



AGE DISCRIMINATION BAN EXCEPTIONS ANNOUNCED

Keith Lloyd, GCMA CEO, gives details of the Home Office's plan to implement the age discrimination ban.

June 2012

GCMA Members are informed that the Government has published its response to the consultation on exceptions from an age discrimination ban in the provision of services and public functions.

The response states that the Home Office (Government Equalities) plan to implement the age discrimination ban and the exceptions subject to Parliamentary approval, from 1 October 2012.

The new law will only prohibit harmful or unjustifiable treatment that results in genuinely unfair discrimination because of age. Harassment related to age will also be banned, as will victimisation resulting from complaints about discrimination or harassment.

The ban on discrimination will not affect the many entirely justifiable instances of different treatment that do not cause any harm. It strikes the right balance between the interests of business and consumers.

The Government's response to that consultation, including the draft exceptions to that Order are explained below. Please refer to the Government Equalities Office document where appropriate. <http://www.gcma.org.uk/gcma/assets/File/pdfs/1220a.pdf>.

What's relevant to Golf Clubs?

In short, it is the view of the GCMA that Clubs may;

- ⌘ Continue to apply discounted membership subscriptions for persons of a certain age (eg 65+, under 35, 25, 21 etc)
- ⌘ Continue to allow discounted membership schemes on the basis of length of membership (ie discount for 25 years continuous membership etc)
- ⌘ Continue to run competitions where there is an age restriction or condition (eg over 55's only)

The following excerpts from the Response document (ie the information relates to where Exceptions ARE allowed) are the most relevant to Golf Clubs:

Chapter 1: Executive Summary (Page 1)

- 1.1** The Government is committed to eradicating harmful and unjustifiable age discrimination. The Equality Act 2010 bans age discrimination against those aged 18 and

over in the provision of services and the exercise of public functions, **and by private clubs and other associations.**

The Government intends to bring the ban and related exceptions into force in October 2012.

1.3 Once the ban is in force, service providers and others will still be able to provide different services to different people based on their age, if:

- ⌘ they can show a sufficient reason (“**objective justification**”) if challenged; or
- ⌘ they can justify extra help to an age group with particular needs; or
- ⌘ the different treatment is allowed as required by law, for example free prescriptions and eyesight tests for older people, free bus passes for pensioners.

General services (Chapter 5) (Page 2)

1.13 Age-based concessions or discounts in, for example, retailing or clubs or associations, such as cheaper deals for pensioners, **discounts (of subscriptions) for older members of golf clubs.** These (exceptions) were welcomed by respondents. The Government has decided to proceed as proposed, with minor technical revisions to the draft Exceptions Order, as set out in Annex 1A (Pages 43/44)

Associations (Page 42)

8. In Schedule 16 (Associations: exceptions) insert after paragraph 1-
“Age

1A-(1) An association does not contravene section 101 (1) or (2), so far as relating to age discrimination, by giving a concession on admission to membership for -

- (a) persons of a particular age group, or
- (b) persons who have been members of the association for more than a number of years specified by the association for this purpose.

(2) An association does not contravene section 101(2) or (3), so far as relating to age discrimination, by giving a concession on access to a benefit, facility or service for -

- (a) members of a particular age group, or
- (b) persons who have been members of the association for more than a number of years specified by the association for this purpose.

(3) An association does not contravene section 102(1), so far as relating to age discrimination, by giving a concession on invitations of persons of a particular age group as guests.

(4) An association does not contravene section 102(2), so far as relating to age discrimination, by giving a concession on access to a benefit, facility or service for guests of a particular age group.

(5) For the purposes of this paragraph, affording only persons of a particular age group access to a benefit, facility or service for a limited time is to be regarded as a concession.

(6) The reference to a concession in respect of something done by an association is a reference to a benefit, right or privilege having the effect that the manner in which, or the

terms on which, it does it are more favourable than the manner in which, or the terms on which, it usually does the thing.”

1.16 Sport (page 3)

A specific exception to allow age-restricted sports competitions, (for example, **under-21**) football leagues and **veterans'** tennis competitions.

5.23 Sport (Page 28)

We (the Government) understand that **it is important for golf clubs to allow age limits and banding when setting eligibility criteria for competitions at all levels. The exception will allow seniors' golf competitions and other age bands to continue** and there is no reason why a handicap system cannot also be applied.

Respondents broadly welcomed this proposal. The Government has decided to proceed as proposed, with minor modifications and technical revisions to the draft Exceptions Order, as set out in Annex 1A.

Sport (Page 43)

9. In section 195 of the Act (general exceptions: sport) insert after subsection (6) -

“(7) A person does not contravene this Act, so far as relating to age discrimination, only by doing anything in relation to the participation of another as a competitor in an age-banded activity if it is necessary to do so -

- (a) to secure in relation to the activity fair competition or the safety of competitors,
- (b) to comply with the rules of a national or international competition, or
- (c) to increase participation in that activity.

(8) For the purposes of subsection (7), an age-banded activity is a sport, game or other activity of a competitive nature in circumstances in which the physical or mental strength, agility, stamina, physique, mobility, maturity or manual dexterity of average persons of a particular age group would put them at a disadvantage compared to average persons of another age group as competitors in events involving the activity.

Next steps (Page 4)

1.21 We (the Government) intend the ban and related exceptions to come into force in October 2012.

1.22 To bring the ban into force, two things need to happen:

- ✘ An order commencing the relevant provisions in the Equality Act 2010 needs to be signed by a Minister. This is a technical requirement; and
- ✘ An Exceptions Order needs to be made, setting out specific exceptions to the ban. A draft of this Order is at Annex 1A.

These specific exceptions will be in addition to:

- ✎ general exceptions already allowed by the Act 1;
- ✎ positive action measures
- ✎ the ability to justify age discrimination by showing, if challenged, there is a good reason (“objective justification”)

Both the prohibition and the exceptions will come into force at the same time.

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