

## **Centre for Diversity Policy Research and Practice**

### **Managing flexible retirement and extended working lives**

#### **Case Study**

#### **Managing the workforce without mandatory retirement**

#### **Case study: performance management**

The Dean of the Faculty of Social Sciences is seeking your advice as she wishes to dismiss one of her academic staff, Albert who is 65, on the grounds of poor performance. The Dean's case is based on the following points:

- Albert's research profile is largely rated as 2\*, below the University target of 4\*. Thus it is highly unlikely that the University will enter him in the Research Excellence Framework (REF).
- He has been unable to complete his exam marking on time. It is acknowledged that the marking workload is particularly onerous. It needs to be completed to very tight deadlines and, in order to achieve this, academic staff are expected to work long hours for several days, although they are then able to take time off in lieu.
- He makes little contribution to other aspects of Faculty work.
- Students' feedback on Albert's lectures is poor.

A few days later you receive a formal grievance from Albert against the Dean. He believes that he has been discriminated against because of his age on the following grounds:

- The Dean is known to be prejudiced against older staff. It is known in the Faculty that she has said publicly that 'the most significant contributions of an individual often are made at the beginning or his or her career'.
- He is aware that the University has decided to enter in the REF only those academics who have 4\* publications. However, he claims that there has never been any suggestion within the Faculty that all academics should have a 4\* publication profile. In fact there are several younger colleagues who have a 2\* publication profile, who have not been disciplined. He therefore claims he is being discriminated against because he is expected to perform to a higher standard compared to his younger colleagues.
- He feels that he is no longer able, unlike his younger colleagues, to work long hours for several days in a row to mark exams. He believes that a reasonable accommodation should be made, and his exam marking workload reduced, to take account of his age.
- He also believes that, because of his age, he has been excluded from opportunities to make a greater contribution to other aspects of faculty work. For example he has been denied the opportunity to attend recruitment fairs in the UK or take part in the Faculty schools liaison programme, as he was told that prospective students are more likely to relate to younger staff.
- Finally he contests the statistical validity of the students' feedback since this is based on a small sample of students. He claims that it is not sufficiently representative.

#### Questions:

Does Albert have a valid claim for age discrimination on one or more of the grounds highlighted in his grievance?

Is Albert entitled to a reasonable accommodation with regard to his workload on the grounds of his age?

Was the Faculty objectively justified in denying Albert the opportunity to take part in student recruitment fairs and in the schools liaison programme on the grounds that younger staff relate better to prospective students?

Does Albert have a valid claim that student feedback is unreliable evidence of his competence?