

AGE DISCRIMINATION: THE HIGH COURT'S DECISION IN 'HEYDAY'

This Employment Briefing updates Employment Briefings E01-09 and E06-09. The Heyday case challenged the lawfulness of the national default retirement age of 65 confirmed by Employment Equality (Age) Regulations 2006 ("the Regulations").

The High Court referred the question to the European Court of Justice, who held in March 2009 that the mandatory retirement age of 65 is capable of being lawful provided it is objectively justified within UK law. The case was referred back to the High Court to determine whether compulsory retirement at 65 is objectively justifiable.

On 25 September 2009 the High Court held that compulsory retirement at 65 is objectively justifiable. Consequently, unfair dismissal claims based on age discrimination which were made to Employment Tribunals and which had been held in abeyance pending the High Court's decision, will now fail. The High Court's decision confirms that it is lawful for local councils to retire employees at 65 provided they comply with the statutory procedures which are fully explained in Employment Briefing E06-06.

The default retirement age is likely to rise in the next few years and the government is looking to review it next year. NALC will provide further guidance in the event of any statutory changes to the default retirement age

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