

Technical Guidance on Age Discrimination Equality and Human Rights Commission

RPC rating: **validated**

The assessment is now fit for purpose as a result of the department's response to the RPC's initial review. As first submitted, the assessment was not fit for purpose.

Description of proposal

The Equality Act 2010 includes provisions protecting against age discrimination in services. There are some exceptions to this prohibition, which apply to a limited number of sectors and in specific circumstances.

The Equality and Human Rights Commission (EHRC) has published new guidance, which it expects will help businesses, public authorities, courts, tribunals, lawyers and advocates to comply with the legislation. The guidance interprets and provides elements of good practice in relation to age-specific exceptions.

Impacts of proposal

The number of businesses and voluntary sector organisations potentially affected is estimated at 1,067,000 (908,000 businesses and 159,000 organisations).

Familiarisation costs

The assessment estimates, based on the web downloads since August 2016, 66 businesses will familiarise themselves with the guidance. Some sections of the guidance apply only to certain groups of businesses with age restriction policies or to organisations and, as such, will be read only by a subset of the overall cohort as the guidance itself is not compulsory.

The assessment estimates that initial familiarisation will cost businesses around £6,000 in the first year which is an overestimation as the assessment assumes businesses have read every section of the guidance. This was calculated in Table 1 of the amended assessment using an hourly wage rate of £20, with 66 businesses impacted and with varying time spent in familiarisation costs for each sector. The assessment assumes that after the first year, employees will re-familiarise with the relevant content every two years. As businesses have already read these sections at least once before, the assessment assumes that the familiarisation will take less time

from 75 words per minute for the initial familiarisation to 100 for re-familiarisation, leading to a total cost of re-familiarisation of £4,700 per annum.

Dissemination and Training

The guidance, which helps businesses understand their regulatory obligations, will in some organisations lead to policy changes or further dissemination and training in an effort to promote compliance. As there is not sufficient data to quantify how many businesses will undertake training activities, the assessment assumes, based on discussions with the Government Equalities Office (GEO), that 5% of organisations that have age restriction policies will re-train their staff or disseminate updated policy material as a result of the information garnered from the guidance in the first year. This is expected to take up 30 minutes of staff time, resulting in an one-off direct cost of £46,000.

Use of legal services

Following the RPC's initial review, the regulator has removed its estimates of the legal savings that the guidance is expected to result in. The amended assessment states that it has not been possible to quantify legal savings due to limitations in the data.

Indirect impacts

The assessment anticipates a small benefit because it expects that with clearer guidance, fewer age discrimination cases will be brought to court annually. One example is based on examination of the smaller number of age discrimination cases presented in the Republic of Ireland factoring in population size, where GEO anticipates fewer than 40 cases being brought to court annually. The assessment also anticipates indirect competitive benefits as a result of businesses respecting age discrimination rules, for example 'greater revenue as a result of a widened market which can be extended to improved sales and customer retention on the basis of improved brand reputation. However, for the purposes of this assessment, these have not been quantified. Although the assessment estimates an overall net cost to business, it suggests that the policy will be net beneficial to business due to the impact of the indirect benefits, which have not been monetised for this assessment.

Quality of submission

The original assessment of the impact of this guidance included an attempt to quantify savings from legal advice, which were estimated to have resulted in substantial savings to business. However, these estimates were not based on sufficient evidence. Following the RPC's initial review, EHRC was asked to seek further evidence or external validation to support the high level of expected legal savings.

The assessment does not quantify the savings from legal advice due to the lack of evidence. The assessment would have benefitted from an attempt to gather data from businesses to quantify the saving. However, the regulator argues that it would not have been proportionate to consult on the legal savings, given the small size of the impact. It would have been helpful if the regulator could have supplied a clearer justification for this position.

Departmental assessment

Classification	Qualifying regulatory provision
Equivalent annual net direct cost to business (EANDCB)	£0.7 million (initial estimate) Zero (final estimate)
Business net present value	Zero

RPC assessment

Classification	Qualifying regulatory provision
EANDCB – RPC validated ¹	Zero
Business impact target score ¹	Zero
RPC rating (of initial submission)	Not fit for purpose



Anthony Browne, Chairman

¹ For reporting purposes, the RPC validates EANDCB and BIT score figures to the nearest £100,000.