

SALARY SURVEY HUMAN RESOURCES FACT SHEET

Employment Equality (Age) Regulations 2006

Age discrimination became unlawful in Northern Ireland on 1st October 2006.

What does your organisation need to do?

Update policies: Such as Equal Opportunities, Bullying and Harassment Policy to include age. Also review your retirement and redundancy policies. Redundancy selection criteria such as last in, first out (LIFO) or length of service is likely to be discriminatory.

Recruitment: Asking for a minimum/maximum length of experience could be seen as disadvantaging certain age groups. If asking for a minimum/maximum length of experience, consider whether this is an essential requirement to the post, if so, ensure it is objective and justifiable.

Person specifications and job descriptions should be objective, based solely on skills, relevant experience and capacity to do the job.

Avoid using stereotypical terms in advertisements which may imply you are looking for older or younger applicants, such as "Dynamic, go-getter" or "Experienced, mature person",

Application forms: Do not ask for personal details such as date of birth on the application form.

Monitoring: Change your monitoring form to include age. It is useful to monitor what is happening in the recruitment process. Knowing the age profile of applicants will help to show how successful you are in attracting applications from different age groups.

Stereotypes: Train staff and recruitment panels to avoid stereotypes. Common examples include, young workers being perceived as not having the gravitas or skills for management or that they have better IT skills. It may also be commonly perceived that older workers are less interested in career and personal development or that an older candidate will make a better supervisor.

Training: Training opportunities should be offered to all staff, do not assume only younger staff are interested in career development.

Redundancy and dismissal: It is proposed under the new law, that a default retirement age of 65 will be set, and employers wanting to retire employees at an earlier age will have to justify it. Employers are required notify employees in writing of the intended date of their retirement and their right to request to work beyond this time, at least six months before such date. Employers will be under a duty to consider requests for working past the default retirement age (similar to the right to request flexible working). The upper age limits on unfair dismissal and redundancy pay will be removed.

Good Practice: Consider flexible working requests for older workers.

1 October 2006

National minimum wage increase

The adult rate will rise from £5.05 to £5.35 per hour. The youth rate for workers aged 18-21 will increase from £4.25 to £4.45 per hour. The rate for workers aged 16 to 17 years will increase from £3.00 to £3.30.

Flexible Working & Work/Life Balance

Amendments to Legislation: Work and Families (Northern Ireland) Order 2006

Due to come into effect in April 2007

- An outline of the proposals:
- Extension of statutory maternity and adoption paid leave from six to nine months.
- A new right to an additional period of paternity leave for fathers.
- Removal of qualifying criteria for Additional Maternity Leave so that all mothers will be able to take up to one year off work.
- Increase in the notice period mothers must give to employers if they change their return dates, from 28 days to eight weeks.
- Optional 'keeping in touch days' to give employees the chance to go into work to undertake training and keep in touch with major developments without losing their right to maternity pay.
- Reasonable contact - employers will have a right to make reasonable contact with their employee during maternity leave - guidance will make clear what is meant by this.
- Any day start period for Maternity Pay Period to help to align the leave with the pay period.
- Option for Statutory Maternity Pay to be paid on a daily rather than a weekly basis.
- Carers will benefit from a new right to request flexible working.

At Present:

Maternity Rights

- All pregnant employees are entitled to time off or antenatal care.
- All time off for antenatal care must be paid at the employee's normal rate of pay.

Ordinary maternity leave

- All pregnant employees are entitled to at least 26 weeks' ordinary maternity leave. This applies regardless of length of service.
- For the duration of the ordinary maternity leave period the employee must continue to receive all her contractual benefits except wages or salary.

Additional maternity leave

- Employees who have completed 26 weeks' continuous employment by the beginning of the 14th week before the expected week of childbirth are entitled to 26 weeks' additional maternity leave.
- Additional maternity leave begins at the end of ordinary maternity leave.
- The contract of employment continues during additional maternity leave.
- Some terms of the employment continue during additional maternity leave.
- The continuance of any other terms and conditions of the contract are a matter for agreement between the employer and the employee.

The rate of SMP

- The first six weeks of SMP are paid at 90% of the employee's average weekly earnings.
- The remaining weeks are paid at the lesser of the SMP standard rate or 90% of the woman's average weekly earnings.
- The SMP standard rate is currently £108.85 per week at the time of publication.

Employer's reimbursement for SMP

- Employers can deduct from their next payment of PAYE and National Insurance contributions, student loan and construction industry payments to H.M. Revenue and Customs an amount equal to 92% of the SMP they have paid out in the preceding period.
- If you qualify for Small Employer's Relief you are entitled to recover 100% of the SMP you have paid out, plus 4.5% in compensation for employer's National Insurance Costs.
- If an employee is employed by her employer during the fifteenth week before the week the baby is due and qualifies for SMP and she leaves after the start of the 15th week before the week baby is due, the employer will still have to pay SMP to her. Payment will begin in accordance with the date she has notified or, if the resignation or dismissal takes place before she has notified a date, from the later of:
 - the 11th week before the expected week of childbirth; or
 - the first complete week starting on a Sunday after the employment ends.

Paternity

Length of paternity leave:

Either one week or two consecutive weeks' paternity leave (not odd days).

SPP is paid to partners who take time off to care for the baby or support the mother in the first few weeks after the birth. It is available to:

- a biological father
- a partner/husband or civil partner who is not the baby's biological father
- a mother's female partner in a same sex couple

Amount Payable:

- the lower of:
 - 90% of AWE
 - £108.85 per week

SPP is treated as normal pay.

The calculation of average weekly earnings and the recovery of SPP is subject to the same rules as for SMP.

Adoption Leave

26 weeks ordinary adoption leave, followed immediately by 26 weeks additional adoption leave. Standard adoption pay (SAP) is paid at the same rate as statutory maternity pay, for 26 weeks. Where a couple adopts, they can decide which one takes adoption leave. The other partner is likely to be entitled to paternity leave (adoption) and paternity pay (adoption).

Parental Leave

(Flexible working - the right to request and the duty to consider)

- Employees – both mothers and fathers, who have completed one year's service are entitled to 13 weeks' (unpaid) parental leave to care for their child.
- Parental leave can usually be taken up to five years from the date of birth or in cases of adoption five years from the date of placement.
- Parents of disabled children are entitled to 18 weeks' parental leave (previously 13 weeks) up to the child's 18th birthday.

Employers will have a statutory duty to consider their applications seriously. The right enables mothers and fathers to request to work flexibly. It does not provide an *automatic* right to work flexibly as there will always be circumstances when the employer is unable to accommodate the employee's desired work pattern.

Time off for Dependants

(Carers leave)

- All employees are entitled to take a reasonable amount of (unpaid) time off work to deal with an emergency or unexpected situation involving a dependant.

Flexible Working for Carers of Adults

- From **6 April 2007** carers of adults will have the right to request flexible working.
- The cared-for person must be aged 18 or over and must be the spouse, partner or civil partner of the employee, a relative of the employee, or living at the same address as the employee.

Fixed term and Part time Workers

Under the Prevention of Less Favourable Treatment Regulations 2002, you must offer the same benefits including:

- occupational pension schemes
- redundancy rights
- from 1st April 2004 workers on fixed term contracts not renewed after two years may be entitled to statutory redundancy payments (the contract should be ended using the minimum 3 step approach laid out in the Dispute Resolution procedures from April 2005).
- annual leave (pro rata)
- bank holidays (pro rata)
- limiting the use of successive fixed-term contracts

Unless different treatment is objectively justified.

A Written Statement or Contract of Employment

Must be given within two months of employment and include:

- the **names** of the employer and the employee;
- the **date** when the employment (and the period of continuous employment) began;
- **remuneration** and the intervals at which it is to be paid;
- **hours** of work;
- **holiday** entitlement;
- entitlement to **sick leave**, including any entitlement to sick pay;
- **pensions** and pension schemes;
- the entitlement of employer and employee to **notice** of termination;
- job **title** or a brief job description;
- where it is not permanent, the **period for which the employment is expected to continue** or, if it is for a fixed term, **the date when it is to end**.
- either the **place of work** or, if the employee is required or allowed to work in more than one location, an indication of this and of the employer's address; and
- details of the existence of any relevant **collective agreements** which directly affect the terms and conditions of the employee's employment
- The statement must also include a note giving certain details of the employer's **disciplinary and grievance procedures**, and stating whether or not a pensions contracting-out certificate is in force for the employment in question..

Unions

- If you employ 21 or more workers a union may ask you for recognition. If you agree to this, the statutory recognition process is completed.
- If an employer does not voluntarily recognise it, a Trade Union may apply to the Industrial Court for the legal right to be recognised by an employer for collective bargaining over pay, hours and holidays, in respect of a group of workers in a particular "bargaining unit".
- If a majority supports recognition and makes up at least 40% of the balloted workforce, you must recognise the union.

Pensions

- All organisations employing five or more staff have to offer access to a (at least) stakeholder pension scheme within 12 months of start date.
- You don't have to offer an occupational pension or contribute to a pension, but a large number of organisations will do this.
- It is often seen as a way to aid the recruitment and retention of employees.

Contact for HR queries:
Susan Lavery
Email: susan.lavery@nicva.org
Tel: 028 9087 7777