



**Briefing on Equality Bill
Second Reading, House of Lords**

December 2009

by

TAEN – The Age and Employment Network

Reporting on Age

We seek an amendment to the Bill to lay a duty on public and private sector employers with more than a given number of employees to publish annually details of the age ranges of their employees. We suggest that the number of employees that sets the threshold of this legal duty is 250.

Currently provisions in the Bill, if they remain unchanged, will lead to new reporting requirements for employers relating to gender pay gap, disability and race but not in relation to age.

Public sector

Public sector employers with more than 150 employees will be required to publish annually details of their gender pay gap. They will also be required to publish annually details of their ethnic minority and disability employment rates.

Private sector

The Bill contains a power to require reporting on the gender pay gaps by employers with 250 or more employees. The EHRC is to develop a set of metrics for gender pay reports in consultation with business, unions and others.

The Commission will monitor progress on reporting within the private sector annually. If sufficient progress not made over the next four years, it is the Government's intention to use the gender pay reporting power [in relation to the private sector] from 2013.

Gender pay reports for the public sector will come in first.

Workforce age profiles

The Equality Bill, however, contains no measures that will require employers to disclose the age profiles of their workforce. In the Second Reading Debate in the House of Commons, Harriet Harman commented in relation to the gender pay gap reporting requirements: ***"It is not a burdensome requirement; employers know whom they employ, whether their employees are men or women, and what they pay them."***

TAEN would add that they also know the ages of their employees, and so requiring them to provide information on the age profile of their workforce would not be burdensome either. In fact a number of large companies do already provide workforce age profile information in their public documents.

In 2008 TAEN reviewed the annual reports, corporate social responsibility reports and corporate websites of the FTSE 100 companies (the 100 largest companies by market capitalisation quoted on the London Stock Exchange) to see what information, if any, they gave about the age profile of their workforce. We waited until 2008 to carry out this review so that the reports covered a period of at least one full year of activity since the introduction of the Employment Equality (Age Regulations) in October 2006. Twenty-four companies¹ provided some form of workforce age profile although the detail varied considerably from one organisation to another.

¹ Astra Zeneca, BAE Systems, Barclays, BSkyB, BT, Cadbury Schweppes, Centrica, Experian, Intercontinental Hotels, HSBC, HBOS, ITV, Kelda Group, Kingfisher, Land Securities, Man Group, Marks & Spencer, Reed Elsevier, RBS, Sainsbury, Scottish & Southern Energy, Standard Life, Thomas Cook, Vodafone.

Rationale

One aim of the Government in bringing forward the Equality Bill is to create the circumstances where workplaces are more equal across all the equality strands. This should include helping to build organisations that are sensitive to age-related bias and unfairness.

The reason for the existing provisions in the Bill that will oblige employers to report on gender and race, is that auditing in this way will help identify areas of inequality of representation. The rationale is that this in turn may guide employers and public sector organisations to explore the barriers to achieving equality of opportunity and then hopefully to attempt to remove them.

A further point is that employers commonly state that they are committed to equality as “equal opportunities employers”. It is reasonable to expect that employers making such claims should provide evidence to support them. Reporting on profiles of race and gender will to some extent meet this condition. On the other hand, the lack of reporting duties on age is a deficiency in this respect.

It is therefore arguable that companies should not only monitor gender and race but also age diversity as part of their commitment to equality. Providing evidence of such commitment by reference to their age profiles and, where appropriate, mentioning any actions taken to address inequality, would support the *equal opportunities employer* message in a substantive way.

In summary, the logic of requiring reporting of race and gender profiles applies equally with regard to age inequality.

The proposal to audit ages of workforces may however also be justified by quite different arguments, many of which touch on business benefits, but in sum amount to a powerful accompaniment to the Government’s commitment of extending working lives, fuller engagement of all its people in work and optimising the resources and potential of all its people. We explore some of these angles in the following paragraphs

Why age auditing can help businesses

Employing organisations today face risks from workforce ageing that need to be approached sensibly. Analysis of workforces according to their age profiles can reveal risks that organisations face in terms of the likelihood of important skills in the organisation departing by retirements in the next few years, for example.

Organisations may appear age diverse, but that diversity may be misleading if it is not reflected evenly across the various job roles and functions in the organisation. The idea of conducting age profiling in this way is that it is a management tool, designed to suit the needs of managers and inform decisions about future manpower planning and hiring strategies.

Why a legal duty?

Why should it be necessary to *oblige* organisations to age profile their workforces then? Quite simply because there is too little awareness of the demographic challenges that organisations face.

Based on the Government’s own population projections, by 2021 the proportion of the workforce aged 50 to state pension age will have increased from just under a quarter (24.3 per cent) in 2006 to nearly a third (31.8 per cent). By 2046, when the state pension age will have increased to 68 for both men and women, the proportion

of the workforce in the 50 to state pension age group is projected to have risen to 35 per cent.

If organisations do not respond to these challenges by taking appropriate measures to extend the working lives of their employees, making it *possible* for them to continue working up to and beyond the advancing state pension age already planned, organisations themselves will suffer - but so too will national and regional economies and the people who work for the organisations. Age auditing is therefore an economic and social issue as well as an equality issue.

Intervening to make working later possible

The fact is that many of the interventions that organisations need to take cannot be expected to have an instant impact. Those who know about *age management* approaches (and this is a term that is increasingly being used to describe the measures organisations take to address demographic risks) talk in terms of *life course interventions*. In other words, we need to think about measures that will not just be aimed at older workers but at all workers, with a view to extending their working lives.

So, such interventions are not in the main quick fixes, though they may sometimes be simple and sometimes they *may* also be quick and easy – like improving the lighting and ensuring that people have the right glasses for work when their eyesight gets a little weaker with age.

More often they are likely to take time. They may be longer term in nature, like improving the skills and knowledge of workers and giving them new career alternatives, restructuring their jobs in some way, or taking action to reduce the stress levels or other fatiguing factors in the work.

The need for planned approaches

Such interventions need to be carefully thought through and put in place. When an organisation conducts an age profiling exercise and realises that there is a potential scarcity of workers in future years in a particular skill or part of the business, the management can do something about it. This may require a plan of action.

The plan may be to hire new workers, train existing workers or encourage them to remain longer by offering amended working conditions, perhaps with an element of flexibility. It may be to *enable* them to work longer by taking account of some obstacle, perhaps an arduous aspect of the job, by making adaptations to the work or introducing equipment or working methods that make fewer or different demands. Or it may be simply to introduce a greater range of support and flexibility to those who wish to work different hours or who have needs in relation to caring roles they must combine with their paid employment.

Tailoring interventions to specific organisational needs

The fact is that it is difficult, if not impossible to come up with a formula for any given organisation until one knows a great deal more about the working conditions and the demands and problems that face those who work for it.

One needs to understand the issues in that organisation deriving from turnover, the demographic and other characteristics of the local labour market and so many more factors. Age profiling would therefore be a very useful encouragement and incentive to organisations to think long in this way.

Undertaking the age profiling exercise is simply the *beginning*. In a good organisation one would expect there to be some consultation with employees or the union representing them. From this, one would expect other things to follow. The plain fact however is that whilst the Government has a policy of trying to encourage employees and employers to work together to extend working lives, too little is being done to bring this to reality.

The gap between policy, personal aspiration and organisational readiness

In November we had the results of the CIPD Employee Outlook survey of 2,000 working people on the expectations of people regarding working beyond state pension age.

Clearly, many more people aspire to work longer for various reasons. Employers need to do much more to turn this into reality. We need them to do it because there are plans to change state pension age – the Conservatives to have their plans to bring the changes forward, and the Institute of Directors has said that they would like to see a state pension age of 70. Unless employers change their policies and practices and make them more age friendly, it is hard to see how many people will be able to work longer. So age profiling is a first step, supporting the aim of extending working lives and making it possible for people to work longer.

Summary and conclusion

Introducing a requirement to report on age profiles in organisations would provide the context in which it would be more likely that companies begin to address some of the issues raised in this briefing. The law would not of course oblige them to become engaged in proactive age management processes but it would be consistent with a process of moving in this direction.

Default retirement age

The Equality Bill preserves the mandatory retirement provisions of the 2006 Age Regulations – under which an employer has the right to mandatorily retire employees once past the age of 65. It is important to note that this is a missed opportunity in terms of extending working lives and is also a significant example of legitimate discrimination against individuals. There are many issues in relation to the Default Retirement Age which could be mentioned in the context of our proposal to introduce age monitoring. Please note however that this has been covered in our earlier briefing for the House of Lords debate on older workers.

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