

## **View from the Chair; Business Newsletter; 30 August 2022 Geraldine McGahey, Chief Commissioner, Equality Commission NI**

### **Make your workplace Age-Positive!**

In recent weeks, we've seen companies such as McDonalds and John Lewis go public with initiatives to attract older workers back to work. The Chartered Institute of Personnel and Development is encouraging employers to better understand older workers and make changes to workplaces and practices to make them more attractive to this cohort of the workforce. Flexible and part time working, hybrid working or working from home are more likely to appeal, as are more unusual adjustments such as Saga's paid week's leave on the birth of a grandchild.

Against this age-positive background, we still have to caution that acting on age stereotypes is potentially damaging for employers. We have a very recent, straightforward example.

A couple of weeks ago we publicised the case of Janice Walsh from Strabane who settled her case of age and sex discrimination against DP Strabane t/a Domino's Pizza and its owner at the time. We supported her in taking her case, which was settled for £4,250, an apology and regret for the injury to her feelings.

This is about more than hurt feelings, though. That age question may in many circumstances prove to be unlawful, so unless you have a very good, objectively justifiable reason for asking it, don't ask. It could be justifiable for example in a minimum wage job to decide what rate of pay they will be on. You can ask someone their date of birth on a separate equality monitoring form. You should not let people selecting or interviewing candidates see this form.

The age element of this case arises from a question at interview. Janice had applied for a post as a team member/delivery driver with Domino's Pizza in Strabane. At her interview, Janice says the first question was how old she was, and it looked to her as though the interviewer wrote down the answer and drew a circle round it. When she later checked to see if she had been successful, she found that if candidates hadn't heard otherwise, their applications had been unsuccessful.

She immediately thought back to the interview. Because of that first question, she believed her age was an issue and had affected the decision made by the interview panel. After she contacted the company to tell them that she believed the question was discriminatory, she received a telephone call from an interview panel member

who apologised and said they did not know that it was inappropriate to ask someone their age directly when interviewing for a post. Another person from Domino's Pizza said that the nature of the work tended to suit younger people between 18 and 30 years old.

It's really important not to allow stereotypical views of who can do particular jobs to influence decisions. What's more important is to test and assess applicants' capabilities and potential so that you get the best person for the job, regardless of age, sex, race, religion or other personal characteristic.

The Employment Equality (Age) Regulations came into effect in 2006 – 16 years ago. It's important that employers of any size, advertising any job, are aware of the basics of equality legislation and how it protects job applicants, as well as current employees, from age discrimination at work.

This case showed that people involved in recruitment and selection should be familiar with how people are protected by the legislation in order to keep the employer on the right side of the law. You need to remember as well that not knowing about the law will not save you at tribunal, and ensure that anyone you hire or employ in a HR capacity knows the elements of employment equality law.