

The law is on your side

The *Age Discrimination Act 2004* provides an enforceable remedy in federal law for people who suffer discrimination on the basis of their age. Under the provisions of the Act, it is against the law to treat a person less favourably because of their age. The purpose of the Act is to protect the rights of both younger and older Australians.

What does the Age Discrimination Act cover?

The Age Discrimination Act 2004 (ADA) is a federal law which addresses age discrimination in many areas of public life. The ADA is applicable in all Australian States and Territories.

The ADA helps ensure a person is not treated less favourably because of their age in a number of areas including: Employment; Accommodation; Goods, Services or Facilities and the Administration of Commonwealth laws and programs - among others. For detailed information, go to www.humanrights.gov.au

When is the law applicable?

- Inherent requirements

It is not considered unlawful discrimination to deny someone a job if the person is unable to carry out the 'inherent requirements' of the particular position of employment because of their age.

- Vicarious liability

Under the Act an employer, regardless of size, may be legally responsible for age discrimination which occurs in the workplace or in connection with a person's employment unless it can be shown that 'all reasonable steps' have been taken to reduce this liability. This is called 'vicarious liability'.

Employers must put in place measures to minimise the risk of age discrimination occurring.

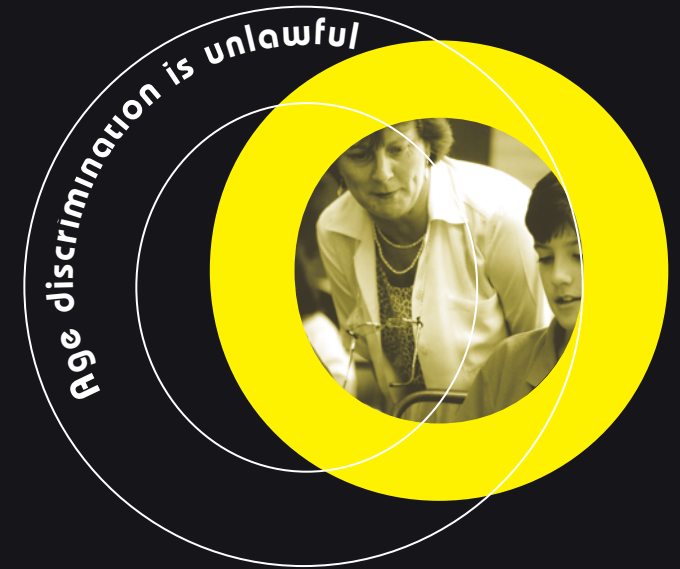
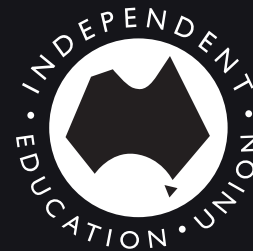
For further information see the 'Information for Employers' section on the Commission's website at:

www.humanrights.gov.au/employers/

What should I do if I believe I have suffered age discrimination?

Be Bolder

Contact your workplace IEU rep or
ieu@ieu.org.au



Be Bolder

assert your rights



Be Bolder

Ageism is as unacceptable as racism and sexism in a just and inclusive society - unfortunately it is alive and well in many schools.

The IEUA acknowledges that age discrimination is a very real but often hidden problem in your workplace. With the median age of teachers being close to 50, there are increasing numbers of complaints from our members about negative attitudes from employers which are age related.

Members have reported they experience pressure from employers to retire or to work part time because they are seen not to be fit or energetic.

It is important that all members understand their rights, and are bolder about asserting those rights.

Age discrimination and employment

Discrimination is particularly evident in areas related to recruitment, promotion, training, retirement and redundancy. Common stereotypes among employers include perceptions that the skills of mature-age job seekers are outdated and that they are harder to train. Many employers also assume that mature age workers are either unable or unwilling to adapt to new technology. These attitudes can discourage many older people from attempting to remain in or re-enter the workforce.

Your Union supports your rights

The IEUA believes that our schools need to be workplaces which reflect the diversity and plurality of the broader Australian community -including a mix of experience and maturity with younger, recently trained teachers; a gender balance across all educational roles; and staff with diverse educational and cultural experiences.

We need an ageless workforce - a workforce based not on age, but on talent, skills, experience and willingness to work. There needs to be policies for an age-balanced workforce and we should work towards ensuring our workplaces are 'age-friendly'.

Our employers need to put in place strategies to overcome negative attitudes to mature age employment and career advancement

The IEUA continues to assist members who have a wealth of experience as classroom practitioners and as mentors to deal with confronting questions from employers about their age - or their invisibility when it comes to career progression.

Have you heard this before?

- "at your age are you only now applying for a promotions position"
- "At your age can you handle stress?"

Understanding age discrimination

The Human Rights and Equal Opportunity Commission (HREOC) defines age discrimination (www.

Age discrimination occurs when an opportunity is denied to a person solely because of their age and where age is irrelevant to the person's ability to take advantage of that opportunity.

• Direct discrimination

Direct age discrimination happens when a person is treated less favourably because of their age than a person of another age group would be treated in the same or similar circumstances. The Age Discrimination Act 2004 prohibits less favourable treatment not only because of age, but also because of characteristics generally pertaining to age and characteristics generally imputed to people of that age.

eg It could be direct age discrimination if a person is not employed simply because of their age, such as an employer assuming that an older person would not have adequate computer skills to do an office job. It could also be direct age discrimination if a young person is refused rental accommodation because the agent assumes young people will not properly maintain the property.

• Indirect discrimination

Discrimination also happens when there is a requirement, condition or practice that is the same for everyone but has an unfair effect on a person of a particular age. This is known as indirect discrimination.

eg It could be indirect discrimination if an employer requires an older person to meet a physical fitness test which younger people can meet more easily, if the fitness standard is not reasonable for the job in question.

