

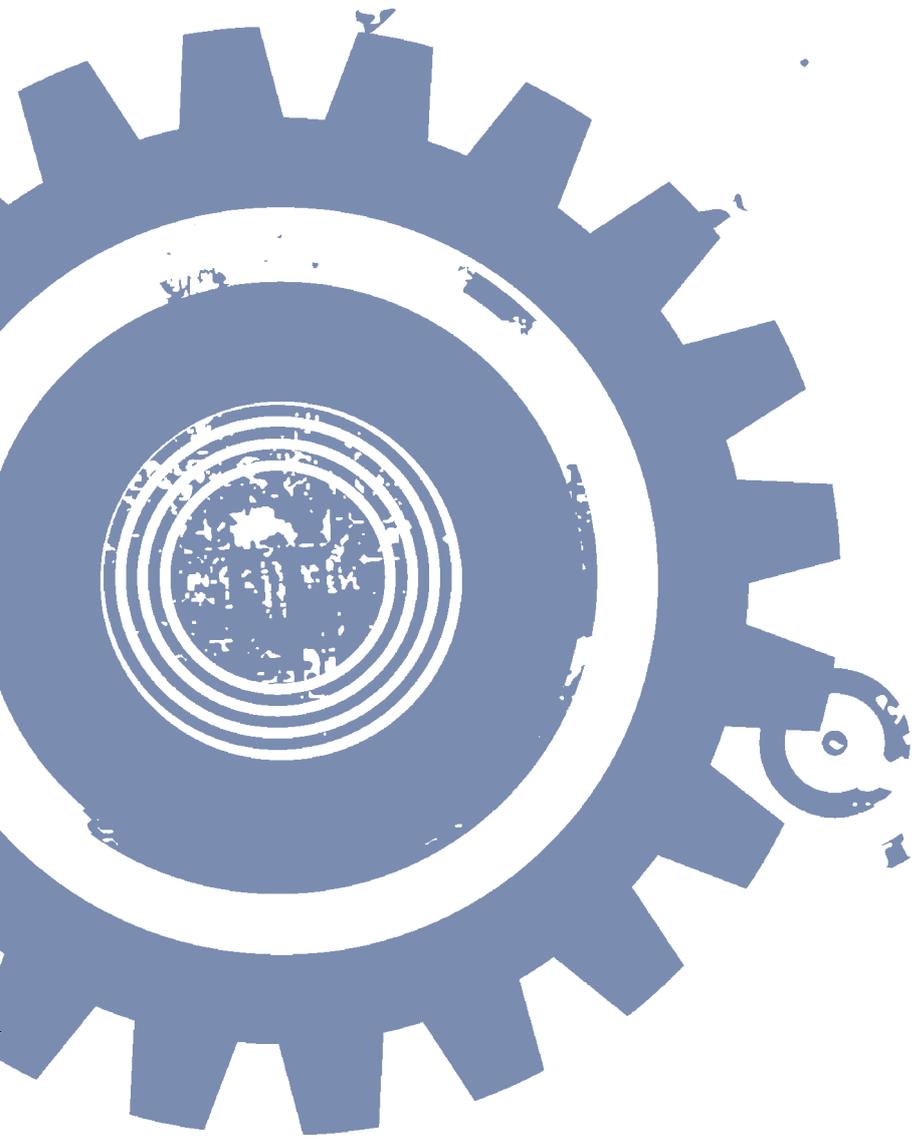
Redundancy: Age Positive Guide



AGE POSITIVE

www.agepositive.gov.uk

Working with employers to remove
age discrimination in employment



Introduction

Employing and retaining an age diverse workforce has real benefits for any organisation. However, although often as a last resort, there are times when an employer has no choice but to consider redundancy.

We recognise that all businesses are unique. This leaflet is not intended to cover all individual circumstances or provide advice, but it will give you a range of examples of how other - small, medium and large - organisations are managing this process fairly and making sure they hold on to their most talented staff.

Age Legislation

From 1 October 2006 the Employment Equality (Age) Regulations make it unlawful to discriminate against employees, job seekers and trainees on the grounds of age.

The regulations cover workers of all ages - young and old - and all employment and vocational training.

This includes access to help and guidance, recruitment, promotion, development, redundancy, perks and pay.

What this means for you

Simply put, the new regulations mean that you need to:

- look at the criteria you use to make redundancy decisions - you can no longer use age (for example using length of service or last-in-first-out could be unlawful) and
- check that any policies, practices or routines you operate are age compliant.

Specifically, when you are dealing with redundancy, you should ensure that:

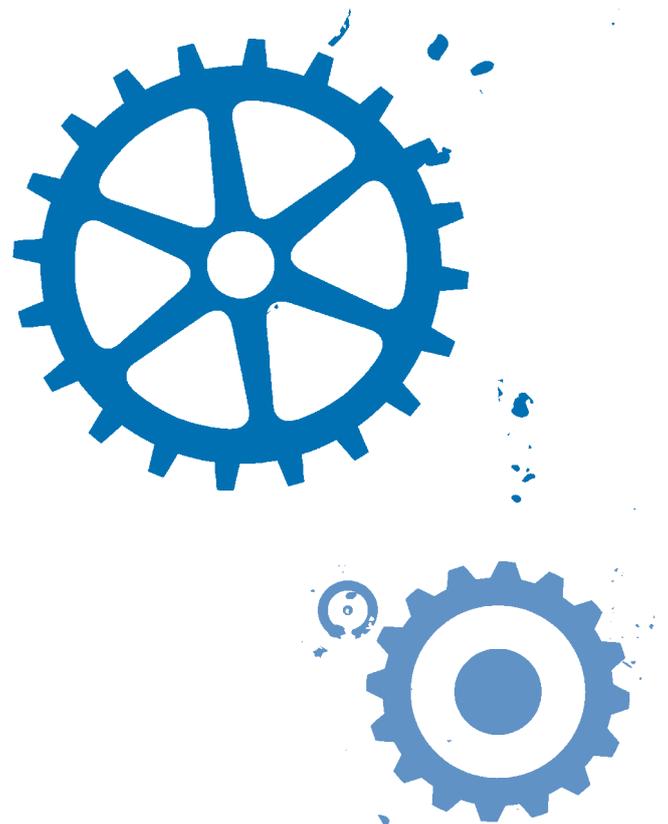
- redundancy criteria are transparent and based on objective criteria relevant to the job, not age or length of service
- staff involved in selecting candidates for redundancy are fully aware of their responsibility not to discriminate on the basis of age or other grounds
- there are routines or practices in place to check that no bias, (deliberate or unintentional), has influenced redundancy decisions.

You may use a 'last in, first out' policy because that's the way it's always been. But remember, this could be discriminatory and may not be good for your business, especially if the last person in has critical skills and experience.

In terms of the statutory redundancy payments scheme, the government has removed:

- the upper and lower age limits
- the taper at the age of 64.

However, the age-banded payment calculation system remains in place. See page six for more information.



Norfolk Constabulary

Who we are

Norfolk Constabulary provides a wide range of policing services for the local community. We employ around 3,000 employees - half of whom are police officers and special constables, the rest are police staff.

What we do

All our redundancy decisions are considered in light of the skills needed to help the business succeed. To make sure age is not a consideration, we:

- use objective, job related criteria when considering candidates for redundancy
- tell all staff, including those selecting people for redundancy, that age is not one of these criteria
- always consider flexible contracts as an alternative to redundancy - such as part-time working, job share, career breaks and short-term contracts.

How it has benefited our business

- retaining key skills and abilities means we deliver a high quality service to our 'customers' - the local residents of Norfolk
- having an age diverse workforce, we are better placed to understand the needs and concerns of local people of different ages who we are here to protect.

Business benefits of an age positive redundancy policy

You already know that losing the expertise of skilled and experienced workers can hurt your business, no matter how big or small your organisation. Using age as the sole criterion when selecting people for redundancy can lead to the unnecessary loss of essential skills and company know-how. It therefore goes without saying that making efforts to keep your most talented staff, of all ages, makes good business sense.

B&Q experienced 39 per cent less short-term absenteeism after implementing age positive practices at one of their locations.

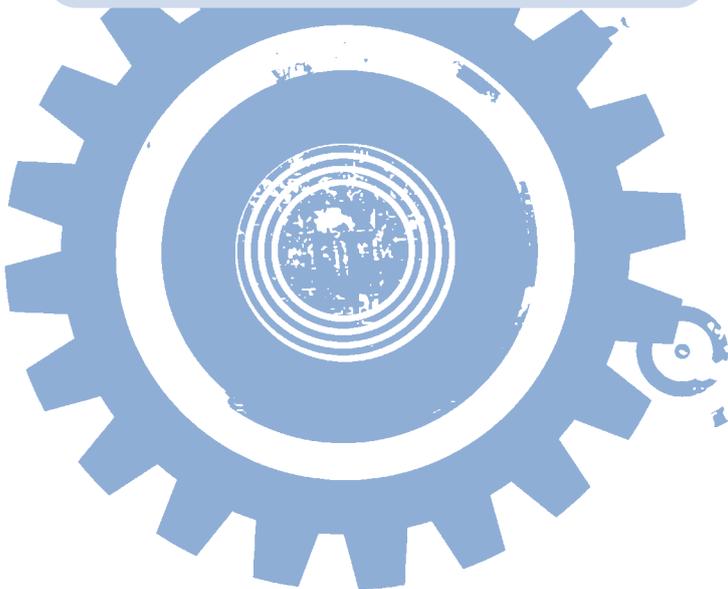
There are widely acknowledged business benefits from retaining an age diverse workforce. At the very least, keeping hold of the knowledge and skills of your key workers helps to **lower your (re)training costs**.

Also, if your employees know they will be treated fairly, regardless of their age, they will feel more valued and motivated to contribute to the success of the organisation. This has the obvious benefit of **improved productivity**.

Many employers are not taking full advantage of the wide range of benefits available.

In particular, you can make sure you retain the **diverse range of skills and experience** brought by people of different ages. While younger workers tend to be more technically proficient, older workers bring valuable experience and, once they have learnt new skills, are often more reliable in performing their job.

The experience that older workers bring can also be harnessed to help **train and develop younger workers**.



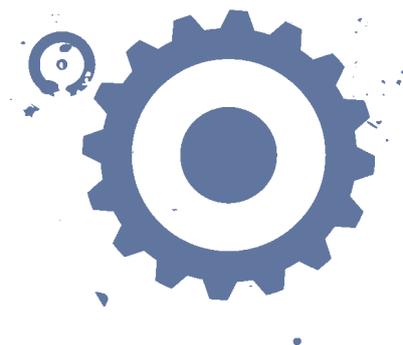
At South Wales Forgemasters (suppliers of forgings to the automotive industry), the process of training younger staff has been improved greatly by involving experienced, mostly older, workers on the company's apprenticeship scheme. Many of these more 'mature' staff have been given formal 'trainer training', allowing them to pass on vital skills and provide practical support to new employees as they learn on the job.

Many organisations that have adopted age positive employment practices have benefited from the fact that older workers generally have **better attendance** and often show **higher levels of commitment** to the company.

A recent Somerfield staff survey showed that 80 per cent of employees over the age of 50 felt strongly committed to the company, compared with 62 per cent overall. Similarly, older workers were more likely than others to say they were proud to work for the company.

And last, but by no means least, retaining an age diverse workforce can help you provide a **better service to your customers**, with obvious benefits to your business.

Since the Marriot Hotel in Grantham started to focus more on age diversity, monthly analysis of guest questionnaires shows that customer satisfaction has increased substantially.



South Wales Forgemasters

Who we are

South Wales Forgemasters supply forgings to the automotive industry. We currently employ 55 people. The nature of the business (the noisy, dirty environment of heavy-duty metal processing) makes it a relatively unattractive employment opportunity. As a result, we have to make the most of the staff we've got and develop them to the best of their abilities - whether they are 16 or 60.

What we do

Redundancy is a last resort. Instead, we try to take a flexible approach - for example 'holding' workers in an extended training position, rather than laying them off completely.

But, in the rare situation where redundancy is the only option, the decision to make any member of staff redundant is, first and foremost, not related to age. Instead, selection criteria are based on a measure of performance, skills, qualifications and experience.

How it has benefited our organisation

- being age positive has reinforced our image as a 'good employer'
- skill levels across the organisation have improved
- retaining the right balance of skills and experience means our teams work more effectively
- our staff feel valued and are highly motivated, which improves performance as well as the service we provide to our customers
- skills retention is high - 30 per cent of our employees have been with the company since 1996.

Checklist - Making your redundancy practices more age positive

The following checklist has been compiled from practices adopted by employers who have already reaped the benefits of an age positive approach to redundancy. This will help you evaluate the way you make decisions and offers pointers to the type of changes you might need to make.

Making redundancy decisions

- Never use age as a criteria for making employees redundant** - base decisions on business need, job requirements, skills and capability
- Avoid decisions based on 'last in, first out', or similar, criteria** - the 'last in' could be critical to your business and, anyway, could be discriminatory if not objectively justified
- Consider alternatives to redundancy and discuss with relevant employees** - shared work patterns or other flexible working options (such as part-time or short-term contracts or career breaks) can be a good option for both your business and your staff
- If possible, make sure you have a redundancy communications plan.** Communicate your redundancy policy to all your staff - this may seem like a difficult task, but being open and transparent can earn respect and co-operation
- Train those involved in making redundancy decisions in equality and diversity**, or get expert help and advice from outside organisations i.e. ACAS
- If you don't have a dedicated HR department, get a second opinion** from a colleague to make sure your redundancy decisions don't discriminate on the basis of age
- Ensure incentives for voluntary redundancy are not age-biased.** Consider offering redundancy to staff of all ages - you may be surprised who applies.

Other good practice

- No matter what the size of your business, ensure you communicate your age positive approach to all your employees** - talk to them face-to-face, discuss it informally, and ask for comments. If you have a more structured approach, use team meetings, newsletters or your intranet. Remember, communication is critical to business success
- Monitor the age patterns of employees you make redundant** to ensure age bias does not occur in the selection process
- Companies of all sizes should keep a record of the age profile of their employees.** This will help you to identify any areas of concern (for example where all employees are nearing retirement or where you need to recruit to fill expanding or critical areas)
- An equality policy is one of the easiest ways to demonstrate that you take discrimination seriously.** Consider including all forms of discrimination and harassment - gender, race, disability, gender reassignment, sexual orientation, religion, as well as age
- Develop an Age Action Plan, supported by an 'age positive champion'** to push changes through - this doesn't have to be a senior member of staff, just someone committed to change.



A changing workforce for employers

Currently, people aged 50+ represent:

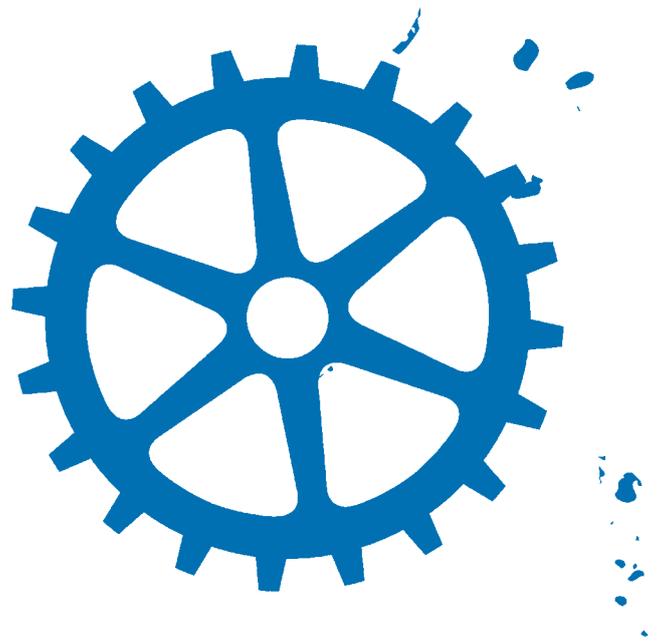
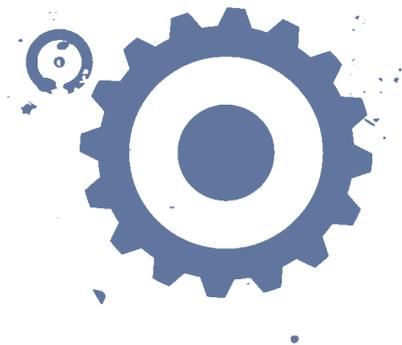
- almost 30 per cent of people of working age;¹ and
- 26 per cent of those actually in work².

And by 2020 there will be nearly five million more people aged 50+ in the UK.¹

This, added to falling birth-rates and skills shortages in many sectors, means the need to take an age positive approach to redundancy has never been more pressing, and will become even more important over the next 10-15 years.

Take, for example, the Construction sector, where 2.2 million people are employed (eight per cent of the total national workforce) in about 206,000, mostly small, organisations (92 per cent of firms employ fewer than 11 people). Although the current growth is not predicted to last, the sector will still need 577,000 people by 2014, especially in skilled trades, to fill the gaps left by retiring workers.³

It is essential that all employers, of all sizes, in all sectors, take action now and understand the changes to redundancy rules from 1 October 2006. It can only be a benefit to be ahead of the competition.



¹ Government Actuary Population Projections, 2004.

² Labour Force Survey Dec-Feb 07

³ Managing an ageing workforce in the construction sector. A report for employers available to view at www.agepositive.gov.uk



Age Positive Redundancy: answers to your questions

1. Who does the law cover?

The regulations make it unlawful to discriminate against people of all ages from 16 upwards. The only exceptions are members of the regular armed forces, full-time and part-time reservists and unpaid volunteers. It also covers those who already work for an organisation, are applying to work for an organisation and, in some instances, people who have left employment.

2. Do the regulations cover all employers?

Yes, all employers, regardless of size. This includes providers of vocational training, trade unions, professional associations, employer organisations and trustees, managers of occupational pension schemes.

3. What changes do the age regulations make with regard to redundancy?

The upper and lower ages for redundancy have now been removed. It is now unlawful to exclude people who are under 18 or over 64, unless they have less than two years of service with your company.

4. Does this change the way in which redundancy payments are calculated?

No. You can still use age or length of service to calculate redundancy payments, but you must make sure that your method of calculation complies with the law and that they can be objectively justified.

The age-related multiplier can still be applied. The accepted multipliers are:

- half a week's pay for ages 21 and under
- one week's pay for ages 21 to 40 and
- one and a half week's pay for ages 41 plus.

The upper and lower age limit and reduction in the payment to employees over age 64 has now been removed by the regulations.

5. I have an enhanced scheme - is that still acceptable?

Yes. Enhanced schemes are acceptable as long as they are based on the statutory scheme and the enhancement is calculated in a certain way. Check with your legal department or with ACAS to make sure your scheme falls within this criteria. If not, your scheme may be open to challenge and you will need to consider if your scheme is objectively justifiable.



6. I've offered voluntary redundancy and early retirement in the past, will this now be unlawful?

Many organisations use these methods in order to avoid compulsory redundancies, however, although it may still be allowed, case law will determine how the age regulations apply in these cases.

If you do use either of these methods, you should make sure that all employees, regardless of age, are not pressured into accepting the offer and that decisions are not based on age. You will need to be able to objectively justify your decisions if challenged.

7. Is there anything else I should be aware of?

Remember, certain redundancy selection criteria could be hazardous. Check that your selection processes for redundancy are free of age discrimination. For example, practices such as 'Last-In-First-Out' or using length of service in any selection criteria could be considered discriminatory if you cannot objectively justify them.

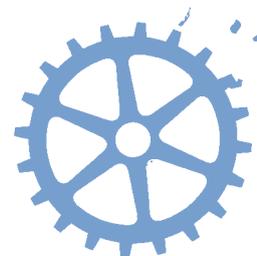
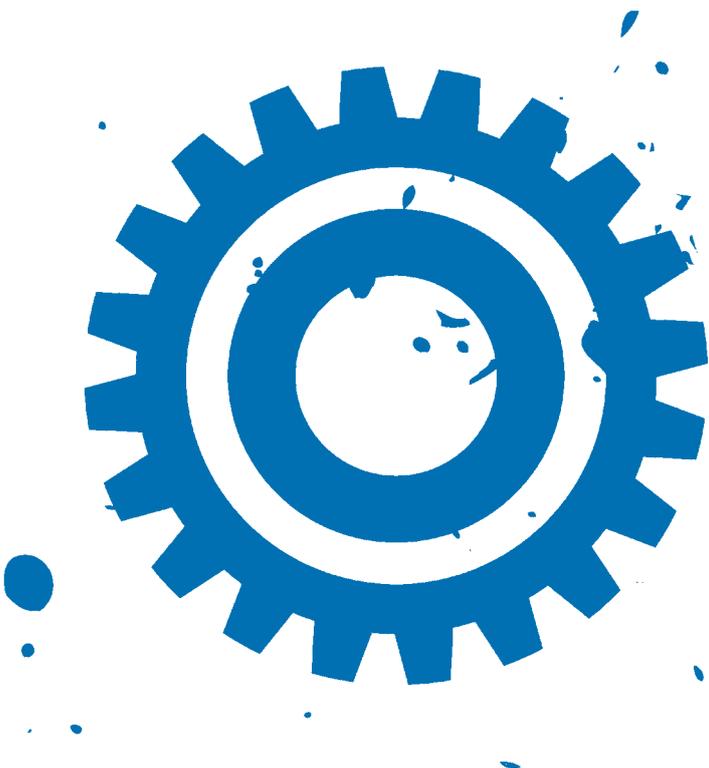
8. Is there anything else I should do to make sure I act in accordance with the new regulations?

Review your practices now and remove any, which are obviously ageist.

Familiarise yourself with the term objective justification. Seek advice if you have concerns. If you don't have access to your own HR department or to independent legal advice, ACAS is the nominated agency to give advice and guidance on age issues. Contact their Helpline on 0845 7474747 or go online at www.acas.org.uk

Good practice, help and information is also available on the Age Positive website at www.agepositive.gov.uk or look at any of the other sources of help and information listed in this leaflet.

Remember - if you discriminate and lose your case, there is no limit on how much an employment tribunal can ask you to pay.



Sources of additional information

General help and information

Age Positive
www.agepositive.gov.uk

ACAS
08457 474 747
www.acas.org.uk

Business Link
0845 600 9 066
www.businesslink.gov.uk

Financial Services Authority
0845 606 1234
www.fsa.gov.uk

British Chambers of Commerce (BCC)
020 7654 5800
www.chamberonline.co.uk

Age Concern
0800 00 99 66
www.ageconcern.org.uk

The Employers Forum on Age (EFA)
0845 456 24 95
www.efa.org.uk

Trades Union Congress (TUC)
020 7636 4030
www.tuc.org.uk

Confederation of British Industry (CBI)
020 7395 7400
www.cbi.org.uk

Chartered Institute of Personnel and Development (CIPD)
020 8612 6200
www.cipd.co.uk

Equal Opportunities Commission (EOC)
0845 601 59 01
www.eoc.org.uk

The Age and Employment Network (TAEN)
020 7843 1590
www.taen.org.uk

Recruitment and Employment Confederation (REC)
www.rec.uk.com

Federation of Small Businesses (FSB)
020 7592 8100
www.fsb.org.uk

Other Government sites

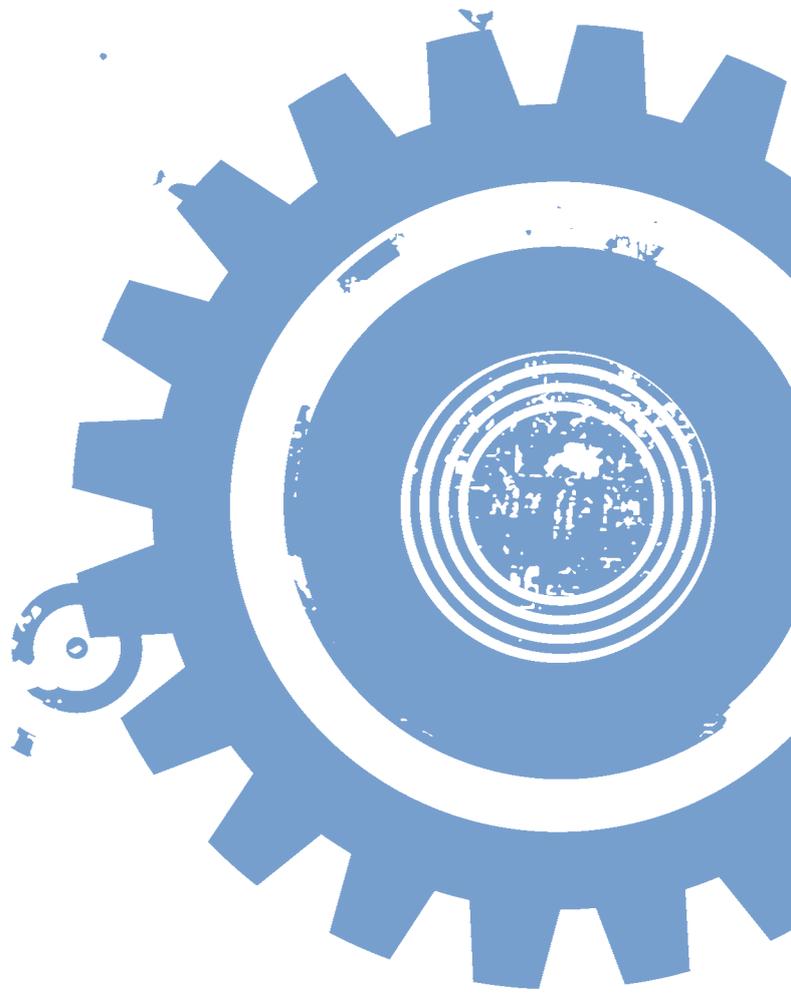
Department of Trade and Industry (DTI)
www.dti.gov.uk

Department for Work and Pensions (DWP)
www.dwp.gov.uk

HM Revenue and Customs (HMRC)
www.hmrc.gov.uk

Health and Safety Executive (HSE)
www.hse.gov.uk

Directgov (Employment)
www.direct.gov.uk/en/Employment/





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www.agepositive.gov.uk

If you require further copies, please e-mail: agepositive@dwp.gsi.gov.uk

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DWP Department for
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