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Age discrimination laws incompatible with law firm employment regimes

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The current trend for commercial law firm partners to retire in their 50s is hampering the success of new-look age discrimination legislation, say top UK lawyers. Claire Ruckin reports on the findings of the latest Big Question survey

Almost three-quarters of the UK's most senior lawyers believe age discrimination laws cannot be a success given the rigid employment regime of commercial law firms which favours retirement of partners at a younger age.

According to the latest Legal Week/EJ Legal Big Question survey, 72% of respondents think new-look age discrimination laws have 'very little' (33%) or 'no' compatibility (39%) with the economic realities of the partnership model of large firms, which sees commercial law firm partners retire in their 50s.

Partnership law specialist Ronnie Fox said: "The purpose of age discrimination legislation is to make people think about what older people can contribute, not how old they are. It is hard to find a business justification for letting a partner go just because he or she has reached a specific age."

Fox added: "One of the reasons why US law firms have been so successful in London is because they are better at using the talents of older lawyers."

However, Lovells senior partner John Young argued that the early retirement of lawyers was often unrelated to age discrimination. He commented: "It has been a general trend for several years that more and more partners want to get out in their 50s. Historically, there have been instances where partners have been pushed, but the vast majority of partners just want to get out. We have had partners retiring younger than we would like."

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In addition, more than half of those questioned (59%) thought the general record of UK firms for getting the best out of their older lawyers was 'poor' (17%) or 'could be better' (42%). The respondents were equally sceptical about the impact the fresh age discrimination laws — which were introduced last October — have had on the general treatment of older lawyers by major commercial firms, with more than one in three (36%) saying very little had changed. Just 3% believe the new laws have prompted firms to sharpen up their act.

Fox commented: "Firms have taken a variety of attitudes. Some simply want to know the ways around the legislation, while others want to take the new rules on board and take a new approach. No firm or lawyer can ignore the new laws."

Weil Gotshal & Manges London securitisation head Jacky Kelly told Legal Week: "The legislation has had considerable impact and it has given some serious attention to the issue. I do not think the issue was at the forefront of firms' minds in the same way that race or sexual discrimination was. However, the laws have focused people's attention on the issue." Suggesting there is room for improvement, more than two-thirds of respondents believe commercial firms can become better at deploying and retaining older lawyers with 11% adding they had already improved a great deal.

Kelly added: "One area where firms could become better is accommodating the different lifestyles of all their lawyers, from older partners to younger mothers. Firms could become better at utilising older associates, such as those who have had previous careers and joined the profession at a later stage. They will have other skill sets beyond the legal profession which should be harnessed and taken advantage of."

Fox agreed, adding: "There is a lot of potential for City law firms to improve. The outcome of the [Peter] Bloxham case [against Freshfields Bruckhaus Deringer] — whatever it is — will encourage firms to take a different, more commercial approach."