

MANAGING PERFORMANCE

With the abolition of the default retirement age in October 2011 it will be automatically unfair and age discriminatory to retire someone simply because of their age – unless of course you can objectively defend your decision, but this will be extremely difficult to do in practice. In reality it may well be that some staff will still aspire to 'retire' at, or around age 65 and they can simply resign as would any other employee.

Where this isn't the case and employees continue to work beyond what would have been their normal retirement date, you will be limited to the same limited number of potentially fair reasons for dismissing them. The most commonly used of these are conduct, redundancy and capability. The first two of these are relatively well understood; it is the third, capability which is likely to be most contentious.

The fear amongst employers appears to be that, beyond a certain age, employee performance will deteriorate. This may, or may not, be the case in individual circumstances. Where it does happen it will have to be managed as it would with any employee – there is no longer the option of tolerating decreasing performance because of the view that it isn't worth the effort of sorting it out if the person will be retiring in a few months. It will have to be managed so that the performance returns to the necessary standard or the individual is managed out of the organisation.

In view of this your Performance Management and Appraisal processes have never been as important. They don't need to be overly complex in order to meet ACAS's recommendations. Their view is that regular conversations should be held with all employees to consider:

- The company's expectations of them
- Their performance
- Future plans – theirs and the company's

Once you have a performance management process/structure in place you will be able to more easily identify performance issues and their causes and having done that you will be in a much better position to address them. If you reach the unfortunate situation of having to make a capability dismissal you will be in a much stronger position in terms of being able to demonstrate that you followed a fair process and acted reasonably.

If you would like any advice on introducing or reviewing existing performance management and appraisal processes, please contact us on 01484 602708 or julie@jcs-hr.co.uk