

**Employment Tribunal holds
that tribunals should
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The Employment Appeal Tribunal ('EAT') held that when considering whether a dismissal was discriminatory on the grounds of age, tribunals should consider the mental processes of those influencing the decision makers, as well as the decision makers themselves.

The claimant, Dr Reynolds, aged 77, worked as the Chief Medical Officer on a consultancy basis for Canada Life for over 20 years. A presentation was made by other employees at the respondent which highlighted deficiencies in the services performed by the claimant and following this presentation, the UK General Manager of the respondent decided to terminate her consultancy agreement. Dr Reynolds brought a claim arguing that she had been directly discriminated against because of her age.

Canada Life called the decision maker, the UK General Manager, to give evidence. The Tribunal was satisfied that he was not himself age prejudiced. However, he had clearly been influenced by others who had not given any evidence.

The EAT held that as the views of others played a significant role in the decision of the General Manager to dismiss the claimant, Canada Life had not discharged the burden of proof on an employer to show that discrimination played no part.

The upshot is that when defending a discrimination complaint, an employer must examine the motives both of the decision maker and those that influenced him or her. If either have been influenced by unlawful prejudice or the employer fails to

put forward evidence both from the decision makers and the influencers, the employer will be exposed.

Reynolds v CLFIS (UK) Ltd and others UKEAT/0484/13

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