	63	49
"Age neutral" recruitment practices	Removing dates of birth and age data from applications before they are considered by selectors reduces the risk of discrimination (although training recruiters is also important). Some organisations collect this information on equal opportunities monitoring forms which are removed before forms are passed for short listing.	59	43
Providing work related training for all staff	There is a direct relationship between participation in training and staying longer in work.	68	70
Formal performance appraisal	Ensures that employees are clear about objectives, that performance is recognised, and untapped talents are used.  This will also be relevant when organisations have to consider formal requests to stay after an organisation's retirement age.	88	68
Formal assessment for promotion	Formal assessment increases the chances of promoting the most valuable people, and reduces the risk of discrimination (4% of all organisations currently have age related criteria, which will be unlawful).	37	37
Flexible working	Many employees, especially those with childcare or eldercare responsibilities, and those approaching retirement, would like to work part-time or flexibly. Offering flexible working improves retention and motivation of key staff.	92 For childcare 82 For pre-retirement 87 For eldercare 63 For any reason	82 For childcare 78 For pre-retirement 74 For eldercare 51 For any reason
Flexible retirement ages	Flexible retirement allows individuals to work longer and employers to continue to make use of skills and expertise.	64 To all staff 4 To some staff	50 To all staff 4 To some staff

Health and social care employers are much more likely than employers in general to have management practices which will help them avoid unfair discrimination (Fig 8). One aspect of this is the widespread use in the sector of formal appraisal and performance management systems.

Such systems are important tools for employers to manage the careers of workers in later working life, including the assessment of requests to stay in work past retirement. It is, of course, important that managers are appropriately trained to operate such systems.

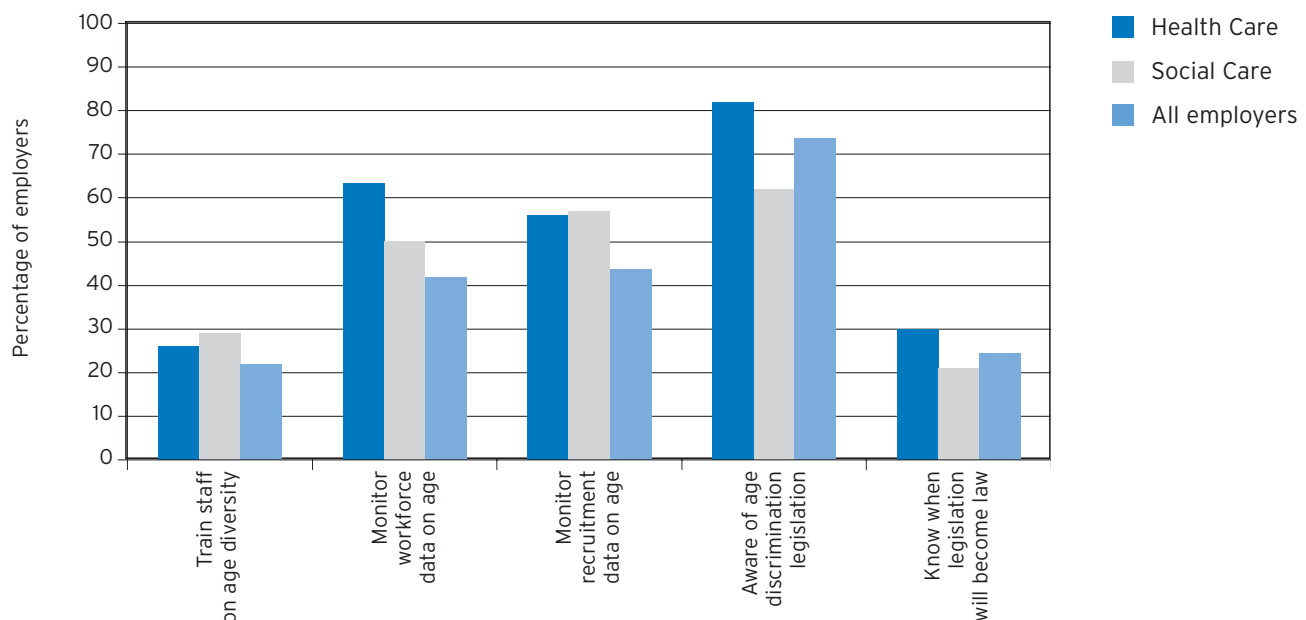
**Figure 8 Employers prepared for age discrimination regulations**



Similarly, both health and social care employers are more likely than those in other sectors to have equal opportunities policies which

mention age, to train employees on age diversity, and to monitor data to identify potentially hazardous practice.

**Figure 9 Age diversity**



Few health employers use age, directly or indirectly, as a criterion in deciding who to support for training, although social care employers are more likely to consider the potential length of service, particularly the proximity to retirement, of the individual. Employers who select in this way will need

to be able to demonstrate that such restrictions are proportionate and objectively justifiable.

At the time of the survey (Winter/Spring 2004-5) most employers in health and social care knew that age discrimination was planned, although only one in six social care employers knew exactly when it would take effect.

# 8. Managing age in health and social care: discussion questions

The following questions are designed to help you, as an employer in the health and social care sector, to plan how you will respond to an ageing workforce and the Age Regulations:

1. How concerned are you about **skills gaps and shortages** in your sector, and do you believe current labour market predictions about this?
2. Do you think that **a different age mix** in the workforce could help overcome these?
3. Do people generally in your sector **have strong views about appropriate age ranges for particular jobs** which would limit the opportunity to change the age mix?
4. Is your **ability to change pay and conditions** limited by national agreements, or regulations like “licence to practice” rules? How can you tackle this?
5. Policymakers sometimes assume that all firms in a “sector” are alike. In your sector are there particular **kinds of firm which are very different** in their approach to age management?
6. How easy is it to **extend working lives** in your sector? Does this apply more to some groups of staff than others?
7. Are there **traditional career patterns** in your sector which might change if working lives became longer (e.g. “downshifting” or mentoring roles for older workers)?
8. Older workers often prefer **to work part-time or on a flexible basis**. How easy is it to do this in your sector, and what might be the constraints?
9. Are there jobs where **physical demand or levels of stress** make extending working life more difficult? Are there ways of overcoming these?
10. Is it difficult to **recruit older people** in your sector? After what age? Can training help?
11. **Small firms** in general have less formal management structures and procedures. Will this make overcoming age discrimination easier or more difficult for them?
12. A high proportion of people working after 65 are **self employed**, what role does this play in your sector?
13. What are the implications of an ageing workforce for supply and demand for **training** in your sector? (given that those who train generally stay in work longer)
14. How difficult will it be to **raise awareness among employers** in your sector about the ageing workforce, and about the age discrimination regulations, especially among small firms, who are more difficult to contact?
15. Are there **lessons about managing an age diverse workforce** which your sector could offer to others?

CROW would welcome any comments on these questions (or any others) as a contribution to its final research report for DWP<sup>1</sup>.

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<sup>1</sup> See “Further Information” below.



# 9. About this paper

This paper was written by the Centre of Research into the Older Workforce on behalf of the Department for Work and Pensions. It draws on two sources:

- The background material on the sector comes mainly from the Sector Skills Development Agency's Research Matrix database, which brings together a large quantity of information about all sectors from a variety of sources, including the Labour Force Survey, the National Employer Skills Survey, the Annual Business Inquiry, and the Inter Departmental Business Register<sup>12</sup>.
- The material on current age management practice in the sector is based on data gathered by the National Institute for Economic and Social Research (NIESR) and the British Market Research Bureau (BMRB), in a national survey for the DWP and DTI in Spring 2005<sup>13</sup>. They interviewed the most senior person responsible for HR issues in 2084 firms employing more than 5 people in England, Scotland and Wales. Each interviewee was asked 160 questions about aspects of age management, including recruitment, retirement, benefits, pensions, management practices and discrimination. CROW carried out a separate analysis of this data to produce the current paper. The sample included 214 establishments in the health and social care sector.

The DWP/DTI survey evidence is the best available on current employer age management practices across all sectors, but it should be interpreted with some caution since:

- it probably underestimates the frequency of some practices (since firms with a positive record are more likely to respond to such surveys; employers may be reluctant to admit to what they suspect is "bad practice"; and the senior managers who replied to the survey may be unaware of poor practice by some line managers);
- In some cases the number of employers responding is relatively small, and may not be fully representative of particular sizes of firms in that sector;
- Since some practices are more common in large firms, the behaviour of a small proportion of firms may affect a much larger proportion of workers;
- Although some hazardous practices are rare, the firms involved will still be open to legal challenge if they do not make appropriate changes.

We have not commented on pensions issues since pensions provisions are largely exempt from the regulations<sup>14</sup>.

All views expressed in this paper are those of the authors. They are not intended to be authoritative statements of the law, and do not represent the views of the Department for Work and Pensions or any other Government Department.

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<sup>12</sup> Details on the Skills for Business website at [www.ssdamatrix.org.uk/](http://www.ssdamatrix.org.uk/)

<sup>13</sup> See "Further Information" below.

<sup>14</sup> DTI's guidance *The impact of age regulations on pensions*, explains the implications of the legislation for pensions in detail.

# 10. Responding to this paper

This paper is intended for consultation with employers, sector bodies and other interested organisations and individuals during 2006.

Responses will contribute to a larger report on sectoral approaches to age management, which DWP plans to publish in 2007.

If you would like to comment on any aspect of this paper, or of age management in the health and social care sector (or on age management more generally), please write directly to the Centre for Research into the Older Workforce (CROW). We would be particularly interested in responses which:

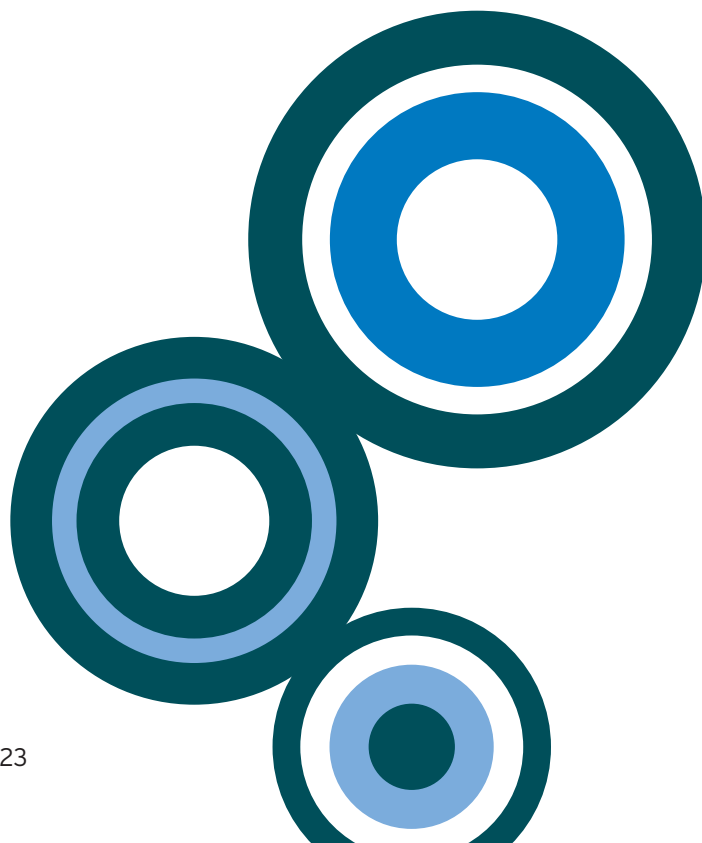
- add relevant information on the shape of the sector and age management issues and practices within it;
- clarify the reasons for particular features (e.g. why one part of the sector has very different practices from others, or why health and social care is different from other sectors);

- identify examples of good practice which might be disseminated to other employers or sectors;
- identify questions which need further investigation.

**Responses and comments on the content or issues raised by this paper should be sent by email to:** [crow@niace.org.uk](mailto:crow@niace.org.uk)

**Or by post to:**

Age Legislation Research  
Centre for Research into the Older Workforce  
NIACE  
21 De Montfort Street  
Leicester  
LE1 7GE



# 11. Further information

Further information on age related issues, policies, practices, and legislation can be found at [www.agepositive.gov.uk](http://www.agepositive.gov.uk)

You can request further copies of this paper, or contact the Government's Age Positive team at: [agepositive@dwp.gsi.gov.uk](mailto:agepositive@dwp.gsi.gov.uk)

or write to:

Age Positive Team  
Extending Working Life Division  
N10  
Moorfoot  
Sheffield  
S1 4PQ

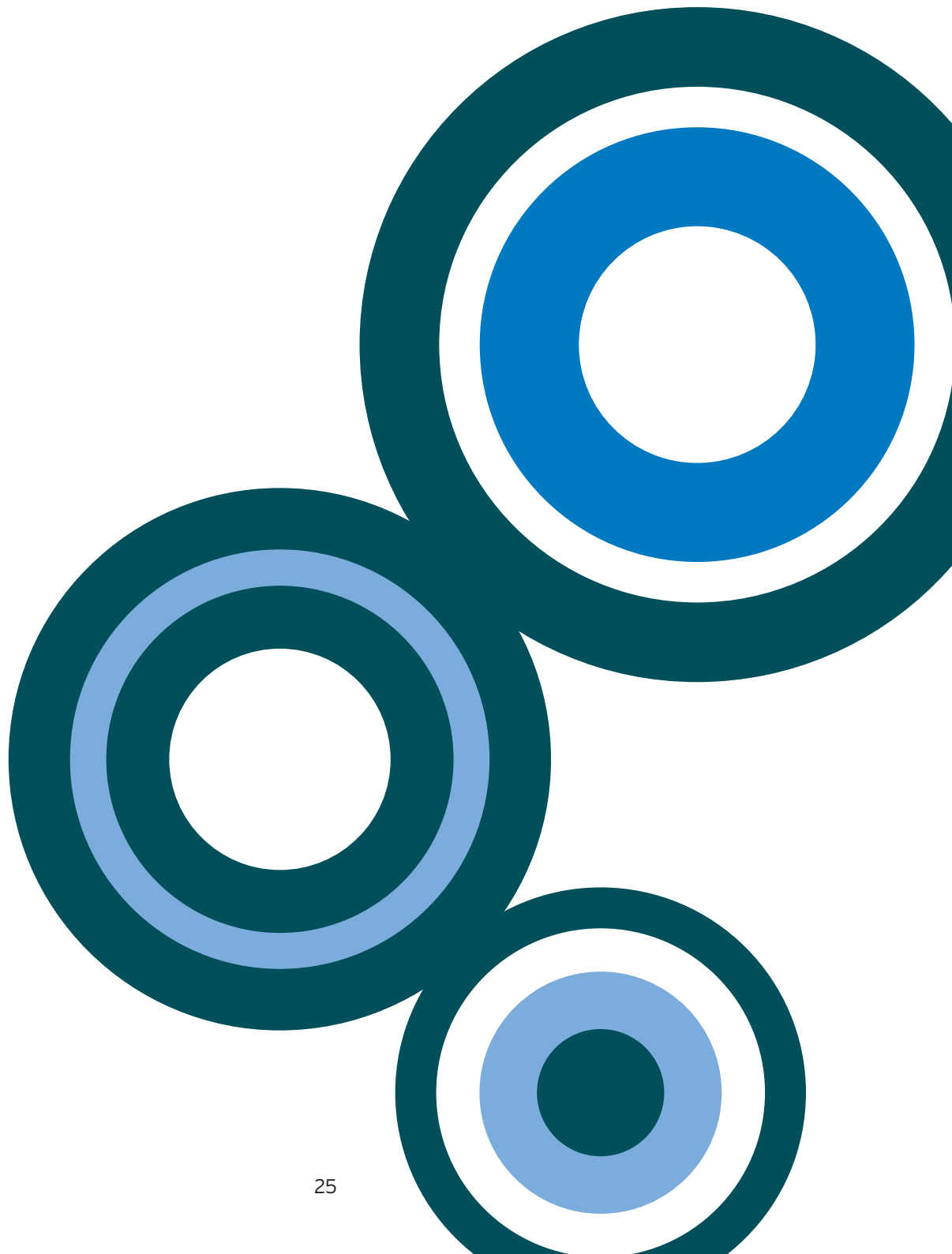
Details of the Age Discrimination Regulations, which will come into force in October 2006, can be found on the DTI's website at [www.dti.gov.uk/employment/discrimination/age-discrimination/index.html](http://www.dti.gov.uk/employment/discrimination/age-discrimination/index.html)

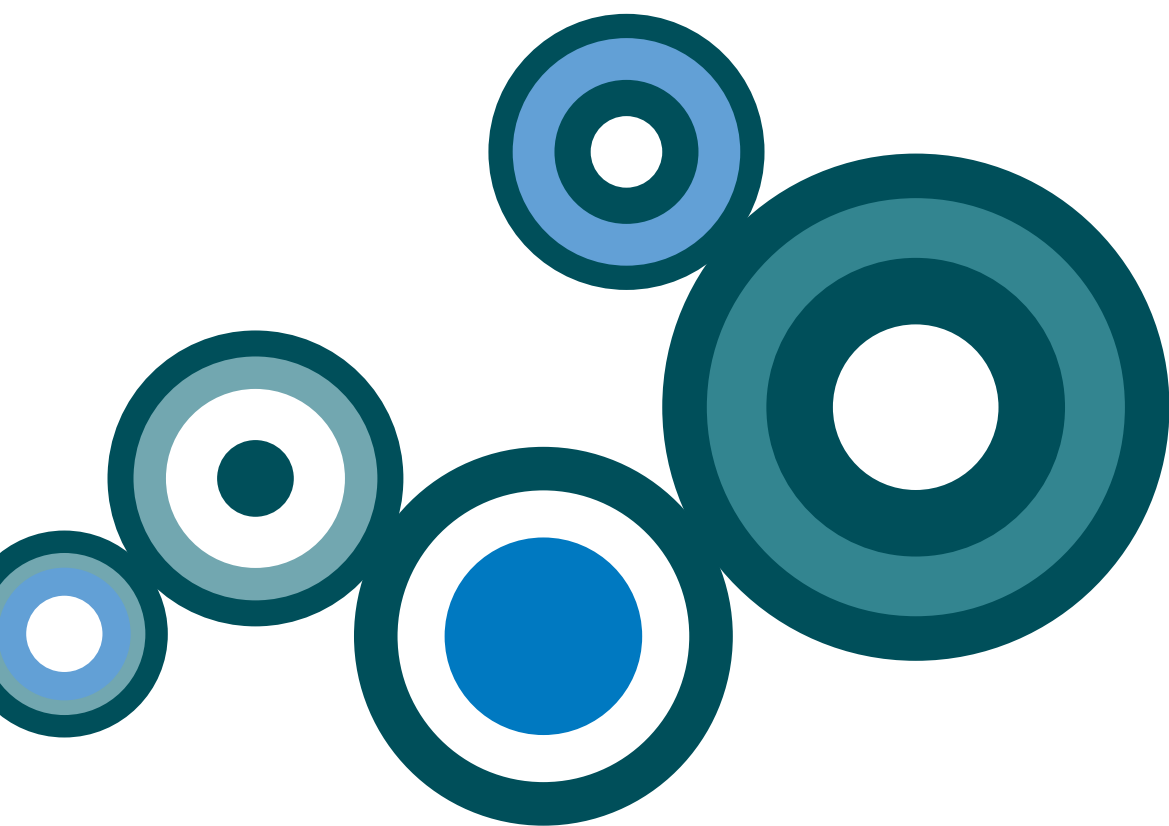
Advice on interpretation and good practice can be found on the ACAS website at: [www.acas.gov.uk](http://www.acas.gov.uk)

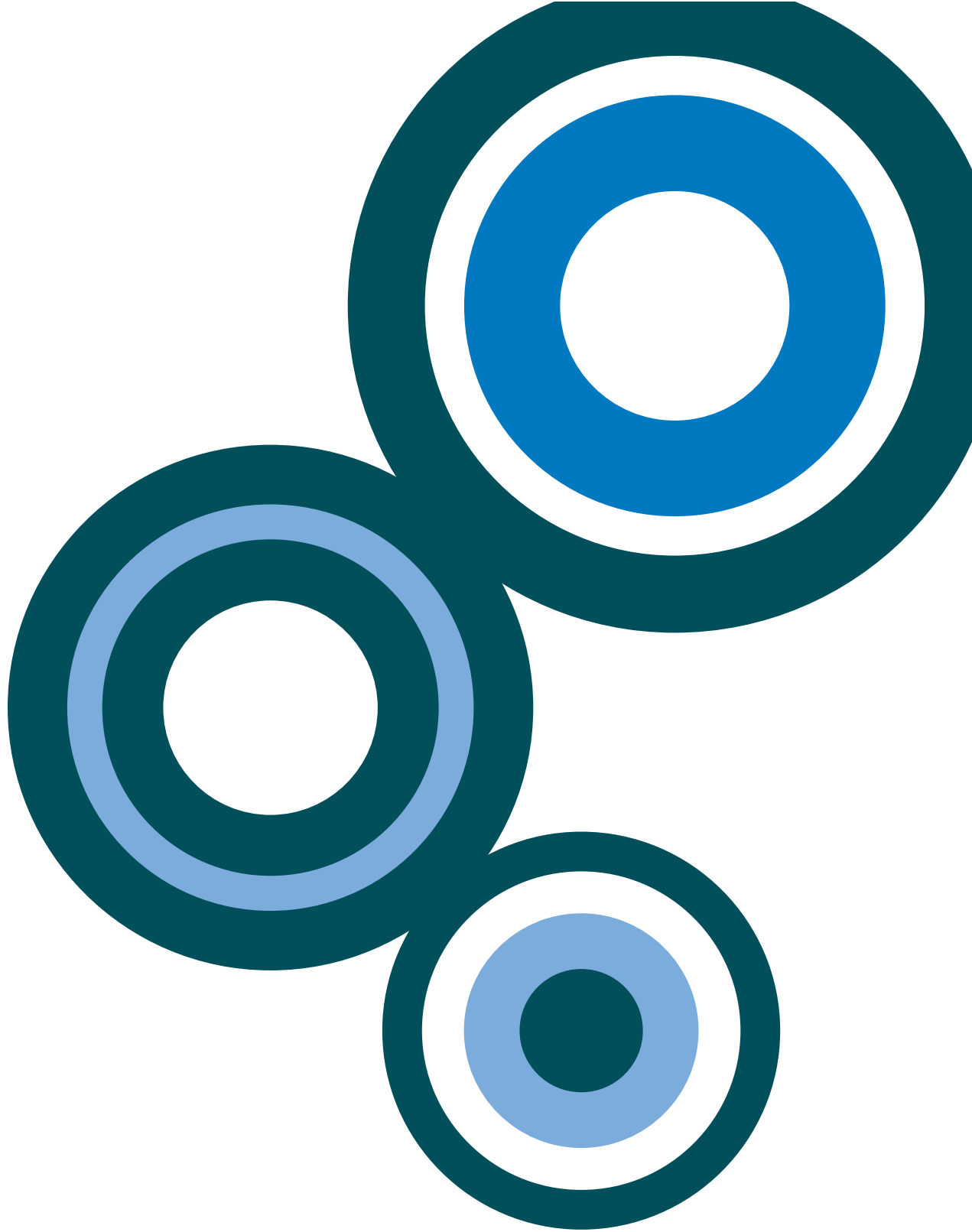
The full report of DWP and DTI's national survey conducted by NIESR and BMRB which produced the evidence for this report is Survey of Employers' policies, practices and preferences relating to age by Metcalf with Meadows (DWP Research Report 325, DTI employment relations research series number 49). The full report is available for download free on the DWP website at: [www.dwp.gov.uk/asd/asd5/rports2005-2006/rrep325.pdf](http://www.dwp.gov.uk/asd/asd5/rports2005-2006/rrep325.pdf)

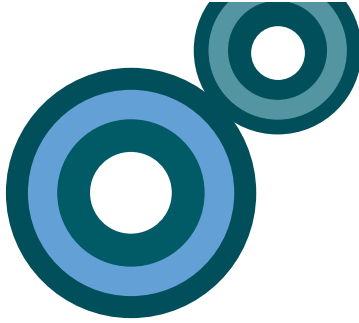
Further information about CROW can be found at: [www.niace.org.uk/crow](http://www.niace.org.uk/crow)











## Members of the Age Partnership Group

Members of the Age Partnership Group, listed below, support and endorse the Be Ready campaign.

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Acas  
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Association of Chartered Certified Accountants (ACCA)  
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EEF, the manufacturers' organisation  
Federation of Small Businesses (FSB)  
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Improvement and Development Agency (IdeA)  
Local Government Employees (LGE)  
National Association of Pension Funds (NAPF)  
Public Sector People Managers Association (PPMA)  
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Better Government for Older People in Scotland  
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Prospect Wales  
Wales Social Partners Unit  
Welsh Assembly Government  
Welsh Local Government Association

Copies of this publication can be downloaded from [www.agepositive.gov.uk](http://www.agepositive.gov.uk)

If you require a hard copy please e-mail: [agepositive@dwp.gsi.gov.uk](mailto:agepositive@dwp.gsi.gov.uk)

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