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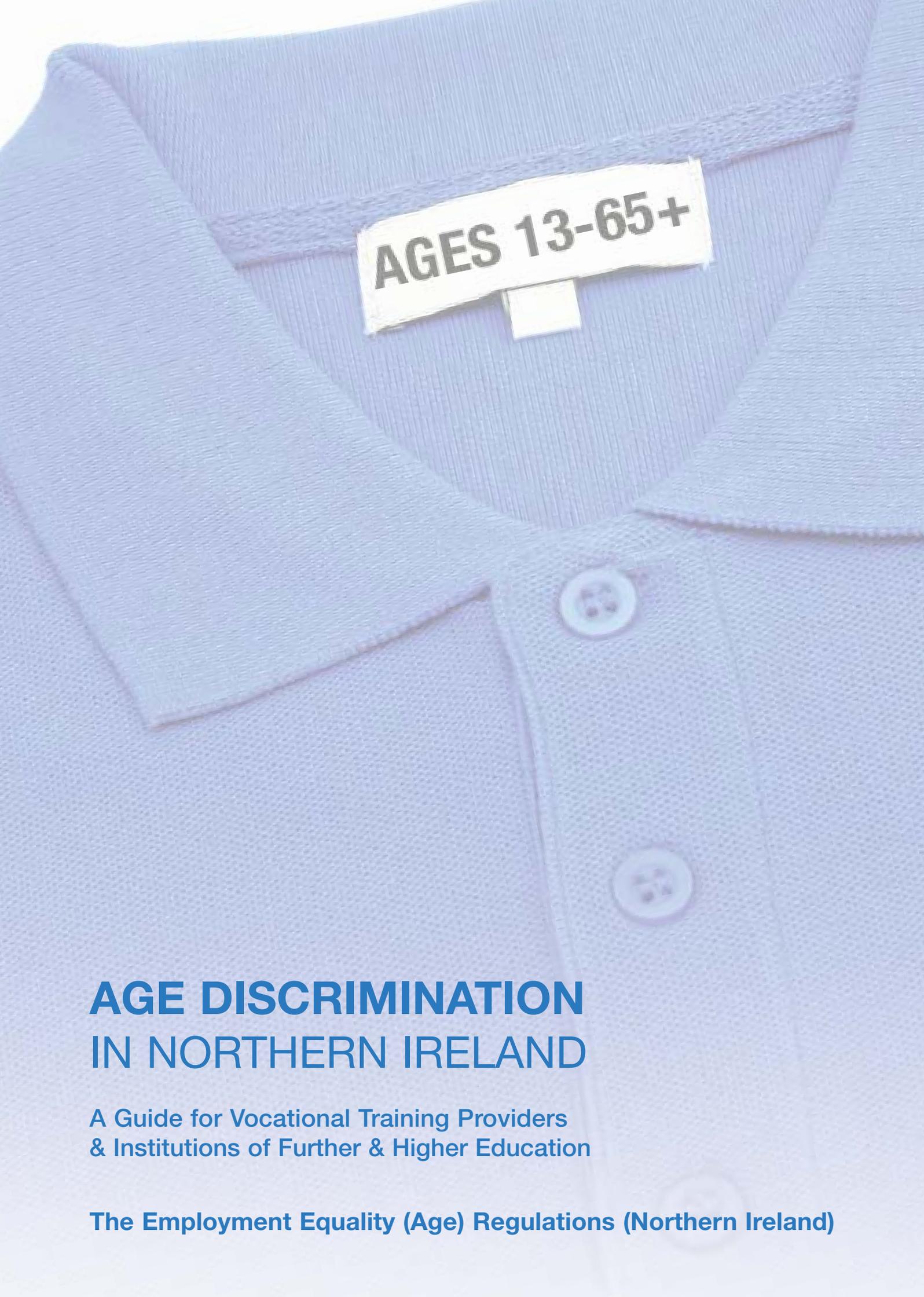
AGE DISCRIMINATION IN NORTHERN IRELAND

**A Guide for Vocational Training Providers
& Institutions of Further & Higher Education**

Equality Commission

FOR NORTHERN IRELAND

The Employment Equality (Age) Regulations (Northern Ireland)



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& Institutions of Further & Higher Education**

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This Guide was developed by the Equality Commission for Northern Ireland (“The Commission”) with assistance from Acas (Advisory, Conciliation and Arbitration Service). The Commission gratefully acknowledges the substantial contribution made by Acas to this publication.

On request, the Guide is available in a range of accessible formats from the Commission. If you would like a copy in an alternative format please contact us and state the format you require.

The Equality Commission for Northern Ireland

The Commission is an independent public body established under the Northern Ireland Act 1998. The Commission has a general duty to keep equality legislation in Northern Ireland under review. The Commission promotes equality of opportunity and provides advice and guidance in relation to:

- age discrimination;
- disability discrimination;
- equal pay;
- religious belief or political opinion discrimination;
- race discrimination;
- sex discrimination;
- sexual orientation discrimination; and
- the public sector equality duties and disability duties (respectively under Section 75 of the Northern Ireland Act 1998 and Section 49A of the Disability Discrimination Act 1995 as amended by the Disability Discrimination (Northern Ireland) Order 2006).

The Guide provides general guidance only and should not be regarded as a complete or authoritative statement of the law. This Guide is not a Code of Practice and does not of itself impose legal obligations. Authoritative interpretation of the law is a matter for Industrial Tribunals and Courts.

Note: This Guidance applies only to Northern Ireland

The Employment Equality (Age) Regulations (Northern Ireland) 2006 (the “Regulations”) apply to all employers, vocational training providers and institutions of further and higher education.

This Guide explains the duties placed upon vocational training providers and institutions of further and higher education (including universities) as vocational training and education providers, not as employers. Guidance for employers can be found in “Age Discrimination in Northern Ireland: A Guide for Employers” and can be obtained from the Commission.

The Guide explains how the Regulations make it unlawful for all vocational training providers and institutions of further and higher education to discriminate against or harass current or prospective trainees and students (and former trainees and students in certain circumstances) across all ages.

The Regulations came into operation on 1 October 2006.

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1. Introduction

The Employment Equality (Age) Regulations (Northern Ireland) 2006

- 1.1 **The Employment Equality (Age) Regulations (Northern Ireland) 2006 (the “Regulations”)** came into operation on **1 October 2006**, making it unlawful for employers and others to discriminate on grounds of age in the areas of employment and vocational training, including further and higher education.
- 1.2 The Regulations implement Northern Ireland’s obligations under **European Council Directive 2000/78/EC**, also known as the Framework Employment Equality Directive 2000 (“the Framework Directive”), in relation to discrimination on the grounds of age. The Framework Directive establishes a general framework for equal treatment in the field of employment and occupation and vocational training.

Who has responsibilities?

The Regulations prohibit age discrimination and harassment by the following training, career guidance and education-related organisations:

- career/training guidance providers who assist others in accessing work and training;
- organisations which confer professional and trade qualifications;
- vocational training providers; and
- institutions of further and higher education (including universities).

- 1.3 Age discrimination and harassment are also prohibited by employment and trade organisations. To obtain guidance for employers, please refer to “Age Discrimination in Northern Ireland: A Guide for Employers”.

Who is protected?

In vocational training and further and higher education, the Regulations grant protection against discrimination and harassment to:

- persons seeking and undergoing vocational training;
- persons seeking or holding a professional or trade qualification; and
- students, potential students and past students of institutions of further and higher education.

- 1.4 The Regulations also grant protection against age discrimination and harassment to job applicants and employees, including contract workers and former employees, regardless of age. To obtain further guidance, please refer to “Age Discrimination in Northern Ireland: A Guide for Workers and Employees”.

What areas or activities are covered?

In vocational training and further and higher education, the Regulations cover:

- admission to, and attendance on, vocational training – please refer to the “What is vocational training?” and “What is a vocational training provider?” information boxes;
- admission to, and attendance at, institutions of further and higher education – please refer to the “What institutions of further and higher education are covered by the Regulations?”, “So which institutions of further and higher education in Northern Ireland have duties?” and “What is education?” information boxes; and
- post-training and/or education situations, such as the provision of references.

- 1.5 The Regulations also prohibit discrimination and harassment on the grounds of age in all aspects of the employment relationship. Again, to obtain further guidance, please refer to the Commission publications: “Age Discrimination in Northern Ireland: A Guide for Employers” and “Age Discrimination in Northern Ireland: A Guide for Workers and Employees”.

Vocational training providers & institutions of further & higher education

- 1.6 Vocational training can be provided by a wide range of organisations. This section describes what constitutes vocational training and/or a vocational training provider. It also examines what represents education and/or an institution of further and higher education.
- 1.7 Generally throughout this Guide, the generic term “training and (or) education provider(s)” is used to cover both vocational training provider(s) and (or) institutions(s) of further and higher education. However, on occasions, the terms “vocational training provider(s) and (or) institution(s) of further and higher education” and “vocational training provider(s), college(s) and (or) university(ies)” are used when it is deemed appropriate and insightful.
- 1.8 Where the Regulations may only apply to vocational training providers, the specific terms “vocational training provider(s)” or “training provider(s)” are used. Similarly, where the Regulations may only apply to institutions of further and higher education, the specific terms “institution(s) of further and higher education” or “college(s) and (or) university(ies)” are used.

Vocational training providers

- 1.9 The information box below shows how the Regulations describe vocational training.

What is vocational training?

Under this law, 'training' stands for:

- all types and all levels of training which would help fit someone for any employment,
- the vocational guidance,
- the facilities for training,
- the practical work experience provided by an employer who does not employ the trainee, and
- any assessment related to the award of any professional or trade qualification.

- 1.10 Educational courses at institutions of further and higher education may, for example, provide training which would help fit someone for any employment. However, the Regulations clearly state that institutions of further and higher education are not vocational training providers. The information box below shows how the Regulations describe a training provider.

What is a vocational training provider?

A 'training provider' means any person who provides, or makes arrangements for the provision of training, but it does not include:

- employers with respect to the training they provide to their own employees;
- institutions of further and higher education (even though they provide vocational training, for the purposes of the Regulations and this Guide, they are specified as "institutions of further and higher education"); or
- proprietors of schools in relation to registered pupils.

1.11 Therefore, training providers may include:

- employers (for example, when they provide work experience);
- private sector training bodies;
- public sector training bodies; and
- voluntary sector training bodies.

All vocational training providers are referred to as either “vocational training providers” or “training providers” within this Guide when specific reference is made to this type of organisation.

Institutions of further & higher education

1.12 The Regulations make specific provisions for institutions of further and higher education. In respect to which institutions of further and higher education the specific provisions apply, the Regulations state the following.

What institutions of further and higher education are covered by the Regulations?

The institutions of further and higher education covered by the Regulations are those specified by the following legislation:

- an institution of further education (as recognised under Article 8 of the Further Education (Northern Ireland) Order 1997;
- a higher education institution (within the meaning of Article 30(3) of the Education and Libraries (Northern Ireland) Order 1993, as amended by Article 25 of, and Schedule 4 to, the Further Education (Northern Ireland) Order 1997 and by Article 11(2) of the Colleges of Education (Northern Ireland) Order 2005.

1.13 At the time of publication of this Guide, institutions of further and higher education in Northern Ireland had undergone significant restructuring. The information box below outlines which colleges have duties under the Regulations.

So which institutions of further and higher education in Northern Ireland have duties?

This law uses the term “institution of further and higher education”. In Northern Ireland, it refers to the:

Universities:

- Queen’s University Belfast;
- University of Ulster; and the
- Open University.

Colleges and/or institutions of further and higher education:

- Belfast Metropolitan College;
- Northern Regional College;
- North West Regional College;
- Southern Regional College;
- South Eastern Regional College; and
- South West College.

Colleges of education (teacher training colleges):

- Stranmillis University College; and
- St. Mary’s University College.

Other educational establishments:

- Any educational establishment recognised as an institution of further and/or higher education for the purposes of the legislation cited within the previous information box, or any other amending or applicable legislation, may also have duties under these Regulations.

All these establishments are referred to as either “institution(s) of further and higher education” or as “college(s) and (or) university(ies)” within this Guide when specific reference is made to this type of educational establishment.

Who are the governing bodies of institutions of further and higher education?

- The governing body of a University
- The governing body of an institution of Further Education
- The management of a College of Education

What is education?

Within this Guide, “education” refers only to education at a “college or university” or an “institution of further and higher education” as defined below. For the purposes of this Guide, “education” at “institutions of further and higher education” also includes any “vocational training” and “non-vocational training” provided at these educational establishments.

For this Guide, “education” does not refer to any education that is not provided by a “college or university” or an “institution of further and higher education”, such as in schools.

Organisations & establishments

- 1.14 In an effort to make the Guide easier to understand, it separates the descriptions of vocational training providers or institutions of further and higher education from the physical environments in which these vocational training providers or institutions of further and higher education deliver either vocational training or education. The information boxes below describe the differences.

What is a vocational training organisation?

For the purposes of this Guide, a ‘vocational training organisation’ refers to a vocational training provider’s buildings, services and facilities.

What is an educational establishment?

For the purposes of this Guide, an ‘educational establishment’ refers to the campus, buildings, services and facilities over which the governing body of an institution of further and higher education normally provides educational courses and/or benefits to students.

Trainees & students

- 1.15 For the purposes of this Guide, the following definitions of “trainee” and “student” are mutually exclusive. That is, a person can be one or the other but not both at the same time.

What is a trainee?

A “trainee” is any person who receives vocational training from a vocational training provider. For the purposes of this Guide and the Regulations, the term “trainee” refers to trainees, prospective trainees and past trainees.

What is a student?

A “student” is any person who receives education at an institution of further and higher education. For the purposes of this Guide and the Regulations, the term “student” refers to students, prospective students and past students.

- 1.16 Please note, for the purposes of the Regulations and this Guide, “registered pupils” (as defined by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986) are neither “trainees” or “students”.

Goods, facilities & services

- 1.17 The Regulations do not generally prohibit discrimination by those who provide goods, facilities and services to the public.

What is meant by goods, facilities and services?

Goods, facilities and services respectively relate to the obtaining (either by buying, renting, or for free) of:

- goods (such as a computer, an mp3 player or a car);
- resources to do something (such as entertainment facilities to hold a party or banking facilities for saving money); and
- help or work from another (such as the supply of gas or electricity to a home by a public or private company, or the supply of food by a restaurant).

1.18 However, those who provide employment-related services, such as:

- employment agencies,
- career guidance services,
- vocational training providers, or
- colleges or universities

are prohibited from discriminating against or harassing someone on the grounds of age.

Public authorities

1.19 Public authorities, including institutions of further and higher education, which are designated under Section 75 of the Northern Ireland Act 1998 are already under a duty, when carrying out their functions, to have due regard to the need to promote equality of opportunity between persons of different ages. The Regulations, which apply to all public and private sector employers, are different in that they grant protection to individual trainees and students and others who have been discriminated against on the grounds of age. In the operation of Section 75, public authorities need to ensure that they do not breach the Regulations. In applying the Regulations, public authorities have the additional responsibility of ensuring that they comply with the general duty under Section 75.

A Guide for vocational training providers & institutions of further & higher education

Focus of this Guide

This Guide provides vocational training providers, colleges and universities with general advice on the law and promoting good practice.

The Guide only provides guidance with respect to the vocational training provider and trainee relationship, and the college or university and student relationship.

1.20 Employees and individuals can also obtain important information regarding their rights and responsibilities under the law from our accompanying guides:

- “Age Discrimination in Northern Ireland: A Guide for Employers” and
- “Age Discrimination in Northern Ireland: A Guide for Workers and Employees”.

This Guide

1.21 The Guide has twelve chapters:

- Introduction;
- Who do the Regulations apply to?;
- Age discrimination and other unlawful acts;
- Exceptions & exemptions;
- Admission of trainees & students;
- Current trainees & students;
- Qualifications bodies;
- Discrimination after a relevant relationship has come to an end;
- Harassment & bullying;
- Equality policies, practices & procedures;
- Resolving disputes; and
- Further information, advice & support.

- 1.22 Examples of how the Regulations are likely to work are given in boxes. They are simply intended to illustrate the principles and concepts used in the legislation and should be read in that light. The examples should not be treated as complete or authoritative statements of the law. It is not possible to offer generalised solutions. Individual circumstances will always require individual solutions. Changes to specific circumstances in any of the examples given might well change the solution or outcome. While the examples refer to particular situations, they should be understood more widely as demonstrating how the law is likely to be applied generally.
- 1.23 Examples used in this Guide are not based on actual events. Any similarity with actual events, whether they be in the future, present or past, are coincidental. Furthermore, all names of individuals, organisations or establishments used within the examples are fictitious.

Further information

- 1.24 Further information on the law and good practice in promoting equality of opportunity with respect to age can be obtained by contacting the Commission's Enquiry Line on 028 90 890 890.
- 1.25 The Equality Commission provides a free and confidential information and advice service and produces advisory materials covering many aspects of Northern Ireland's equality framework. Information and publications are also available on the Commission's website (www.equalityni.org).
- 1.26 Information and advice can also be obtained by contacting organisations who work on age related issues. Details of these organisations can be found in the chapter: "Further information, advice & support".

2. Who do the Regulations apply to?

Introduction

- 2.1 The Regulations prohibit discrimination in the areas of employment and vocational training, including further and higher education.
- 2.2 This Guide is aimed at vocational training providers and institutions of further and higher education. However, trainees, students and other individuals may also find it useful. This chapter examines:
- Legal responsibilities of training and education providers; and
 - Legal responsibilities of employees, trainees and students.

Legal responsibilities of training & education providers

- 2.3 The Regulations generally prohibit training and education providers, regardless of size, from subjecting trainees and students, including prospective and former trainees and students, to age discrimination and harassment.

As vocational training providers

- 2.4 The Regulations generally prohibit discrimination and harassment on grounds of age in all aspects of vocational training delivered by vocational training providers.
- 2.5 Vocational training providers are always responsible for their own discriminatory acts. A vocational training provider is directly responsible where they discriminate against or harass one of their own trainees, prospective or former trainees.

- 2.6 The Regulations prohibit discrimination by vocational training providers against persons seeking or undergoing vocational training in the arrangements they make for the purpose of determining to whom they should offer vocational training, the terms on which they afford access to training, in refusal or deliberately not affording access to training, by terminating training or the subjection of any other detriment during training.
- 2.7 As employers, vocational training providers are also responsible for the actions of their employees, agents and other contract workers towards trainees and others. Please refer to the “As employers” section below.

Section 75

- 2.8 Public authorities, including Government Departments, which are designated under Section 75 of the Northern Ireland Act 1998, are under a duty, when carrying out their functions, to have due regard to the need to promote equality of opportunity between persons of different ages.
- 2.9 The provisions within the Regulations which apply to public authorities are different in that they grant individual rights to people who have been discriminated against on grounds of age. In the operation of Section 75, public authorities need to ensure that they do not breach the Regulations. In applying the Regulations public authorities have the additional responsibility of ensuring that they comply with the general duties under Section 75.
- 2.10 The Commission’s guidance “Guide to the Statutory Duties - A guide to the implementation of the statutory duties on public authorities arising from Section 75 of the Northern Ireland Act 1998 - Revised February 2005” clearly identifies “procurement” as a function of public authorities.

- 2.11 Public authorities which engage in procurement projects where contract management is transferred to another organisation, for example a vocational training provider, have the final responsibility for ensuring that all equality obligations and considerations are met and built into contracts. Public authorities contracting vocational training providers should refer to the Commission's and Central Procurement Directorate's guidance: "Guidance on equality and sustainable development considerations in public sector procurement (with particular reference to PPP/PFI)".

As institutions of further & higher education

- 2.12 The Regulations generally prohibit discrimination and harassment on grounds of age in all aspects of education within institutions of further and higher education.
- 2.13 Institutions of further and higher education are always responsible for their own discriminatory acts. An institution of further and higher education is directly responsible where they discriminate against or harass one of their own students, prospective or former students.
- 2.14 The Regulations prohibit discrimination in the terms on which an institution of further and higher education offers to admit someone to the establishment as a student and in the refusal of, or deliberately not accepting, an application for admission to the establishment. Therefore, the Regulations do not distinguish between admission to an educational establishment and admission to a course. All institutions of further and higher education should review all their admissions procedures for all their courses and for the establishment as a whole. This may require consultation with qualifications bodies and other statutory authorities.
- 2.15 Institutions of further and higher education are prohibited from discriminating or harassing students, on grounds of age, in the way they afford them access to benefits, by refusing or deliberately not affording them access to benefits, in excluding students from the establishment or subjecting them to any other detriment.

- 2.16 As employers, institutions of further and higher education are also responsible for the actions of their employees, agents and other contract workers towards students and others. Please refer to the “As employers” section below.

Section 75

- 2.17 Institutions of further and higher education are designated under Section 75 of the Northern Ireland Act 1998. These public authorities are under a duty, when carrying out their functions, to have due regard to the need to promote equality of opportunity between persons of different ages.
- 2.18 The provisions within the Regulations which apply to public authorities are different in that they grant individual rights to people who have been discriminated against on grounds of age. In the operation of Section 75, public authorities need to ensure that they do not breach the Regulations. In applying the Regulations public authorities have the additional responsibility of ensuring that they comply with the general duties under Section 75.
- 2.19 Institutions of further and higher education should refer to all Commission guidance for public authorities on Section 75. These are available on the Commission’s website.

As employers

- 2.20 As employers, training and education providers are generally prohibited from subjecting job applicants and employees, including contract workers and former employees, to age discrimination and harassment. Guidance for employers can be obtained in: “Age Discrimination in Northern Ireland: A Guide for Employers”.
- 2.21 As employers, training and education providers are always responsible for their own discriminatory acts. Vocational training providers or institutions of further and higher education are directly responsible where they discriminate against or harass one of their own employees, prospective or former employees.
- 2.22 As employers, vocational training providers and institutions of further and higher education have specific legal responsibilities in relation to the actions of their employees. The Regulations state that employers have responsibility for any age discriminatory acts of their employees carried out in the course of their employment, whether or not they knew of the discriminatory acts or approved of them.
- 2.23 Employers, which include all training and education providers, may, in certain circumstances, be held responsible for the discriminatory actions of employees even though they occur outside the workplace or outside normal working hours. Employers may, for example, be held liable for the actions of employees who discriminate against or harass work colleagues, trainees or students at work-related, training-related or educational-related social events.
- 2.24 The Regulations also make it clear that employers can be liable for the discriminatory acts of their agents if the agent acts with the employer’s express or implied authority.
- 2.25 Lastly, in certain limited circumstances, employers such as training and education providers can be held responsible for a failure to prevent discriminatory actions, such as acts of harassment, carried out by customers, clients, trainees or students against their employees.

Legal defences

- 2.26 As employers, training and education providers cannot generally avoid responsibility for their own discriminatory actions. However, they may be able to avoid being held liable for the discriminatory conduct of their employees, trainees and students where they can demonstrate that they have taken such steps as were reasonably practicable to prevent the employees, trainees and students from carrying out those discriminatory acts or harassment. It is, therefore, essential for training and education providers to consider all reasonably practicable steps which are available.
- 2.27 The kinds of reasonably practicable steps which training and education providers may take are described later in this Guide. As employers, they may refer to the Commission publication: *Age Discrimination in Northern Ireland: A Guide for Employers*".

Legal responsibilities of employees, trainees & students

Employees

- 2.28 Like training and education providers, individual employees of these organisations and establishments should ensure that they do not discriminate against or harass others on grounds of age. In the event of a complaint to an Industrial Tribunal or County Court, individual employees who carried out age discriminatory conduct may be held personally liable or jointly liable with the training or education provider for their actions, and be ordered to pay all or part of any compensation that the Industrial Tribunal or County Court may award to the complainant, including costs.

Trainees & students

- 2.29 Like training and education providers, individual trainees and students should ensure that they do not discriminate against or harass others on grounds of age.

- 2.30 Under the Regulations, individual trainees or students may be personally liable for discriminating against or harassing other trainees or students, or employees of a training or education provider on grounds of age.
- 2.31 If an individual trainee or student discriminates against or harasses another on grounds of age, that trainee or student may be subject to the disciplinary policies and procedures of the training or education provider. Under the Regulations, vocational training providers, colleges and universities have a duty to take reasonable steps to ensure that discrimination and/or harassment on grounds of age may not occur in all aspects of vocational training or education. Trainees, students or employees who feel that they have been discriminated against or harassed on grounds of age by a trainee or student may make a complaint against the training or education provider for failing to put in place such reasonable steps; one of many may be the implementation of robust complaints and disciplinary policies and procedures.
- 2.32 Furthermore, under other legislation (See chapter: “Harassment & bullying”) trainees or students who feel that they have been harassed on grounds of age by other trainees or students may pursue recourse through a court of law.

3. Age discrimination & other unlawful acts

Age discrimination

Discrimination on grounds of age can include:

- Direct discrimination;
- Indirect discrimination;
- Victimisation;
- Discrimination for failing to carry out an age discriminatory instruction; and
- Harassment.

Direct discrimination

- 3.1 Direct age discrimination occurs where, on the grounds of a person's age (or, perceived age), a training or education provider, without objective justification, treats that trainee or student less favourably than they treat, or would treat, other trainees or students in circumstances that are the same, or not materially different.
- 3.2 In a small number of circumstances, direct age discrimination may be permitted where a training or education provider can demonstrate that their actions are lawfully justified, or objectively justified.
- 3.3 Objective justification is described in further detail in the following examples and in chapter: "Exceptions & exemptions". Training and education providers are strongly recommended to examine this section to understand objective justification. The chapter also explains some discriminatory activities which can be lawfully justified as exceptions to the Regulations.

Example 1

Direct age discrimination in vocational training with an employer

Thomas was a 48 year old trainee on a ‘Bridge to Employment’ training programme in gas supply, maintenance and repair with a large gas provider. Thomas applied to this training scheme as he was interested in the mechanical, engineering and construction aspects of gas supply.

As part of the training with ‘Bridge to Employment’, trainees were required to carry out training by assisting the Maintenance Division in the repair and maintenance of gas supply equipment and pipelines etc. across Northern Ireland.

However, two weeks before he was meant to commence his placement, Thomas received a letter from the Personnel Officer of the company. The letter stated that due to his age Thomas would not be allowed on the placement with Maintenance Division. The letter stated that he would receive supplementary training within the Administration Section of the company. None of Thomas’s fellow trainees, all of whom were under 40 years of age, received such a letter.

The gas supply provider was directly discriminating against Thomas on grounds of age. Thomas believed that by not being able to carry out the same training as all other trainees on the scheme, he would be placed at a disadvantage when he would subsequently seek and apply for employment with the gas supply company or another company as the vocational training was specifically designed to train people for gas supply, repair and maintenance.

Example 2

Direct age discrimination by an Admissions Officer of a university

Lewis was aged 50 years. He applied for a course at the local university. The university's Admission Officer noted that Lewis had all the entry qualifications and skills required to gain entry onto the course. However, the Admissions Officer also noted that all the other students who were currently on the course were aged 18 to 25 years.

The Admission Officer assumed that Lewis may not "fit in" with the other students because of the differences in their ages. For this reason, the Admissions Officer decided not to offer a place to Lewis. Lewis had been treated less favourably than other applicants on grounds of age. The treatment was based on a biased and stereotypical assumption that an older student would be unable to "fit in" with younger students. Therefore, this treatment was likely to amount to direct age discrimination.

Indirect discrimination

- 3.4 This occurs where an individual is put at a particular disadvantage compared to other persons because a training or education provider, without objective justification, applies a provision, criterion or practice which, although it was applied to all persons equally, puts persons of the same age group as the individual at a particular disadvantage compared to other persons.
- 3.5 In a small number of circumstances indirect age discrimination may be permitted where a training or education provider can demonstrate that the provisions, criteria or practices are lawfully justified, or objectively justified. Objective justification is described in further detail in the chapter: "Exceptions & exemptions" of this Guide. The chapter also explains some discriminatory activities which can be lawfully justified as exceptions to the Regulations.

Example 3

Indirect age discrimination by a college of further and higher education

Damien was a 42 year old shop worker in a local hardware store. Due to personal circumstances when he was 16, Damien opted to leave school with no qualifications to work full-time in the store. When the hardware store went out of business, Damien found himself without a job and unable to start his own business.

As Northern Ireland was going through a housing boom, Damien considered a job in the construction industry as a wise move.

He applied to go on a full-time NVQ (Level 2) in Bricklaying course at the local regional college. The course led to awards from the CITB (Construction Skills) & CGLI (City & Guilds of London Institute) and was validated by QCA (Qualifications and Curriculum Authority). Damien applied for the course. He was refused entry as he did not comply with one of the entry requirements. For this course, the regional college's prospectus stipulated that students should have a satisfactory secondary school profile.

The entry requirements may be indirectly age discriminatory. When Damien left school there were few additional qualifications to GCE 'O' Levels or Certificates of Secondary Education (CSE). As Damien failed to sit his examinations and had opted for full-time employment, he could not prove that he had 'satisfactorily completed his secondary school education'. The college should have put in place other measures whereby they could assess applicants' aptitude/ability to undertake the course.

Age victimisation

- 3.6 This occurs where a training or education provider treats a person less favourably than it treats, or would treat, other persons and does so by reason that the person has, in good faith, made (or intends to make) a complaint or allegation under the Regulations, or has assisted (or intends to assist) another person to make such a complaint or allegation. It is not necessary for the victim to have previously made a complaint or allegation to an Industrial Tribunal or County Court; for example, he/she is protected if he/she made a complaint in the course of an internal grievance. Please refer to chapter: “Resolving disputes” in this Guide.
- 3.7 Treatment that amounts to victimisation is not capable of being objectively justified.

Example 4

Age victimisation by a vocational training provider

A year ago Linda lodged, with an Industrial Tribunal, an age discrimination complaint against her NVQ Level 2 vocational training provider. Another trainee on the same course, Maggie, gave evidence on Linda’s behalf at the Industrial Tribunal hearing.

Two months later, Maggie applied for a position on the NVQ Level 3 course, but her application was rejected even though she had successfully completed the training and work experience at NVQ Level 2. The actual reason for the rejection was that the vocational training provider was retaliating against Maggie for having assisted Linda in her age discrimination complaint.

This treatment amounts to discrimination by way of victimisation and is not capable of being justified.

- 3.8 Protection against victimisation does not apply to individuals who make allegations of discrimination which are false and not made in good faith.

Discrimination for failing to carry out an age discriminatory instruction

- 3.9 This occurs where a training or education provider treats a person less favourably than it treats, or would treat, other persons and does so by reason that the person has failed to carry out (in whole or in part) an instruction (or has complained about receiving an instruction) to do an act which is unlawful under the Regulations.
- 3.10 Treatment that amounts to this form of discrimination is not capable of being objectively justified.

Example 5

Discrimination for failing to carry out an age discriminatory instruction by a college of further and higher education

Maxwell had attained four 'A' levels (Mathematics, Physics, Chemistry and Design & Technology), all at Grade A, by the age of 15. He wished to further his studies in mechanical engineering. With his qualifications Maxwell was eligible to apply for a place at the local university. However, Maxwell lived in the countryside and did not want to travel the great distance every day to attend this university, or to board away from his family.

The local college of further and higher education ran a Mechanical Engineering (Foundation Degree)(Level 5) course whereby students would receive their award from the same university. The entry requirements stated that all applicants must have achieved 160 UCAS tariff points.

To recap, Maxwell had achieved the 160 UCAS tariff points, in the appropriate subject areas and he would have been 16 years old when he was due to start the course.

As a result of the Regulations coming into operation on the 1 October 2006, the college of further and higher education removed all age-related criteria for students wishing to apply for their foundation degrees, in agreement with the awarding university.

However, the Head of Admissions instructs the Course Administrator for the Mechanical Engineering (Foundation Degree) course to only select applications from students aged 18 years and over, following

the age-related criteria used prior to the Regulations coming in operation, as a result of a high demand for places on the course.

This instruction was likely to result in direct age discrimination against Maxwell and other students under 18 years of age. The course administrator noted this and refused to carry out the instruction. As a result he was dismissed from his employment.

This treatment amounts to discrimination for failing to carry out an age discriminatory instruction and cannot be justified.

Age harassment

- 3.11 Age harassment occurs where, on grounds of age, a person is subjected to unwanted conduct which has the purpose or effect of violating his or her dignity, or which creates an intimidating, hostile, degrading, humiliating or offensive environment for him or her.
- 3.12 Harassment can occur when someone close to the person is the subject of the behaviour; for example, when someone is teased because their personal partner is considerably older or younger.
- 3.13 Harassment can take many forms:
- physical conduct such as serious assault,
 - verbal conduct such as jokes, banter, insults, innuendos, nicknames, teasing, name calling or songs and
 - written conduct such as graffiti, posters, pictures, e-mails.
- 3.14 Harassment may include conduct which is:
- condescending;
 - deprecating;
 - bullying behaviour; or
 - unfairly criticising another's work performance.

3.15 An Industrial Tribunal or County Court will take into account how the conduct in question was perceived by the person alleging harassment. The unwanted conduct in question shall be regarded as having the effect on a person subject to it only if, having regard to all the circumstances, including the perceptions of the person, it should reasonably be considered as having the effect of violating his or her dignity, or which creates an intimidating, hostile, degrading, humiliating or offensive environment for him or her. Therefore, the following two points should be considered:

- A single act, if sufficiently serious, can constitute harassment.
- Harassment can still be unlawful even though the person harassing another did not intend to cause offence or did not specifically direct the offensive conduct at the person alleging harassment.

Example 6

Age harassment of a trainee by trainees with a vocational training provider

Michael and Jimmy, who were both aged 45 years, attended a ‘Bridge to Employment’ course with a local employer. The vast majority of other trainees were aged between 20 and 25 years.

The younger trainees habitually teased Michael and Jimmy about their ages by calling them “old fogies” and “Granda’s”. They even did this in front of the employer’s staff; that is, the “Bridge to Employment” trainers. They believed that they were engaging in “good-natured banter”. Michael did not mind the teasing and he laughed along with it.

However, Jimmy was offended by the comments, particularly when they were made in front of the company’s managers and employees, and although he had made his feelings clear to his fellow trainees, they continued to tease him.

The conduct towards Jimmy was harassment on the grounds of age.

Jimmy reported the teasing to the vocational training provider; the “Bridge to Employment” employer. However, the vocational training provider failed to take such steps as were reasonably practicable to

prevent the other trainees from carrying out the harassment. Due to the vocational training provider's failure to take such steps to prevent the harassment, the vocational training provider may be unable to avoid being held liable for the actions of its trainees.

Example 7

Age harassment by a lecturer at a university

Lucian, a 50 year old drama student, felt that he was being harassed. Sebastian, one of his lecturers, continually made jokes about older people. Lucian asked his lecturer to stop doing this, but Sebastian said that he was being 'oversensitive' as he habitually made jokes about many different types of people.

Sebastian's actions were likely to amount to harassment. Making remarks of this kind should reasonably be considered as either violating Lucian's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him.

- 3.16 The reader is strongly recommended to examine the chapter "Harassment & bullying". Training and education providers, and other employers, can also obtain information on this subject in the Equality Commission and Labour Relations Agency joint publication "Harassment & Bullying in the Workplace" which is available on their websites.

4. Exceptions & exemptions

Objective justification

- 4.1 Direct and indirect discrimination may be permitted where a training or education provider can demonstrate that their actions or provisions, criteria or practices are objectively justified.
- 4.2 Training and education providers will need to provide strong evidence to support any claim of objective justification. Assertion alone will not be sufficient and each case must be considered on its individual merits.
- 4.3 Training and education providers must remember that it will be difficult to meet these requirements as the general principle remains that different treatment on grounds of age will be unlawful and different treatment on grounds of age will only be possible exceptionally and only for good reasons.
- 4.4 Objective justification cannot be used as a defence for victimisation and harassment or discrimination for failing to carry out an age discriminatory instruction.
- 4.5 To establish a defence of objective justification, a training or education provider must demonstrate that any treatment which may result in direct age discrimination, or that the application of any provision, criterion or practice which may result in indirect age discrimination are a proportionate means of achieving a legitimate aim.

What is a legitimate aim?

- 4.6 A wide variety of aims may be considered legitimate. However, the aims must correspond with the reasonable needs of the training or education provider. Economic factors such as business needs and efficiency may be legitimate aims; however, a training or education provider that pursues an age discriminatory practice with the sole aim of minimising or saving costs may not rely on that particular factor alone as a justification defence. A training or education provider can, however, put cost into the balance, together with other legitimate aims if there are any.
- 4.7 The following may be other examples of legitimate aims:
- promotion of health and safety;
 - the need for a reasonable period of employment following qualification – however, saving money because discrimination is cheaper may not be legitimate;
 - the professional requirements of a particular profession at which the course is aimed – provided these are also objectively justified.
- 4.8 In the event that an individual complains of discrimination, it will be for a training or education provider to convince an Industrial Tribunal or County Court that the treatment was objectively justified as a proportionate means of achieving a legitimate aim. It will ultimately be for the Industrial Tribunal or County Court to determine whether the training or education provider's aim was legitimate.
- 4.9 In practice, the test of objective justification is not an easy one and it will be necessary to provide evidence if challenged; assertions alone will not be enough.

What is proportionate?

4.10 The particular means adopted by a training or education provider to achieve a legitimate aim must be proportionate to the aim in question.

4.11 This means that:

- the decisions or provisions which a training or education provider makes or the criteria or practices which are applied must actually contribute to the pursuit of the legitimate aim. For example, if the training or education provider uses an age-related practice in order to promote health and safety (the legitimate aim), then they should have evidence which shows that the practice actually promotes health and safety;
- the importance and benefits of the legitimate aim should be weighed up against the discriminatory effects. For example, a discriminatory criterion which helps to protect trainee or student safety is more likely to be regarded as proportionate than one which results in a marginal improvement in production efficiency; and
- the training or education provider should not discriminate more than necessary. For example, where a legitimate aim can be achieved equally as well by a measure that has a substantial discriminatory effect and one that has a lesser discriminatory effect, or none at all, the latter should be used.

Other exceptions & exemptions

4.12 The Regulations allow for some discriminatory activities to be lawful. These activities are either due to a genuine occupational requirement or fall within statutory exceptions to the legislation.

- 4.13 If any age-related treatment, provisions, criteria or practices satisfy the conditions set for these exceptions, they will be lawful without the need for objective justification.
- 4.14 Training and education providers should seek legal advice before taking any action in the belief that an exception may apply.

Exceptions which may impact upon the trainee and student relationship with vocational training providers and institutions of further and higher education

The exceptions are:

- positive action;
- genuine occupational requirements;
- acts under statutory authority; and
- national security.

These exceptions are examined in further detail below.

- 4.15 Other exceptions to the Regulations are:
- the armed forces;
 - retirement;
 - the recruitment of those over 65;
 - the provision of benefits based on length of service;
 - the National Minimum Wage;
 - the provision of enhanced redundancy payments; and
 - the payment of life assurance cover to retired workers.
- 4.16 These exceptions are not examined within this Guide. For further explanation of these exceptions please refer to: “Age Discrimination in Northern Ireland: A Guide for Employers”.

Positive action

- 4.17 The Regulations only permit two types of positive action to be taken. These are:
- affording persons of a particular age or age group access to facilities for training which would help to fit them for particular work; or
 - encouraging persons of a particular age or age group to take advantage of opportunities for doing particular work.
- 4.18 The Regulations state that these two types of lawful positive action may only be taken where, in regard to the provision of training or education in question, it reasonably appears to the training or education provider that taking the action will prevent or compensate for disadvantages linked to age suffered by persons of the targeted age or age group.
- 4.19 So long as the conditions for taking positive action are satisfied, the training or education provider will not, in addition, have to lawfully justify taking that action (by showing that it is a proportionate means of achieving a legitimate aim).
- 4.20 In short, a training or education provider may be able to treat a particular age group more favourably in relation to access to relevant training and education if this is designed to compensate for the fact that the age group is disadvantaged in applying for or doing a particular type of work. Therefore, the positive action exception could apply to vocational training and educational courses aimed at a particular profession but may also apply to a general access course which is a precursor to professional training. If a course is not sufficiently linked to a particular type of work, the positive action exception is unlikely to apply.
- 4.21 Training and education providers should seek advice from the Commission, and/or seek independent legal advice, before taking any positive action measure.

Genuine occupational requirements

- 4.22 In exceptional circumstances, age-related actions, provisions, criteria or practices may be lawful where, having regard to the nature of the employment or the context in which it is carried out, possessing a characteristic related to age is a genuine and determining occupational requirement (“GOR”).
- 4.23 Training or education providers may only use a GOR to justify age discrimination in respect of the arrangements for the purpose of determining to whom they should offer training or education. They may not use a GOR to respectively justify differences in terms on which they afford trainees access to any vocational training or on which they admit students or in the terms on which they afford students access to any benefits.
- 4.24 Training or education providers may only apply a GOR where it is proportionate to do so. This is similar to the “proportionate means” requirement that was discussed in the previous section.
- 4.25 Training and education providers should seek advice from the Commission, and/or seek independent legal advice, before taking any action in the belief that GOR may apply.
- 4.26 Within vocational training and education, the use of a genuine occupational requirement may only be applied under very limited circumstances. It is highly likely that the use of a GOR by a training or education provider may be dependent upon the successful use of the GOR by a set of employers and their trade, professional and qualifications bodies. It is unlikely that the use of the GOR could be lawfully justified for the placement of trainees or students on a vocational training or educational course with a training or education provider, when accreditation by the trade, professional or qualifications body may only be required for practice in employment post training or education.

Statutory authority

- 4.27 Age criteria are widely used in legislation, notably in the area of qualifying for various licences. Where this is the case, the training or education provider must follow the criteria laid down by statute and will not be contravening the Regulations by doing so.

Example 8

Government funding for vocational training, college or university courses

The Directive states that it does not apply to payments of any kind made by state schemes. The power to make provision for support for students is set out in the Teaching and Higher Education Act 1998 and associated legislation. The grants and loans for tuition fees and maintenance paid to students are from public funds. Therefore, student support in the United Kingdom is a "state scheme". As such, funding falls outside the scope of the Directive and it is therefore not covered by the Regulations.

Maintenance loans for students affect maintenance during study, not admission to a course of study. They are not related to access and fall outside the scope of the Directive.

Bursaries and scholarships are also not covered, because they are incentives, as opposed to relating directly to access.

National security

- 4.28 The Regulations do not render unlawful any justifiable act that is done for the purpose of safeguarding national security, or protecting public safety or public order.

5. Admission of trainees & students

Introduction

5.1 This chapter examines the admission of trainees and students onto vocational training or educational courses with training and education providers, with respect to:

- the **Arrangements** training and education providers may put in place for determining who to offer vocational training or education;
- the **Terms** on which training and education providers afford trainees and students access to training or education; and
- the **Refusal** of access to vocational training and educational establishments by training and education providers.

5.2 The chapter also makes recommendations for good practice in:

- marketing and advertising courses;
- mature trainees and students;
- courses for specific age groups;
- age-related criteria;
- minimum age limits;
- admission of young trainees and students;
- maximum age limits;
- trainees and students who return after a period of time away from the learning environment;
- experience;
- separate admissions procedures;

- discretionary funding and reduced or concessionary fees; and
- positive action.

5.3 It is recommended that training and education providers examine all sections within this chapter, as all sections may apply to the respective organisations and establishments.

Arrangements, terms & refusal of access

5.4 The Regulations outline specific provisions for vocational training providers and institutions of further education. These are given in the information box below. For ease of read, the information box only includes text from the age legislation that applies to the admission of trainees or students to vocational training providers or institutions of further and higher education.

Admission of trainees by vocational training providers

On the grounds of age, it is unlawful for any training provider to discriminate against someone who is seeking training:

- in the arrangements the training provider makes for the purpose of determining to whom they should offer training;
- in the terms on which the training provider affords someone access to any training;
- by refusing or deliberately not affording someone such access. It is also unlawful for the training provider to subject a person seeking training to harassment on the grounds of age.

Admission of students by institutions of further and higher education

The Regulations prohibit age discrimination by the governing bodies of institutions of further and higher education:

- in the terms on which they offer to admit a person as a student; and
- by refusing or deliberately not accepting an application for a person's admission as a student.

It is unlawful for an institution of further and higher education to harass a person who has applied for admission to that establishment, on the grounds of age.

Arrangements

- 5.5 The meaning of 'arrangements' – the arrangements for determining who should be admitted onto vocational training – is wide.
- 5.6 The Regulations do not explicitly state that institutions of further and higher education are prohibited from discriminating against students who are seeking education at their establishments when making arrangements for determining to whom they should offer education. However, institutions of further and higher education as well as vocational training providers should be acutely aware that the terms on which they respectively afford someone access to any vocational training, or offer to admit a person as a student, will intrinsically stem from the arrangements they have put in place for determining who should be admitted onto either vocational training or educational courses.

5.7 Arrangements are not confined to those which a vocational training provider, or institution of further and higher education, makes in deciding who should be offered a place on a specific course, but to, and for example:

- marketing and promotion of vocational training or education courses and training or education providers;
- selection criteria and/or associated policies for deciding who should be offered places to specific courses, to all courses and to the organisation or establishment as a whole;
- the individual decisions regarding who should be offered places on specific courses;
- the design of all vocational training or educational courses;
- the terms on which trainees or students are afforded access to courses and the organisation or establishment; and
- the selection criteria and terms of access for trainees or students on pre-course activities.

Terms

5.8 The terms (the actions or provisions, criteria or practices) on which vocational training providers afford trainees access to any vocational training, or institutions of further and higher education offer to admit students to their establishments, are made prior to, and during, the application and admission stages for the recruitment of trainees or students.

5.9 However, the terms on which training or education providers afford trainees or students access to any vocational training or education may continue past the arrangements they make for the purposes of determining to whom they should offer vocational training or offer to admit someone as a student.

5.10 Training or education providers may alter the terms on which they afford trainees or student access to vocational training or education once they have commenced a vocational training or education course or programme. Therefore, training or education providers should ensure that the terms on which they afford trainees access to training, or on which they offer to admit someone as a student, are neither directly or indirectly discriminatory; not only in their arrangements for the purposes of determining to whom they should offer vocational training or to offer to admit someone as a student, but also in any changes to those terms once trainees or students have commenced vocational training or education.

Example 9

Terms and conditions of entry onto a course at a university

Mohammed was an extremely talented and highly motivated student. As a result, he had obtained 12 GCSEs (the majority being Grade A*s) and 4 'A' levels (All Grade As) by the age of 15 years. Mohammed applied for, and was accepted onto, a B.Eng. degree course in Civil Engineering at one of the local universities.

As Mohammed was over 2 years younger than the typical first year undergraduate student who had just finished their 'A' levels at school, the university placed conditions on his entry onto the course. Unlike other students, at every lecture, Mohammed was required to sign a register to prove that he had attended the lecture.

The placement of additional terms and conditions on Mohammed's attendance by the university may amount to direct age discrimination. However, the university may be able to objectively justify this treatment (see the chapter: Exceptions & exemptions).

Refusal of access

- 5.11 If vocational training providers, colleges, or universities respectively refuse or deliberately not afford persons access to vocational training or refuse or deliberately not accept applications from persons for admission as students, the decisions to do so must not be directly discriminatory on grounds of age.
- 5.12 The actions or provisions, criteria or practices used for the refusal or deliberate non-affordance or acceptance of trainees or students must not be indirectly discriminatory on grounds of age.
- 5.13 A training or education provider which engages in actions that may amount to harassment of trainees or students when refusing or deliberately not affording them access to vocational training or accepting applications for admission may be acting unlawfully.

Lawful justification

- 5.14 Direct discrimination in:
- the arrangements a vocational training provider makes for the purpose of determining to whom they should offer training;
 - the terms on which a vocational training provider affords trainees access to any vocational training, or, on which an institution of further and higher education offers to admit a person as a student;
 - the refusal, or deliberate non-affordance of access to any vocational training or education by trainees or students by a vocational training provider or institution of further and higher education

may be permitted if a training or education provider can show exception through:

- statutory authority;

- positive action; or
- genuine occupational requirement.

5.15 Furthermore, a training or education provider may be able to establish a defence of objective justification for direct or indirect age discrimination (please refer to the chapter: “Exceptions & exemptions”).

Good practice in arrangements, terms & refusal of access

Marketing & advertising courses

5.16 It is recommended that training and education providers:

- write prospectus, advertisements and other promotional materials using information in the course description;
- should not explicitly, or implicitly, indicate that a vocational training or educational course is more suitable for people of a particular age, by:
 - avoiding language that might imply that they would prefer trainees or students of a certain age, such as ‘mature’, ‘young’ or ‘energetic’; and
 - avoiding hidden messages that may be present in any promotional literature, particularly visual images.
- in the rare situations where it is genuinely necessary for a vocational training or educational course to be aimed at persons of a particular age group (i.e. the training or education provider intends to rely on a genuine occupational requirement), the advertisement should clearly say so;
- advertise all vocational training and educational courses as widely as possible, as different publications are usually aimed at different markets. For example, it is highly unlikely that advertising in a magazine aimed at younger readers will attract a range of older candidates;

- use, when appropriate, the lawful positive action measures designed to encourage people of a particular age to apply for particular vocational training or educational courses;
- make their commitment to equality of opportunity known to all vocational training and educational course applicants; and
- check that advertisements and other promotional materials, or information to applicants include an equal opportunities statement which refers to age.

Age-specific terminology

- 5.17 It is recommended that training and education providers should avoid using age-specific terminology, such as the terms “mature trainee(s)” or “mature student(s)”.
- 5.18 Despite these terms being well established within the vocational training and education sectors, their use perpetuates the trainee/student stereotype of a young person continuing their vocational training or education immediately after leaving compulsory education. Furthermore, the use of such terms could lead to a presumption of the intention to discriminate. By avoiding age-specific terminology, training and education providers may avoid the need to defend such an allegation.
- 5.19 Training and education providers that remove age-related requirements for entry to courses, organisations or establishments will not need to use the terms “mature trainee(s)” or “mature student(s)”. Furthermore, if training or education providers wish to widen access and participation to their courses, organisations or establishments, they will need to consider how they market and promote their organisations or establishments as a whole, for example, by removing stereotypical images which portray only young trainees or students, to enable them to remove the terms “mature trainee(s)” or “mature student(s)” from their vocabulary.

Courses for specific age groups

- 5.20 Training and education providers should avoid limiting access to courses to those trainees or students of a certain age group. This is direct age discrimination.
- 5.21 However, training and education providers may be able to lawfully adopt such a directly age discriminatory provision if they can show either a statutory exception or objective justification (please refer to the chapter: “Exceptions & exemptions”).
- 5.22 If training or education providers decide to try and limit access to courses to those trainees or students of a certain age group, either through objective justification or the use of exceptions within the Regulations, it is recommended that they avoid the use of specific minimum and/or maximum age-related entry criteria and consider trainees or students on their individual merits (see the section below).

Age-related entry requirements

- 5.23 It is recommended that training and education providers avoid the use of minimum and/or maximum age limits for access to their:
- vocational training or educational courses; and
 - vocational training organisations or educational establishments.
- 5.24 The application of age-related criteria for entry onto vocational training or educational courses is directly age discriminatory.
- 5.25 Minimum and/or maximum age limits for entry onto vocational training or educational courses may be embedded by statutory authority and, therefore, may not have to be objectively justified. Training and education providers are strongly advised to thoroughly examine whether or not minimum and/or maximum age limits for entry onto vocational training or educational courses are based upon requirements laid down by statutory authority before relying upon them.

- 5.26 Minimum and/or maximum age limits set within the admissions criteria for vocational training or educational courses which result solely from decisions made by training or education providers may be open to claims of discrimination on grounds of age. Therefore, training and education providers which decide to impose minimum and/or maximum age limits for access onto training or educational courses must ensure that they are able to objectively justify such limits.
- 5.27 Blanket minimum and/or maximum age limits for entry to vocational training organisations or educational establishments may also be subject to claims of direct age discrimination. Training and education providers imposing blanket minimum and/or maximum age limits for access to their organisations or establishments must ensure that they are able to objectively justify such limits.

Example 10
Access onto vocational training courses and Government funding

Conor, aged 17, applied to go on an IT course run by TechteacherNI Training. TechTeacherNI Training was a vocational training provider which received Government funding for participants aged 26 years and over. TechteacherNI Training refused Conor's application, as they would only admit people within this age range. If challenged in a court of law, TechteacherNI Training would have had to objectively justify this policy.

Conor also applied to go on another IT course run by another vocational training provider, OpenToAll Training, which also received Government funding for participants aged 26 years and over, who were offered free/subsidised places. However, rather than denying Conor access, as he was under 26 years, OpenToAll Training instead required Conor to pay for his own place on the course. If challenged in a court of law, this admissions policy may not have needed objective justification.

Minimum age limits

- 5.28 It is recommended that training and education providers avoid the use of minimum age limits. Those which decide to impose minimum age limits for access onto training or educational courses must ensure that they are able to objectively justify such directly discriminatory limits (see the chapter: Exceptions & exemptions).
- 5.29 Training and education providers operating minimum age limits for entry may be able claim objective justification using the following 'possible' legitimate aims:
- educational maturity of trainees or students;
 - personal maturity of trainees or students;
 - adult environment of training and education;
 - provision of personal support; or
 - child protection requirements.
- 5.30 Using educational maturity of trainees or students as a 'possible' legitimate aim for the objective justification of blanket minimum age limits for entry to vocational training organisations or educational establishments may be difficult establish. It may be argued that proving educational maturity could be related solely to the trainee or student complying with the minimum vocational and/or academic entry requirements for admission onto specific vocational training or educational courses rather than for entry to the vocational training organisation or educational establishment; for example, four 'A' Levels, at Grade 'B' or higher, in the appropriate subjects, for entry onto a B.Sc. (Hons) degree in Biological Sciences.

- 5.31 To be able to objectively justify the use of blanket minimum age limits for entry to their organisations or establishments, training or education providers may be able to use the ‘possible’ legitimate aim that trainees or students below a specified age do not have the personal maturity for admission to the adult environments within vocational training organisations or educational establishments. However, sole reliance on this possible legitimate aim may be hard to defend as personal maturity varies greatly between individuals regardless of educational maturity; younger trainees and students can often show greater personal maturity than older trainees and students. Training and education providers should also bear in mind that trainee and student applications for admission may come from jurisdictions where vocational or academic qualifications with similar equivalence to those allowing entry to Northern Ireland courses may be conferred on trainees and students at younger ages than those conferred to trainees and students in Northern Ireland.
- 5.32 Training and education providers may not be able to rely solely on the ‘possible’ legitimate aim of child protection, for those under 18 years, for objectively justifying the setting of minimum age-related entry requirements to their courses, organisations or educational establishments. The development of child protection policies and procedures, the implementation of staff training and vetting, and compliance with all other legislation to protect children, along with their regular review, would not in themselves bear any major costs on training and education providers, if they do not already have the appropriate child protection measures in place. Therefore, either the enactment of policies and procedures, or the costs involved, for putting in place child protection measures may not be relied upon as the sole possible legitimate aim for having minimum age-related entry requirements. The reader is strongly advised to seek independent legal advice on this issue.
- 5.33 It is unlikely that the sole use of any of the aforementioned ‘possible’ legitimate aims for the implementation of minimum age limits for access to either vocational training or educational courses or to vocational training organisations or educational establishments would allow for objective justification.

Example 11

Access to a course at a college of further and higher education

Lucy was 19 years of age. As she had no 'A' levels, BTEC or other formal qualifications of an equivalent level, she applied for enrolment onto a course at her local college of further and higher education that would enable her access to university. She decided that she would like to study a Biological/Biomedical Science course that would provide her with a Certificate in Foundation Studies; a Level 3 course.

Lucy was aware that the new Regulations had come into operation and decided to apply for the course although the entry requirements within the prospectus clearly stated, "no formal qualifications are required, however applicants should be aged 21 or over, at the commencement of the course".

A week after making her postal application, Lucy received notice from the college that she was ineligible for enrolment onto the course on grounds of her age. The refusal by the college to accept Lucy onto the course may amount to direct age discrimination. However, the college may be able objectively justify the age related entry requirement.

Admission of trainees & students with criminal convictions

- 5.34 A trainee or student applying for admission to a training or education provider who, at the time of application, has been convicted of a criminal offence and who has not been rehabilitated under the terms of the Rehabilitation of Offenders Order (Northern Ireland) 1978, or against whom criminal procedures are pending, must declare this fact at the time of application.
- 5.35 Under the terms of the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979, as amended by the Rehabilitation of Offenders (Exceptions)(Amendments) Order (Northern Ireland) 1987, spent convictions may be a reason for refusing a person employment in certain classes of employment. For this reason, applicants for admission to certain courses such as teaching, health, social work, veterinary medicine, veterinary science, and including those which involve work with children or other vulnerable groups

are required to disclose criminal convictions, including sentences, cautions and verbal cautions, that are spent.

- 5.36 Furthermore, before confirming the enrolment of trainees or students on such courses, training and education providers should arrange for a check to be carried out to ensure that there is no relevant information about the prospective trainee's or student's background which could have a bearing on their ability to complete placement or practical training requirements associated with their course.
- 5.37 Many training and education providers, when considering applications from trainees and students with criminal records, may examine, and make decisions based upon, the age of the applicants who receive cautions or convictions. This is direct age discrimination.
- 5.38 However, training and education providers may be able to objectively justify such direct discrimination. Training or education providers may be able to argue that considering cautions or convictions administered to younger applicants to be of less concern than cautions and convictions given to older applicants. This could be considered as a proportionate means of achieving the 'possible' legitimate aim. The legitimate aim could be that the failure to get paid employment by those with criminal convictions is a major reason for re-offending and the provision of training and education to enable them to obtain employment may constitute an essential part of their successful rehabilitation. Vocational training organisations and educational establishments will want to achieve this in a way which reduces the risk of harm or injury to their students caused by the criminal behaviour of other students.

Admission of younger trainees & students

- 5.39 This section briefly examines issues relating to the admission of younger trainees and students.
- 5.40 It is recommended that training and education providers review all matters relating to the admission of younger trainees and students, in light of:
- the Regulations;
 - the removal of minimum age-related entry requirements to courses, vocational training organisations and educational establishments;
 - the rise in the number of younger trainees and students on vocational training and educational courses and within vocational training organisations and educational establishments; and
 - all child and vulnerable group protection legislation.
- 5.41 When admitting younger trainees or students to vocational training organisations or educational establishments, training and education providers are strongly recommended to seek statutory guidance from the appropriate authority(s) and/or independent legal advice on the protection of younger trainees and students.

Maximum age limits

- 5.42 It is recommended that training and education providers avoid the use of maximum age limits; this is direct discrimination. Those which decide to impose maximum age limits for access onto vocational training or educational courses must ensure that they are able to objectively justify such directly discriminatory limits (see the chapter: Exceptions & exemptions).

- 5.43 Legitimate aims that could be used to support the objective justification for the imposition of maximum age limits for entry onto vocational training or educational courses may include:
- trainees or students above the maximum age limit for entry to the course may not be able to cope with the demands of the course; and
 - trainees or students above the maximum age limit for entry to the course are unlikely to spend long enough in employment after conferment of the vocational or educational qualification to justify the public expenditure on their fees and maintenance.
- 5.44 The assumption that trainees or students above the maximum age limit for entry may not be able to cope with the demands of the course is likely to amount to discrimination on grounds of disability as well as age. It assumes that there is correlation between age and ability rather than assessing applicants on their own merits.
- 5.45 The assumption that trainees or students above the maximum age limit are unlikely to spend long enough in employment after the vocational or educational qualification to justify the public expenditure on their fees and maintenance may be a proportionate means of achieving a legitimate aim. However, this ‘possible’ legitimate aim may in fact not be legitimate, as it is based upon the assumption that all students who gain admission to vocational training or educational courses would spend a given amount of time in the employment for which they are being trained.
- 5.46 It is recommended that training and education providers consult with the relevant qualifications bodies which accredit vocational training and educational courses in relation to the age-related requirements those bodies place upon trainees and students for entry onto courses which they accredit, in light of the impact of the Regulations (see chapter: “Qualifications bodies”).

Trainees & students who return after a period of time away from the learning environment

- 5.47 Training and education providers may often take applicants' relevant experiences into account and relax stipulations for formal qualifications when considering applications for courses, especially from those returning to vocational training or education after a period of time away from the learning environment (please refer to section below on: "Experience").
- 5.48 This practice of adjusting the entry criteria for those returning to vocational training or education is different, but not necessarily discriminatory or less favourable, treatment of other trainees or students. As stated earlier, training and education providers should avoid the use of minimum and/or maximum age-related entry criteria. Their admissions policies should emphasise that trainees or students will be considered on their individual merits.

Experience

- 5.49 It is recommended that training and education providers should avoid stipulating that trainees or students must have a specific number of years' experience for entry onto their vocational training or educational courses.
- 5.50 If challenged, such a criterion or practice which, although applied to all trainees or students equally, may put persons of the same age group as the individual challenging the criterion or practice at a particular disadvantage compared to other students or trainees is considered as indirect discrimination, and may have to be objectively justified.
- 5.51 Training and education providers should develop competency based assessment criteria which detail the particular experiences and skills required of trainees and students for access to vocational training and educational courses. In this way admissions staff can consider the relevance and quality of a trainee or student's experiences rather than simply length of experience.

Separate admissions procedures

- 5.52 It is recommended that training and education providers avoid the use of separate or special admissions procedures for trainees or students below or above certain ages.
- 5.53 The use of separate or special admissions procedures may be open to challenges of age discrimination, as the mere use of separate or special admission procedures may be based on grounds of age.
- 5.54 It is recommended that training and education providers operate a common admissions procedure for all applications regardless of age.

- 5.55 Applicants should not be asked to declare their specific age on application forms. However, it is recommended that application forms contain a question, or a series of questions, to capture those trainee or student applicants who may be below an important statutory age(s) when starting their vocational training or education, such as those who may be below 18 years of age, for the purposes of protecting vulnerable groups.
- 5.56 Only when a training or education provider has provisionally decided to offer a place to a trainee or student should they consider if there are particular issues which need to be addressed in relation to the particular applicant, including those which may arise as a result of the trainee or student applicant's age.

Discretionary funding & reduced or concessionary fees

- 5.57 Discretionary funding, or reduced or concessionary fees, for educational courses (by institutions of further and higher education) based upon age-related criteria may be directly discriminatory.
- 5.58 In this Guide, the terms “discretionary funding”, “reduced fees” and “concessionary fees”, and all similar terms, refer to any funding or discounts given by an institution of further and higher education, that are outside the control of any statutory and/or non-statutory authority or provision to students attending educational courses. In other words, those funds that are under the sole control of the institution of further and higher education.

- 5.59 “Education” at institutions of further and higher education includes any “vocational training” and “non-vocational training” provided at these educational establishments (see information box “What is education” in the chapter “Introduction”). With this in mind, institutions of further and higher education should bear in mind that it may be unlawful to offer, for example:
- discretionary fees for older students on vocational training courses;
 - reduced fees for older students on non-vocational training courses; or
 - concessionary fees for younger students on either vocational or non-vocational training courses.
- 5.60 An institution of further and higher education may be able to objectively justify the possibly directly discriminatory policy and practice of offering discretionary funding, reduced or concessionary fees to students based upon age-related criteria if they can argue that any funding or discounts were designed to promote the social inclusion of certain age groups and was providing a venue for them to mix and interact. A court of law may take the view that the social inclusion was a legitimate aim and that any funding or discounts are a proportionate means of achieving that legitimate aim.
- 5.61 Discretionary funding, or reduced or concessionary fees, for students’ educational courses by institutions of further and higher education that are not based upon age-related criteria may be indirectly discriminatory. Institutions of further and higher education should ensure that policies and practices which support the provision of any funding or discounts to students should not exhibit a differential impact upon students of certain ages where this cannot be objectively justified.

- 5.62 Institutions of further and higher education may be able to lawfully justify a policy and/or practice of discretionary funding, or reduced or concessionary fees, for students on vocational training courses based upon age-related criteria as a positive action measure.
- 5.63 The Regulations stipulate that positive action measures can only be taken by vocational training providers, colleges and universities when they are:
- designed to afford persons of a particular age or age group access to facilities for training which would help fit them for particular work; or,
 - aimed at encouraging persons of a particular age or age group to take advantage of opportunities for doing particular work.
- 5.64 Positive action measures may not be used to lawfully justify the use of policies and/or practices for the discretionary funding, or application of reduced or concessionary fees, for students on non-vocational training courses based upon age-related criteria, as they may not be designed to afford persons of a particular age or age group access to facilities for training which would help fit them for particular work (see the “Positive action” sections both below and in chapter “Exceptions & exemptions”).
- 5.65 Some discretionary funds are outside the control of the institutions of further and higher education, and are not under any statutory authority or provision; for example scholarships students may receive from charitable funds and institutions. As the allocation or appointment of such a fund is the provision of a good, facility or service, the fund may not be covered by the Regulations. However, if an institution of further and higher education has any control, at any level, over the allocation or appointment of such a fund, that fund is covered by the Regulations. In this case, any age-related criteria may be considered as direct discrimination, or any provision, criterion or practice which, although it was applied to all persons equally, puts persons of the certain age group at a particular disadvantage compared to other persons, may be considered as indirect discrimination, unless the action or

provision, criterion or practice can be lawfully justified (see chapter: “Exceptions & exemptions”).

Positive action

5.66 The Regulations allow training and education providers to take positive action measures in certain circumstances. Positive action measures are measures which training or education providers can lawfully take to prevent or compensate for disadvantages linked to age. Training and education providers can take certain measures which specifically target trainees and students on grounds of age (please refer to the chapter: “Exceptions & exemptions”).

5.67 The Regulations stipulate that positive action measures can only be taken by training and education providers when they are:

- designed to afford persons of a particular age or age group access to facilities for training which would help fit them for particular work; or
- aimed at encouraging persons of a particular age or age group to take advantage of opportunities for doing particular work.

5.68 Positive action measures that may be adopted by training and education providers may include the following:

- placing advertisements where they are more likely to be seen by people in a disadvantaged group;
- limiting access to a course to those of a given age because they may have had less exposure to such training in the past; and
- the provision of return to practice courses – courses designed and provided for people who have had time away from employment.

5.69 Positive action on age can help training and education providers attract trainees and students from all age groups in the local community. Before taking any of the above positive action measures, training and education providers must reasonably consider that the measures will, in relation to employment, prevent or compensate for disadvantage linked to age.

5.70 A training or education provider must:

- believe that potential trainees or students have suffered a disadvantage linked to age (this may be obtained through the monitoring and review processes); and then
- reasonably consider that their permitted positive action measure compensates for that disadvantage - such as, for the under-representation of persons of a particular age or age group.

Example 12

Positive action – A review of entry criteria for “Access to University” courses by a college of further and higher education

A regional college of further and higher education ran “Access to University” courses that, depending upon the course, were accredited by one of the Northern Ireland universities. These courses were designed to address the needs of students who would like to study, but do not have the necessary qualifications to get into higher education.

The courses were targeted at ‘mature students’ (please refer to above sub-section on “Age-specific terminology” within this chapter); normally those age 21 years and over.

Upon the operation of the Regulations, the college decided to review its age-related entry criteria for all its “Access to University” courses. Subject to legal opinion, the college believed that widening participation/widening access initiatives, such as “Access to University” course, did not contravene the Regulations using the positive action regulation (training and education providers should always seek independent legal advice before engaging in positive action measures).

The college decided that all “Access to University” courses would still be targeted at:

- students with ‘significant life experiences’;
- that individual candidates must be considered on the basis of individual merits; and
- applicants should not be turned down on the basis of their ages.

The college decided to take the following steps:

- the review and amendment of all entry criteria for the courses to reflect the skills, motivation and experience required; and the
- removal of the minimum age-related entry requirements; but
- emphasised in promotional materials that the courses were normally for mature students (please refer to above sub-section on “Age-specific terminology” within this chapter) returning to education; however
- the college also clearly stated within the promotional materials that applicants of any age, who felt that they would benefit from the course, would be considered on their individual merits.

The college decided that the positive action measures such as “Access to University” courses did not contravene the Regulations. However, the college, as good practice, ensured that all age-related entry requirements were removed, despite marketing the courses for ‘mature students’.

6. Current trainees & students

Introduction

- 6.1 This chapter examines the duties placed upon training and education providers with respect to trainees and students already undertaking vocational training and education with respect to:
- the **Access to benefits for students** of institutions of further and higher education;
 - the **Access, & terms of access, to training for trainees** of vocational training providers;
 - the **Termination of training and exclusion of students** respectively by training and education providers; and
 - **Subjecting trainees or students to any other detriment.**
- 6.2 This chapter also makes recommendations for good practice in:
- access to events;
 - residential accommodation; and
 - work placements, field trips and study periods abroad.
- 6.3 It is recommended that training and education providers examine all sections within this chapter, as all sections may apply to the respective organisations and establishments.

Access to benefits, terms of access, including termination & exclusion

- 6.4 The Regulations outline specific provisions for vocational training providers and institutions of further education. These are given in the information box below. For ease of read, the information box only includes text from the age legislation that applies to current trainees or students of vocational training providers or institutions of further and higher education.

Trainees undergoing training with vocational training providers

On the grounds of age, it is unlawful for any training provider to discriminate against someone who is undergoing training:

- in the terms on which the training provider affords them access to any training;
- by refusing or deliberately not affording them such access;
- by terminating their training; or
- by subjecting them to any other detriment during their training.

It is also unlawful for the training provider to subject a person undergoing training to harassment on the grounds of age.

Students at institutions of further and higher education

Where a person is a student of an institution of further and higher education, it is unlawful for the institution to discriminate on the grounds of age:

- in the way it affords a person access to any benefits;
- by refusing or deliberately not affording a person access to them; or
- by excluding the person from the establishment or subjecting that person to any other detriment.

It is unlawful for an institution of further and higher education to harass a person who is a student at that establishment on the grounds of age.

Access to benefits for students of institutions of further & higher education

- 6.5 Vocational training providers should also pay notice to the guidance within this section. It is unlawful for both vocational training providers and institutions of further and higher education to subject trainees or students to any detriment on grounds of age. The use of “any other detriment” affords trainees protection from discrimination in situations or circumstances that may not have been addressed elsewhere within the regulation relating to vocational training providers.
- 6.6 ‘Benefits’ are any benefits that an institution of further and higher education provides, or offers to provide, wholly or mainly for students. The benefits available to students will vary from one institution of further and higher education to another but might include, for example:
- teaching, including classes, lectures, seminars and practical sessions;
 - curriculum design;
 - enrolment and induction;
 - field trips, work placements and study overseas;
 - research degrees and research facilities;
 - distance and e-learning learning;
 - learning facilities, such as classrooms and lecture halls;
 - libraries and learning centres;
 - careers advice and training;
 - leisure, recreation, entertainment and sports facilities;
 - childcare facilities;
 - car parking;

- residential accommodation;
 - welfare service; and
 - any other student services.
- 6.7 If challenged, the way in which a training or education provider affords trainees or students access to any benefits may be ruled as age discriminatory in either an Industrial Tribunal, with respect to vocational training providers, or a County Court, with respect to a college or university. Therefore, training and education providers should ensure that the actions or provisions, criteria or practices they use to afford trainees and students access to any benefits are neither directly or indirectly discriminatory.
- 6.8 It is not possible for this section of the Guide to provide guidance for every benefit a training or education provider may provide, or offers to provide, wholly or mainly for trainees or students. However, a few areas are covered in the following section. Training and education providers should understand the principles within this guidance and relate this guidance to all other benefits afforded to trainees and students.

Access, & terms of access, to training for trainees of vocational training providers

- 6.9 Institutions of further and higher education should also pay notice to the guidance within this section. It is unlawful for both vocational training providers and institutions of further and higher education to subject trainees or students to any detriment on grounds of age. The use of “any other detriment” affords trainees protection from discrimination in situations or circumstances that may have not been addressed elsewhere within the regulation relating to institutions of further and higher education.

6.10 The terms on which training and education providers afford trainees and students access to any vocational training and education may continue past the arrangements they make for the purposes of determining to whom they should offer vocational training or education. Training and education providers may alter the terms on which they afford trainees and students access to vocational training and education once they have commenced vocational training or educational courses or programmes. Therefore, training and education providers should ensure that the terms (the actions or provisions, criteria or practices) on which they afford trainees and students access to training or education are neither directly or indirectly discriminatory; either in their arrangements for the purposes of determining to whom they should offer vocational training or education or in any changes to those terms once trainees or students have commenced vocational training or education.

Example 13

Additional bursaries for students in a university

A School within a Northern Ireland university adopted a policy to encourage high quality undergraduates onto either its B.A. or B.Sc. (Hons) degree courses.

The new policy rewarded new students who obtained a least three grade 'A's in their 'A' levels with a bursary of £1,000 per academic year from the School.

This policy may have been indirect discrimination on grounds of age. The policy may have exhibited a disproportionate impact upon older students who may have been less likely to have three Grade 'A's at 'A' level. In other words, through the application of this policy, older students were being treated less favourably than other students as they may have been less likely to have three Grade 'A's at 'A' level. For example, older students may have been less likely to have attained 'A' Grades due to their family commitments, or, they may have entered onto the degree course by another route. In a review of admission policies and procedures, by the university's Equality/Equal Opportunities Unit, the Unit noticed that the School had adopted this policy. The Unit instructed the School to either withdraw the policy or to amend it to remove or mitigate the differential impact upon older students.

Termination of training & exclusion of students

- 6.11 Where a trainee has their vocational training terminated by a vocational training provider, or a student is excluded from an institution of further and higher education, the training or education provider must ensure that the trainee or student is not being directly discriminated against on grounds of age.
- 6.12 Training and education providers may be able to objectively justify a directly discriminatory termination or exclusion (see chapter: Exceptions and exemptions and section: “Lawful justification” below). However, such a situation should be unlikely to occur if training or education providers have followed non age discriminatory (direct and indirect) actions or provisions, criteria or practices in the terms in which they offer to admit trainees or students onto/into their courses, organisations or establishments, or, when age discriminatory (direct and indirect) actions or provisions, criteria or practices in the terms in which they offer to admit trainees or students to their organisations or establishments have been used, that they have been objectively justified.
- 6.13 In the event that a training or education provider considers the termination of a trainee’s vocational training or a student for exclusion, based upon the trainee or student’s age and not due to other reasons, which may have resulted from the training or education provider unsuccessfully objectively justifying age discrimination in the terms in which it offers to admit trainees or students to the organisation or establishment, then best practice would be for the training or education provider to allow the trainee or student to continue and complete their vocational training or educational course.
- 6.14 When training and education providers draw up disciplinary procedures they should consider whether any proposed disciplinary actions or provisions, criteria or practices would adversely impact upon students on grounds of age.
- 6.15 Training and education providers should respectively ensure that trainees who have their training terminated or students who have been excluded are not victimised or harassed.

6.16 Furthermore, if the termination of a trainee's vocational training occurs or if the exclusion a student leads to a termination of their relationship with the educational establishment, the training or education provider should ensure that they do not treat that person less favourably or harass them on grounds of age once the 'relevant relationship' has come to an end, as this may be unlawful (see chapter: Discrimination after a relevant relationship has come to an end).

Subjecting trainees or students to any other detriment

6.17 It is unlawful for vocational training providers or institutions of further and higher education to subject trainees or students to any other detriment on grounds of age.

6.18 The use of "any other detriment" affords trainees and students protection from discrimination in situations or circumstances that have not been addressed in the previous sections.

Lawful justification

6.19 Direct discrimination in:

- the way an institution of further and higher education affords a student access to any benefits;
- the terms on which vocational training providers afford trainees access to any vocational training, or, on which institutions of further and higher education offer to admit a person as a student;
- the termination of a trainee's vocational training by a vocational training provider;
- the exclusion of a person from the institution of further and higher education; and
- the subjection of a trainee or student by a vocational training provider or institution of further and higher education to any other detriment

may be permitted if a training or education provider can show exception through:

- statutory authority;
- positive action; or
- genuine occupational requirement.

6.20 Furthermore, under limited circumstances a training or education provider may be able to establish a defence of objective justification for direct or indirect age discrimination (please refer to the chapter: “Exceptions & exemptions”).

Good practice in access to benefits, training & termination & exclusion

Access to events

6.21 Generally, trainees and students of certain ages should not be denied access to events, or offered access to events on less favourable terms, on grounds of age.

6.22 Targeting events at either “mature trainees or students” or “younger trainees or students” may unintentionally exclude trainees or students of other ages. It is recommended that training and education providers avoid the use of these terms and find more accurate ways of describing these groups of trainees and students.

6.23 It is recommended that training and education providers generally avoid targeting events at certain age groups. They should avoid the use of absolute age limits for access to events by trainees and students. In this way, training and education providers may not necessarily exclude those of certain age groups, but who may have similar needs, from attending such events.

6.24 If training or education providers believe that they can objectively justify holding such events they should collect robust, accurate and objective evidence to support their argument of justification (see chapter: “Exceptions & exclusions”).

Example 14

Access to events by a university

A university wished to hold a career guidance event for its students who had gained life experience between attending school and starting university. To do this, and through its promotion of the event, the university targeted the event at “mature students”. Mature students were typically categorised by educational establishments as those students aged 21 years and over.

The university unintentionally excluded those students who may have been relatively young, those under 21 years of age, but who may have gained significant life experiences, such as, through travel and work experience.

A student aged 20 years may have felt that they were unable to attend the event as it was promoted towards and targeted at “mature students”. If the student felt in any way aggrieved that they were denied access to the event on grounds of age, they may have challenged the way the university promoted the career guidance event and the use of the term “mature students.”

Residential accommodation

- 6.25 Many training and education providers provide accommodation and/or accommodation finding services for trainees and students. Where this is the case, they should ensure that trainees and students are not discriminated against in the provision of accommodation on grounds of age.
- 6.26 If a training or education provider refuses to provide residential accommodation to trainees or students of certain ages, this may amount to direct discrimination. Similarly, if a training or education provider adopts a policy for residential accommodation which, although it is applied to all trainees or students equally, puts those of a certain age group at a particular disadvantage compared to others may be indirectly discriminatory. They may be able, under limited circumstances, to objectively justify the refusal to provide residential accommodation to a particular age group.

- 6.27 The provision of residential accommodation by training and education providers is often outsourced to specialist accommodation providers. It is likely that any outsourcing agreement will give the training or education provider sufficient control over the provision of the accommodation. The training or education provider will therefore operate a level of control over the access to a benefit by its trainees or students; that benefit being residential accommodation. As complaints of age discrimination in the general provision of goods, facilities and services cannot currently be made under the Age Regulations, complaints are likely to be made against the training or education provider.

Work placements, field trips & study periods abroad

- 6.28 Training and studying beyond the confines of the vocational training organisation or educational establishment is important for many vocational training and educational courses, and is often a requirement for many courses. With careful planning and monitoring, most work placements, field trips and study periods abroad can be accessible to most trainees and students regardless of age.
- 6.29 Where a trainee or student is undertaking practical work experience as part of their vocational training or education, the work placement provider will have duties as an employer under the Regulations (please see “Age Discrimination in Northern Ireland: A Guide for Employers”).
- 6.30 Where a trainee or student is studying at another vocational training organisation or education establishment, that organisation or establishment may have duties under the same regulations as the donating organisation or establishment.

7. Qualifications bodies

Introduction

- 7.1 Training and education providers may devise, run and examine their own courses for certain professions or trades. However, approval for entry into the profession or trade is often controlled by an external body, such as a qualifications body.
- 7.2 This chapter has been devised to inform training and education providers of the duties placed upon qualifications bodies by the Regulations. Training and education providers should ensure that they review, and understand the implications of, all the provisions, criteria and practices put in place by qualifications bodies when developing courses which require accreditation by these organisations and bodies. This chapter does not give specific guidance for qualifications bodies with respect to the Regulations.
- 7.3 Firstly, this chapter defines and examines:
- professional and trade qualifications; and
 - qualifications bodies.
- 7.4 The chapter then goes onto examine which activities of qualifications bodies are covered by the Regulations.

Professional & trade qualifications & qualifications bodies

Professional & trade qualifications

- 7.5 Vocational training providers, institutions of further and higher education and qualifications bodies need to be aware that the word 'qualification' should not be interpreted narrowly. The information box below outlines the definition of a professional or trade qualification as stated within the Regulations.

What is a professional or trade qualification?

A “professional or trade qualification” means any authorisation, qualification, recognition, registration, enrolment, approval or certification which is needed for, or facilitates engagement in, a particular profession or trade.

A “profession” includes any vocation or occupation, and a “trade” includes any business.

7.6 Therefore, the attaining or attainment of a professional or trade qualification need not involve passing formal examinations or tests. In some cases, simply being a member of an organisation or body may amount to such a qualification if that membership itself facilitates engagement in a particular profession or trade.

Qualifications bodies

7.7 The definition of a qualifications body is equally as broad, with two notable exceptions - those educational establishments cited in the information box below.

What is qualifications body?

A “qualifications body” means any authority or body which can confer a professional or trade qualification, but it does not include:

- a governing body of an institution of further and higher education (see information boxes in chapter “Introduction”), or
- a proprietor of a school.

The term “confer” includes renewal or extend.

7.8 In relation to certain professions or trades, training and education providers may devise, run and examine their own courses, although approval for entry into the profession or trade is controlled by an external body. Due to the wide definition of ‘professional or trade qualification’, such external bodies are likely to be qualifications bodies if they perform any of the following functions:

- maintaining a register of people who are qualified to practise in the profession or trade;
- conducting additional tests for people who have qualified, or who wish to qualify, into the profession or trade, such as basic skills tests or medical checks; or
- giving approval for a person’s qualification to their course provider.

Activities of qualifications bodies

7.9 The activities of qualifications bodies covered by the Regulations are highlighted within the information box below.

What activities of qualifications bodies are covered by the Regulations?

It is unlawful for a qualifications body to discriminate against a person:

- in the terms on which it is prepared to confer a professional or trade qualification; or
- by refusing or deliberately not granting any application by him for such a qualification; or
- by withdrawing such a qualification from him or varying the terms on which he holds it.

It is unlawful for a qualifications body, in relation to a professional or trade qualification conferred by it, to subject to harassment a person who holds or applies for such a qualification.

- 7.10 Due to the broad definitions of professional and trade qualifications, and of qualifications bodies, that ‘someone’ may or may not be a trainee or student receiving vocational training or education from a vocational training provider or an institution of further and higher education, a qualifications body should not directly or indirectly discriminate against or harass a trainee, student or other, on grounds of age:
- in the terms on which it is prepared to confer a professional or trade qualification;
 - by refusing or deliberately not granting any application by the trainee, student or other for such a qualification; or
 - by withdrawing a professional or trade qualification from the trainee, student or other; or
 - by varying the terms on which the trainee, student or other holds the professional or trade qualification.
- 7.11 Qualifications bodies may be able to lawfully adopt a directly age discriminatory provision for the activities cited above, if they can show exception through:
- statutory authority;
 - positive action; or
 - genuine occupational requirement.
- 7.12 Furthermore, a qualifications body may be able to establish a defence of objective justification for the direct age discrimination. To do so, a qualifications body must demonstrate that any treatment which may result in direct age discrimination, or the application of any provision, criterion or practice which may result in indirect age discrimination, are a proportionate means of achieving a legitimate aim (please refer to the chapter: “Exceptions & exemptions”). To achieve this, a qualifications body will be required to support its justification with strong, robust and objective evidence, such as demographic data showing under-representation by certain age groups, in whatever employment the professional or trade qualification leads to, and the level of participation in the

vocational training or education course itself that leads to the professional or trade qualification.

- 7.13 If qualifications bodies decide to try and limit access to courses to those trainees or students of a certain age group either through objective justification or the use of exceptions within the Regulations, it is recommended that they avoid the use of specific minimum and/or maximum age-related entry criteria and consider trainees or students on their individual merits.
- 7.14 Training and education providers often provide vocational training and education, or other services (such as facilities for taking examinations or assessments) which lead to the attainment of professional or trade qualifications, even though they do not themselves confer the qualifications.
- 7.15 Therefore, it is advisable for training and education providers to communicate with a qualifications body at the earliest stages of vocational training or educational course development, regarding all the qualifications body's provisions, criteria or practices with respect to the:
- terms on which the qualifications body is prepared to confer a professional or trade qualification;
 - refusal or deliberately not granting of an application for a professional or trade qualification;
 - withdrawal of a professional or trade qualification; or
 - varying of the terms on which a trainee, student or other holds a professional or trade qualification

in light of the Regulations.

- 7.16 Training and education providers must ensure that any directly discriminatory age-related provisions, criteria or practices imposed by qualifications bodies are communicated clearly to trainees or students.

- 7.17 When developing vocational training or educational courses that are accredited by qualifications bodies, training and education providers should ensure that they are proofed for both direct and indirect age discriminatory provisions, criteria or practices. They should communicate their findings to qualifications bodies and, if found, strongly advocate for the removal of any directly or indirectly age discriminatory provisions, criteria or practices.

8. Discrimination after a relevant relationship has come to an end

- 8.1 Treating a person less favourably or harassing an individual on grounds of age after a 'relevant relationship' has ended can also be unlawful. The act of discrimination must arise out of and be closely linked to the former relationship.
- 8.2 The provision of references, either written or verbal, is covered by the legislation. For example:
- on grounds of age, a vocational training provider, college or university refusing to provide a former trainee or student with a reference; or
 - giving a former trainee or student an adverse reference on grounds of age.
- 8.3 Unlawful discrimination can also occur when a training or education provider refuses to provide a reference or gives an unfair reference because the former trainee or student brought a discrimination complaint on grounds of age against his or her training or education provider.
- 8.4 Therefore, it is recommended that training and education providers ensure that their employees who are asked to supply references, both formal and informal, do so in a non-discriminatory way. They should not refuse to provide references for trainees or students or former trainees or students on the grounds of their age, or as an act of victimisation. Neither should they, on discriminatory grounds, provide trainees or students or former trainees or students with detrimental references. Training and education providers should ensure that references are not influenced by personal prejudices relating to an individual's actual or perceived age, or to the fact that the individual may previously have made an age discrimination complaint against them.

Example 15

Discrimination after a relevant relationship has come to an end

Sophie was the Course Director for the BSW (Hons) in Social Work at one of Northern Ireland's universities. Linda was 49 years of age and a recent graduate in BSW (Hons) in Social Work. She had applied for a job with a local Health Trust. The personnel officer from the Health Trust asked Sophie for a reference regarding Linda.

Sophie said that she could not recommend Linda. Her reason was that she believed that Linda was too old to do the job effectively.

This is direct discrimination on the grounds of age.

9. Harassment & bullying

Harassment

- 9.1 All trainees and students have the right to be treated fairly and with dignity and respect. Harassment occurs when someone engages in unwanted conduct on the grounds of age which has the purpose or effect of violating someone else's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.
- 9.2 If the purpose of the conduct is to harass a trainee or student, that will be unlawful harassment in its own right. However, the intention of the perpetrator will not always determine whether a particular type of conduct is harassment. The effect it has on the recipient may also amount to harassment even where the perpetrator did not intend to cause any offence, or did not specifically direct the offensive conduct at the person alleging harassment.
- 9.3 People can become targets of harassment because of their age or the age of a person close to them (for example, their personal partner). Harassment could take the form of:
- inappropriate comments – for example, by suggesting someone is too old ('over the hill') or too young ('wet behind the ears');
 - offensive jokes; and
 - exclusion from informal groups, such as social events.

Bullying

- 9.4 Bullying is just as unacceptable as any other form of harassment. As employers, training and education providers are strongly recommended to seek advice from the Labour Relations Agency regarding bullying in the workplace. The reader may also wish to refer to the joint Equality Commission and Labour Relations Agency publication “Harassment & Bullying in the Workplace.”

Promoting a good & harmonious learning environment

- 9.5 Training and education providers should promote in a proactive, and not just a reactive, manner a good and harmonious learning environment, in which all trainees and students are treated with dignity and respect irrespective of their age. If a good and harmonious learning environment is not being provided and maintained, trainees and students should take appropriate steps to address the situation.
- 9.6 Training and education providers should ensure that anti-harassment policies cover age. They may have stand-alone policies or ones that are part of a wider inclusion policy (see Chapter: Equality policies, practices & procedures).
- 9.7 Trainees and students should be informed that they should not harass, or otherwise unlawfully discriminate against, other trainees or students, or the employees and agency staff of the organisation or establishment, on grounds of age, during or outside the normal learning hours or inside or outside the vocational training organisation or educational establishment.

Dealing with harassment

- 9.8 When investigating alleged incidents of harassment, training and education providers should be aware that, for a variety of reasons, individuals may be reluctant to bring a complaint of discrimination on grounds of age. As is the situation with other discrimination complaints, an individual may be concerned that his or her complaint will not be taken seriously or that he/she will be victimised if a complaint is brought. Very young people may also be more reluctant to complain as they may be new to the vocational training organisation or educational establishment or feel constrained in doing so as a result of their young age. It is therefore vital that, if a complaint is made, it is not trivialised and is dealt with in a confidential manner.
- 9.9 In order to provide support, advice and assistance to people who believe they have been discriminated against, it is preferable for training or education providers, where reasonably practicable, to have designated advisers to whom individuals can speak in confidence. Designated advisers should receive appropriate training in order to enable them to carry out their roles effectively.
- 9.10 Training and education providers are strongly advised to take action in relation to discriminatory acts which they become aware of, or ought to be aware of, even in the absence of a complaint or in circumstances where an individual is reluctant to name individual harassers. In addition, a training or education provider is also strongly advised to take action if a complaint is raised in a general manner through either student unions or other trainee or student representative bodies.
- 9.11 Tackling harassment in a situation where a trainee or student will not make a formal complaint or where an alleged harasser can not be identified, poses particular problems for a training or education provider. It is therefore in the interests of the training or education provider to develop a strong, transparent and trusted harassment policy in which all trainees and students have faith, so that they are more likely to make use of it with confidence.

- 9.12 Further information on dealing with complaints of harassment either formally or informally can be obtained from the Equality Commission or by referring to the Commission’s “Model Harassment Policy and Procedure” and joint publication with the LRA “Harassment & Bullying in the Workplace.” These publications address bullying and harassment within the workplace, but the guidance may be adapted to the learning environment.

Dealing with discriminatory actions by employees, clients, customers, trainees & students

- 9.13 There is a responsibility on employers such as training and education providers to ensure that its employees, clients, customers, trainees or students do not harass other employees, clients, customers, trainees or students because of their age, actual or perceived or as a result of their association with others of different ages. A training or education provider cannot either refuse to employ or admit an individual or dismiss, exclude or terminate an individual from work, training or education because its workforce, customers, clientele, trainees or students refuse to accept that individual on grounds of age. The prejudices of other employees, clients, customers, trainees or students cannot excuse unlawful discriminatory action.
- 9.14 Employees, clients, customers, trainees or students who refuse to work, train or study with or deal with an employee, trainee or student on grounds of age should be informed in clear terms that their actions are discriminatory and are unacceptable in the workplace and learning environment. Measures should be taken to reinforce the training or education provider’s inclusion policies (such as equal opportunities and harassment policies) and disciplinary action should be taken as appropriate.

10. Equality policies, practices & procedures

Introduction

- 10.1 There are key equality policies, practices and procedures which it is recommended that training and education providers put in place in order to promote equality of opportunity in the workplace and learning environment and to help prevent discrimination on grounds of age, as well as the other grounds protected by the equality legislation.
- 10.2 This chapter addresses policies, practices and procedures relating to the workplace as well as the learning environment, as those relating to the workplace may have an impact upon the learning environment. Please note, guidance for employers, workers and employees can be obtained from our accompanying guides, “Age Discrimination in Northern Ireland: A Guide for Employers” and “Age Discrimination in Northern Ireland: A Guide for Workers and Employees”.

Implement inclusion policies & procedures

- 10.3 It is recommended that training and education providers should:
- develop and implement clear, comprehensive, effective and accessible inclusion policies (such as equal opportunities and harassment policies) and associated practices and procedures which specifically cover the area of age, or
 - check that their existing policies cover the ground of age.
- 10.4 They may wish to develop one single unified policy or create different policies to cover different relationships; such as their employer-employee/worker, vocational training provider-trainee, or educational establishment-student, or any other relationship. For guidance, please contact the Commission.

10.5 The policies should:

- set out the training or education provider's commitment to the promotion of inclusion in the workplace, and learning environment; and
- make it clear to employees, trainees or students that discrimination on grounds of age is unlawful and will not be tolerated in the workplace or in the learning environment.

10.6 The Commission has published a "Model Equal Opportunities Policy" that training and education providers may wish to use as the starting point for the preparation of their policy statements. Please note, this model policy has been developed for use by employers. However, some training and education providers may wish to adapt it to apply more generally to customers or users/beneficiaries of their services; such as trainees and students. The same basic principles apply but training organisations and educational establishments must take care to ensure that the wording of their policy is clear and accurate and that they understand to what they are committing.

Implement a harassment policy & procedure

10.7 It is also recommended that training and education providers should:

- have a clear, comprehensive, effective and accessible harassment policy and procedure which covers complaints of harassment on grounds of age (see previous chapter "Harassment & bullying"). By implementing a harassment policy and procedure, training and education providers outline to their employees, trainees and students how they can raise complaints of harassment and how these complaints will be dealt with.

10.8 The Commission has published a “Model Harassment Policy and Procedure” that training and education providers may wish to use as the starting point for the preparation of their policy statements. Please note, this model policy has been developed for use by employers. However, some training and education providers may wish to adapt this equal opportunities policy to apply more generally to customers or users/beneficiaries of their services; such as trainees and students. The same basic principles apply but training organisations and educational establishments must take care to ensure that the wording of their policy is clear and accurate and that they understand to what they are committing.

Consult on policies

10.9 Training and education providers are recommended to:

- consult with the appropriate recognised trainee and student representatives, and those in education or training when drawing up and implementing inclusion policies, and the associated practices and procedures; and
- consult with all employees, trainees and students. If a training or education provider only consults with their full-time workers or full-time trainees or students, they could be considered as treating part-time workers, trainees or students, many of whom may be not be typical of the stereotypical worker, trainee or student, less favourably than full-time workers, trainees or students.

Communicate policies

10.10 It is important that training and education providers:

- effectively communicate their inclusion policies, practices and procedures, and all other related policies or procedures they may have relating to inclusion, to all employees, trainees and, students, contractors and agency staff. Particular efforts should be made to inform those working, training, or in education, on a part-time basis. For employees, this could be done, for example, through staff briefings, contracts of employment, staff handbooks, notice boards, circulars, written notifications to individual employees, equal opportunities training, induction training, management training, training manuals etc. For trainees and students, this could be done, for example, using Fresher Packs, trainee/student handbooks, notice boards, website, e-mail and on posters etc;
- take all available opportunities, especially when either recruiting new staff or admitting new trainees or students, to ensure that inclusion policies, practices and procedures are widely known. No one should be in any doubt about their training and education provider's policy and practice;
- ensure that inclusion policies, practices and procedures are accessible to all employees, trainees or students, particularly those who may not typically be seen as either employees, trainees or students, disabled employees trainees or students and/or employees, trainees or students from a minority ethnic background. They should be accessible as regards their format, content and implementation;
- make it clear to all agents what is required of them with regard to their duties and responsibilities under the Regulations and the extent of their authority;
- note their commitment to equality of opportunity, including on the grounds of age, in relevant publications (for example, company reports, brochures and prospectuses) and particularly in advertisements; and

- make their commitment known to all applicants for training, studentships or employment.

Provide training

10.11 It is recommended that training and education providers should:

- provide training and guidance to all employees, trainees or students in order to ensure that they understand their responsibilities under the Regulations, other equality legislation and the organisation's inclusion policies, practices and procedures, particularly with respect to the trainees and students. They should make every effort to ensure that training is accessible to all staff, trainees or students.
- provide training and guidance to all managers, supervisors, personnel, admissions, lecturers, teachers, trainers and other employees who have key roles in relation to implementing inclusion policies, practices and procedures in the learning environment; and
- ensure that all training and guidance is regular, relevant and up-to-date.

Allocate responsibility

10.12 Training and education providers should:

- allocate overall responsibility for their inclusion policies, practices and procedures to a member of senior management. Management must by words and actions demonstrate their commitment to eradicating unlawful discrimination and fully integrating equality of opportunity into the vocational training and educational environment. Adequate resources, in terms of staff, time, funding, etc, must also be allocated;
- incorporate responsibility for ensuring compliance with their inclusion policies (such as equal opportunities and harassment policies) and associated procedures into the job descriptions of all employees;

- set, as part of the appraisal process, objectives for personnel staff and those with managerial responsibilities in relation to how they have contributed to the implementation of their vocational training provider, college or university's inclusion policies and procedures; and
- incorporate equal opportunities into business plans and strategies, performance management systems and the corporate planning process.

Deal effectively with complaints

10.13 It is recommended that training and education providers should:

- deal effectively with all complaints of discrimination, including those on grounds of age;
- ensure that complaints are dealt with promptly, seriously, sympathetically, confidentially and effectively. By dealing with complaints in this way, they are reinforcing the message to their employees, trainees or students that they are committed to:
 - promoting equality of opportunity in the learning environment; and,
 - consider complaints of discrimination a serious matter.
- take all reasonably practicable steps to ensure that individuals who do raise complaints are not victimised because of their complaints.

Check disciplinary rules

10.14 Training and education providers are recommended to:

- check disciplinary rules and/or procedures to ensure that unlawful discrimination is regarded as misconduct and could lead to disciplinary proceedings; and
- take appropriate action in relation to employees, trainees and students who discriminate contrary to the Regulations.

Monitoring & review

As an employer

10.15 As employers, training and education providers have to comply with fair employment and treatment legislation. Employers who have 11 or more full-time employees are required to register with the Commission. They are also required to monitor the community background and sex of their employees and applicants and to submit annual monitoring reports in respect of this data to the Commission. They are also required to use this data to carry out periodic reviews of the composition of their workforces and of their employment policies and practices.

10.16 In relation to the other statutory equality grounds (i.e. age, race, disability, sexual orientation), the Commission recommends that each employer should develop a policy on equal opportunities monitoring that applies to one or more or all of these categories.

10.17 For further guidance on monitoring for employers, please contact the Equality Commission.

As a training and education provider

10.18 It is recommended that all training and education providers monitor and review the implementation of all policies and procedures with respect to the provision of goods, facilities and services.

10.19 Monitoring the provision of goods, facilities and services may enable training and education providers to identify or keep under review the existence or absence of equality of opportunity or treatment between different categories of persons. The basic purpose is to highlight possible inequalities, help to investigate why these might be occurring and decide whether action needs to be taken to remove any unfairness or disadvantage. By itself, monitoring does not prove discrimination is taking place but can trigger important questions about policies, procedures and processes that may need investigation. Monitoring may also allow training and education providers to carry out further research to identify potential barriers which prevent certain equality groups from enjoying equality of opportunity or equality of outcomes.

10.20 The Commission would strongly advise training and education providers to monitor across as many equality groups as would be considered reasonable. For example, Section 75 of the Northern Ireland Act 1998 places a statutory duty on public authorities, in carrying out their functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity:

- Between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation.
- Between men and women generally.
- Between persons with a disability and persons without.
- Between persons with dependents and persons without.

10.21 The Commission has developed guidance for public bodies that wish to undertake monitoring as part of their statutory duty under Section 75. To obtain the publication “Section 75 Monitoring Guidance - For Use by Public Authorities” visit the Commission website: www.equalityni.org.

11. Resolving disputes

Introduction

- 11.1 Trainees and students have a right to learn in an environment free from harassment in which they are treated with dignity and respect and in which they can raise complaints of less favourable treatment without being victimised.
- 11.2 Trainees and students have a right under the Regulations not to be discriminated against on grounds of age when seeking vocational training, in the terms on which they are admitted, during the course of their training or education and/or, in certain circumstances, after they have left their training or education.
- 11.3 For more information on discrimination after leaving employment see the chapter on “Discrimination after a relevant relationship has come to an end.” Further information can also be found in the section “After the relevant relationship has come to an end” in this chapter.

Complaint & resolution

- 11.4 The remainder of this chapter examines difference between trainee and student situations with respect to making a complaint and resolution. It examines what vocational training providers, institutions of further and higher education, trainees and students need to know, and do, to make a complaint and to find resolution. The areas examined are with respect to:
- vocational training;
 - institutions of further and higher education; and
 - after a relevant relationship has come to an end.

Vocational training

- 11.5 If a person who is seeking or undergoing vocational training, other than at an institution of further and higher education, is discriminated against or harassed on grounds of age by a vocational training provider they may make a complaint of discrimination or harassment to an Industrial Tribunal.
- 11.6 A former trainee who is subjected to discrimination or harassment is also protected under certain circumstances. They can make a complaint to the County Court.

Institutions of further & higher education

- 11.7 A student or prospective student at an institution of further and higher education has a right not to be discriminated against or harassed on the grounds of age when applying for or during education. In Northern Ireland, institutions of further and higher education include universities (and colleges of education, also known as teacher training colleges), and all colleges and institutions of further and higher education.
- 11.8 If a student or prospective student wishes to make a complaint of the discrimination or harassment on the grounds of age, they must lodge the complaint with a County Court.
- 11.9 A former student who is subjected to discrimination or harassment is also protected under certain circumstances. They can make a complaint to the County Court.

Qualifications bodies

- 11.10 A trainee, student or other is not permitted to bring a claim in an Industrial Tribunal about alleged discrimination or harassment by a qualifications body if a statutory appeal is available in respect of the matter in question. For example, the Medical Act 1983 sets out specific mechanisms for appealing decisions of the General Medical Council or its committees regarding the registration of medical practitioners. Therefore, a complaint to which these appeal mechanisms applied could not be brought in an Industrial Tribunal.

11.11 Trainees, students or others who believe that they have been subject to age discrimination or harassment by a qualifications body should determine at the earliest stage the mechanisms for making a complaint. In the first instance, the trainee, student or other would be advised to contact the vocational training provider, institution of further and higher education or the qualifications body.

After a relevant relationship has come to an end

11.12 If a former trainee or student is treated less favourably or harassed on the grounds of age after a relevant relationship has come to an end, they can make a complaint of discrimination or harassment to a County Court.

Time limits for lodging a complaint

Industrial Tribunal time limits

11.13 Complaints against **vocational training providers** must be made to an Industrial Tribunal. However, there are certain circumstances when complaints must be made to a County Court (see section below).

11.14 There are very strict time limits for lodging a complaint of discrimination on grounds of age with an Industrial Tribunal. In most cases, complaints relating to discrimination in vocational training should be made to an **Industrial Tribunal** within **three months** of the date of the alleged act of discrimination.

11.15 The Industrial Tribunal can extend the time limits in exceptional cases, but simply not knowing that there were deadlines is usually an insufficient reason for extending the deadlines.

County Court time limits

- 11.16 Complaints against **institutions of further and higher education** must be made to the County Court.
- 11.17 Complaints regarding acts of discrimination or harassment on the grounds of age after a relevant relationship has come to an end (such as refusal to provide a reference on the grounds of age) must be made to a **County Court**. This includes acts of discrimination or harassment by a former:
- college or university of a former employee, and
 - vocational training provider or former trainee.
- 11.18 All complaints to a County Court must be lodged within **six months** of the date of the act of discrimination. The County Court may extend the time limits in exceptional cases.

Help & advice

- 11.19 Individuals who believe that they have been discriminated against on grounds of age should seek advice as soon as possible.
- 11.20 Individuals who believe they have been discriminated against on grounds of age can contact the Commission for free and confidential information and advice. Individuals, for example, can obtain advice on their rights under the Regulations or on how to lodge a discrimination complaint with an Industrial Tribunal or County Court. In certain circumstances, the Equality Commission may provide legal representation to individuals who believe they have been discriminated against contrary to the Regulations.

12. Further information, advice & support

For further advice and information, the following organisations can be contacted. This is not an exhaustive list.

Equality Commission for Northern Ireland

7-9 Shaftesbury Square
Belfast
BT2 7DP

Enquiry Line:	028 90 890 890
Telephone (Switchboard):	028 90 500 600
Textphone:	028 90 500 589
Fax:	028 90 248 687
Email:	information@equalityni.org
Website:	www.equalityni.org

The Equality Commission provides a range of information and advisory services for employers, service providers, employees and the general public.

Other useful publications relevant to age discrimination are available from the Equality Commission include:

- Age Discrimination in Northern Ireland: A Guide for Employers
- Age Discrimination in Northern Ireland: A Guide for Workers and Employees
- Age Discrimination Law in Northern Ireland: A Short Guide
- Harassment & Bullying in the Workplace
- Model Equal Opportunities Policy
- Model Harassment Policy and Procedure

The Equality Commission produces information and advisory materials covering many aspects of equality in Northern Ireland. Further information can be found on the Equality Commission's website at www.equalityni.org.

Other statutory organisations

Age Positive Team

Department for Work and Pensions
Room W8D
Moorfoot
Sheffield
S1 4PQ

Email:

General: agepositive@dwp.gsi.gov.uk
in England: agepositive@geronimocommunications.com
in Wales: melissa.adams@geronimocommunications.com
in Scotland: alistair.haw@geronimocommunications.com

Labour Relations Agency

Head Office
2-8 Gordon Street
Belfast
BT1 2LG

Telephone 028 90 321 442
Textphone: 028 90 238 411
Fax: 028 90 330 827
Email: info@lra.org.uk
Website: www.lra.org.uk

Or at:

Regional Office

1-3 Guildhall Street
Londonderry
Co. Londonderry
BT48 6BJ

Telephone 028 71 269 639
Fax: 028 71 267 729
Email: info@lra.org.uk

Northern Ireland Commissioner for Children and Young People (NICCY)

Millennium House
17-25 Great Victoria Street
Belfast
BT2 7BN

Telephone: 028 90 311 616
Email: info@niccy.org
Website: www.niccy.org

Northern Ireland Human Rights Commission

Temple Court
39 North Street
Belfast
BT1 1NA

Telephone: 028 90 243 987
Fax: 028 90 247 844
Email: info@nihrc.org
Website: www.nihrc.org

The Northern Ireland Ombudsman

Call in at: The Ombudsman's Office
Progressive House
33 Wellington Place
Belfast

In Writing: Freepost BEL 1478
Belfast
BT1 6BR

Telephone: 0800 34 34 24 (this is a Freephone number)
028 90 233 821 (switchboard)
Fax: 028 90 234 912
Email: ombudsman@ni-ombudsman.org.uk

Office of the Industrial Tribunal and Fair Employment Tribunal

Longbridge House
20 - 24 Waring Street
Belfast
BT1 2EB

Telephone: 028 90 327 666
Fax: 028 90 230 184
Website: www.employmenttribunalsni.co.uk

Employer organisations & trade unions

Association of Northern Ireland Colleges

Unit 3
The Sidings Business Office Park
Antrim Road
Lisburn
BT28 3AJ

Telephone: 028 92 627 512
Fax: 028 92 627 594
Email: info@anic.ac.uk
Website: www.femeansbusiness.com

Equality Challenge Unit

7th Floor
Queens House
55/56 Lincoln's Inn Fields
London
WC2A 3LJ

Telephone: 020 7438 1010
Fax: 020 7438 1011
Email: pubs@ecu.ac.uk
Website: www.ecu.ac.uk

Northern Ireland Committee - Irish Congress of Trade Unions

Carlin House
4-6 Donegall Street Place
Belfast
BT1 2FN

Telephone: 028 90 247 940
Fax: 028 90 246 898
Email: info@ictuni.org

Staff Commission for Education and Library Boards Northern Ireland

Forestview
Purdy's Lane
Belfast
BT8 7AR

Telephone: 028 90 491 461
Fax: 028 90 491 744
Email: info@staffcom.org.uk
Website: www.staffcom.org.uk

Advice & support groups

Age Concern

3 Lower Crescent
Belfast
BT7 1NR

Telephone: 028 90 245 729
Fax: 028 90 235 479
Email: info@ageconcernni.org
Website: www.ageconcernni.org

Children's Law Centre

3rd Floor
Philip House
123-137 York Street
Belfast
BT15 1AB

Telephone: 028 90 245 704
Fax: 028 90 245 679
Website: www.childrenslawcentre.org

Help the Aged – Northern Ireland

Ascot House
Shaftesbury Square
Belfast
BT2 7DB

Telephone: 028 90 230 666
Fax: 028 90 248 183
Email: infolni@helptheaged.org.uk

The Law Society of Northern Ireland

Law Society House
98 Victoria Street
Belfast
BT1 3JZ

Telephone: 028 90 231 614
Fax: 028 90 232 606
Email: info@lawsoc-ni.org

Citizens Advice

46 Donegall Pass
Belfast
BT7 1BS

Telephone: 028 90 231 120
Textphone: 028 90 236 522
Fax: 028 90 248 687
Email: info@citizensadvice.co.uk
Website: www.citizensadvice.co.uk

This is the address of the regional office. Contact this number to find out the location of your nearest local office

NUS-USI

29 Bedford Street
Belfast
BT2 7EJ

Telephone: 082 90 244 641
Textphone: 028 90 324 878
Fax: 028 90 439 659
Email: info@nistudents.org
Website: www.nistudents.org

Youth Action Northern Ireland

Belfast Office
Hampton
Glenmachan Park
Belfast
BT4 2PJ

Belfast Office:

Telephone: 028 90 760 067
Fax: 028 90 768 799
E-mail: info@youthaction.org

Derry Office: 028 71 318 854
Armagh Office: 028 37 511 624
Clogher Office: 028 85 548 111
Crossmaglen: 028 30 868 734

Great Britain organisations

Acas (Advisory, Conciliation and Arbitration Service)

National Office
Brandon House
180 Borough High Street
London
SE1 1LW

Telephone: 08457 474747
Textphone: 08456 061600
Website: www.acas.org.uk

Employers Forum on Age

Floor 3
Downstream
1 London Bridge
London
SE1 9BG

Telephone: 0845 456 2495
Fax: 020 7785 6536
Email: efa@efa.org.uk
Website: www.efa.org.uk

Ireland organisations

The Equality Authority

2 Clonmel Street
Dublin 2
Ireland

Telephone: 00 353 1 4173333
Business queries 00 353 1 4173336
Textphone: 00 353 1 4173385
Fax: 00 353 1 4173331
Email: info@equality.ie
Website: www.equality.ie

The Equality Tribunal

3 Clonmel Street
Dublin 2
Ireland

Locall: 1890 34 44 24
Telephone: 00 353 1 4774100
Fax: 00 353 1 4774141
Email: info@equalitytribunal.ie
Website: www.equalitytribunal.ie

National Youth Council of Ireland (NYCI)

3 Montague Street
Dublin 2
Ireland

Telephone: 00 353 1 4784122
Fax: 00 353 1 478 3974
Email: info@nyci.ie
Website: www.youth.ie

Age & Opportunity

Marino Institute of Education
Griffith Avenue
Dublin 9
Ireland

Telephone: 00 353 1 8057709
Fax: 00 353 1 8535117
Email: info@olderinireland.ie
Website; www.olderinireland.ie

Equality Commission

FOR NORTHERN IRELAND

HOW can we help?

The Equality Commission for Northern Ireland can give advice and information on The Employment Equality (Age) Regulations (Northern Ireland) 2006. Information is also available on our website.

For further information, please contact us at:

Equality Commission for Northern Ireland

Equality House
7-9 Shaftesbury Square
Belfast
BT2 7DP

Enquiry Line: 028 90 890 890
Telephone: 028 90 500 600
Textphone: 028 90 500 589
Fax: 028 90 248 687
Email: information@equalityni.org
Website: www.equalityni.org

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