

**THE EVOLUTION OF THE CONCEPT OF AGEISM  
AND IMPLICATIONS FOR EMPLOYMENT AND  
PROSPECTS IN OLDER AGE**

**BY**

**COLIN DUNCAN**

**Thesis presented for the degree of PhD (by Research Publications)**

**The University of Edinburgh**

**2011**

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## ABSTRACT

With reference to eight submitted research papers dealing with aspects of ageism both within and outside the employment arena, the discussion focuses upon, consolidates and develops in systematic fashion two key avenues of enquiry that feature to some degree in all of the papers. Part 1 of the Critical Review traces the origins, and investigates the subsequent evolution of the ageism concept in the UK. Three evolutionary phases are located: its initial treatment as a form of prejudice affecting only older people; then as a form of employment discrimination affecting older workers; and its current guise where ageism is treated as synonymous with age inequality *per se*, potentially affecting all ages. The analysis investigates how and why this shift occurred, concluding that it owed more to utilitarian concerns and vested interests on the part of economic actors than to social justice preoccupations. Elements of chance and timing also played a role, as did questionable stances by academic commentators and age advocates. Given that the current conception of ageism is derived from complex political processes and contingent events, rather than from theoretical debate or popular advocacy, its legitimacy is questioned, particularly its diminished value in challenging distinctive forms of prejudice affecting older people. Part 2 builds on this theme by examining the consequences of subsuming ageism affecting older people within age equality discourses and statute. A case is first set out in support of the original formulation of the concept, by distinguishing old age prejudice from less pernicious forms of age discrimination experienced by younger people. Subsequent discussion demonstrates how age equality constructs embraced in employment law and economic and social policies not only fail to protect older people from discrimination, but can also represent serious threats to well-being in older age, by conferring ideological legitimacy upon workfarism, welfare and pension retrenchment and attacks on the institution of retirement. At a personal level too, age equivalence strictures can be socially and psychologically debilitating for older people, by fostering damaging sentiments of anti-ageing. It is concluded that well-being in older age is best promoted by policies that lie outside the confines of crude age equality frameworks.

## THE PUBLISHED PAPERS

The published papers upon which the Critical Review is based, are numbered, and listed below in the order in which they were written rather than by publication date, in order to help clarify the logical flow of the analysis contained in the Critical Review. When cited in that analysis, they are referenced in accordance with the number sequence as specified below, *i.e.* *Paper 1* (2001); *Paper 2* (2000); through to *Paper 8* (2008). The papers are presented in full in Appendix 1.

1. Duncan, C (2001), 'Ageism, Early Exit, and the Rationality of Age-Based Discrimination', in Glover, I and Branine, M (eds), *Ageism in Work and Employment*, Aldershot: Ashgate, pp 25-46.\*
2. Loretto, W, Duncan, C and White, P J (2000), 'Ageism and Employment: Controversies, Ambiguities and Younger People's Perceptions', *Ageing and Society*, 20:3, 279-302.
3. Loretto, W, Duncan, C and White, P (2000), 'Industrial Relations Codes of Practice: The 1999 Age Discrimination Code in Context', *Employee Relations*, 22:2, 146-155.
4. Duncan C, Loretto, W and White, P J (2000), 'Ageism, early exit, and British trade unions', *Industrial Relations Journal*, 31:3, 220-234.
5. Duncan, C (2003), 'Assessing Anti-Ageism Routes to Older Worker Re-engagement', *Work, Employment and Society*, 17:1, 101-120.
6. Duncan, C and Loretto, W (2004), '“Never the right age?” – Gender and age-based discrimination in employment', *Gender, Work and Organization*, 11:1, 95-115.
7. Duncan C, Loretto W and White P J (2005), *Ageism in the Workplace: Implications of UK Anti-Age Discrimination Law*. First submitted as a paper to the conference: *Age, work and employment: thinking about the future*, Stirling Management Centre, 2003. Updated for publication in *Personnel Review*, May 2005. Subsequently placed in the public realm via inclusion in 'VOCED' Data Base, accessed at:  
[http://www.voced.edu.au/search/index.php?docnum=td%2Ftnc+81.21&searchtype=full&quantity=1&sort\\_by=d\\_publication\\_year\\_tx&hitstart=1](http://www.voced.edu.au/search/index.php?docnum=td%2Ftnc+81.21&searchtype=full&quantity=1&sort_by=d_publication_year_tx&hitstart=1)

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8. Duncan, C (2008), 'The dangers and limitations of equality agendas as means for tackling old age prejudice', *Ageing and Society*, 28:8, 1133-1158.

All the above papers were subject to the usual refereeing process, including the book chapter (*Paper 1*, 2001), which in original format was a research paper submitted to a conference on ageism at Stirling University, subsequently selected via a refereeing process for publication in book form as part of the conference proceedings. In the case of *Paper 7* (2005), this research paper was also originally submitted as a conference paper, subsequently updated, refereed and selected for inclusion in a special edition of *Personnel Review* due for publication in May 2005. Unfortunately, however, this edition was cancelled on account of illness on the part of the guest editor. As the paper included discussion of the possible format of the new age laws due to be implemented in 2006, there was little time to submit it elsewhere prior to the law coming on-stream. However, while its publication status is questionable, permission was granted to include it in the portfolio of published papers, in place of other published papers less central to the themes developed in the Critical Review.

#### **Personal contribution to the publications and research effort**

The papers represent a mix of empirical work and theoretical development. With regard to the latter, *Papers 1, 5 and 8* were the sole responsibility of the present author. The collaborative publications were informed by three surveys jointly undertaken with two colleagues: one among 460 undergraduate students (*Paper 2*); the second, of the perceptions of some 1,000 employees of a large financial institution on age matters (*Papers 6 and 7*); and the third concerning the policies of some 40 trade unions towards age and retirement matters (*Paper 4*). The joint empirical research was a genuine collaborative effort, with each contributing according to strengths. The present author assumed the leading role in initiating the research focus, designing the initial drafts of the three surveys and developing the analytical frameworks. All contributors participated in the administration of the surveys and coding of results, though Dr Loretto took the lead in data processing and analysis. Apart from *Paper 3*, which was substantially written by Mr White, following joint discussion of the issues, the remainder of the papers were physically written in whole or substantial part by the current author, though Dr Loretto dealt

with sections on statistical analyses. No special significance should be attached to the order of authors' names in joint publications, which were rotated arbitrarily on equity grounds.

### **DECLARATION**

I declare that my contribution to the submitted publications and research effort was as stated in the above paragraph

Colin Duncan

28 December 2010

## **CRITICAL REVIEW**

# **THE EVOLUTION OF THE CONCEPT OF AGEISM AND IMPLICATIONS FOR EMPLOYMENT AND PROSPECTS IN OLDER AGE**

## INTRODUCTION

Ageism has become a highly topical issue in almost all industrialised countries, in the context of concerns about ageing populations, shortening working lives, and the affordability and quality of later life. The selected papers drawn upon in this review represent the fruits of a prolonged period of research activity on aspects of ageism, with an earlier focus upon age discrimination in the employment arena, and latterly upon the phenomenon of old age prejudice as it affects older people in general.

The nature of academic research is such that there is not always a consistent analytical thread that binds an author's contributions over time, even in discrete areas of enquiry. Research is often investigative, where there may be no strong preconceptions as to what might be found, nor what new avenues of enquiry will be revealed by results obtained. Perspectives and research priorities also change as events unfold or popular understandings are developed or challenged in on-going scholarly work; and as the discussion will show, thinking and policy prescription relating to age matters seem especially prone to abrupt and radical changes in direction. Accordingly, it is no easy task in an exercise such as this to achieve a degree of coherence and analytical substance that goes beyond mere description of previous academic endeavours. The chosen approach, which seeks to overcome this difficulty, is as described below.

### **Objectives and methodology**

Selection of research papers for review was upon the basis of their relevance to two central themes that are focused upon and developed in the current analysis. Reflection upon the content of a set of research papers spanning almost a decade had revealed that these two related themes featured to a greater or lesser extent in all of the papers. Moreover, both themes seemed key to understanding theoretical and policy controversies concerning how ageism should be conceptualised and



addressed; and they seemed to have profound implications too for the treatment and well-being of older people both within and outside the employment arena. It was also apparent that these themes had not yet been sufficiently addressed in a comprehensive, integrative and systematic fashion either in the individual research papers or elsewhere by others. These two related avenues of enquiry are each dealt with in turn in the two parts of the subsequent discussion, and are specified below in the form of research questions.

*Part 1* How and why did the ageism concept evolve from its original formulation, as a form of age prejudice affecting only older people, to its current status as denoting age inequality that can affect people of all ages? How legitimate is this transformation process from a theoretical viewpoint?

*Part 2* What are the implications for prospects in older age of the application of age equality constructs both within and outside the employment arena?

The merits and limitations of methodologies employed in individual research papers are adequately addressed in those papers and are not here repeated. However, occasional reference to the methodologies is made in the context of the analysis, where relevant to interpreting findings or to explaining contrasting findings obtained elsewhere. Key propositions in the research papers are also developed and re-evaluated in the light of subsequent academic work and economic and policy developments, including the implications of the credit crunch and current recessionary conditions. The discussion focuses chiefly, but not exclusively, upon UK experience.

The thesis is presented as a contribution to social gerontological theory.

# PART 1

## THE CONCEPT OF AGEISM: ORIGINS AND EVOLUTION

### 1.1 INTRODUCTION

This part traces the origins and evolution of the ageism concept, with particular reference to the UK, and reveals how and why the concept evolved towards its current guise - as a form of age inequality that can affect people of any age. Discussion is in three main parts, which correspond to three distinct phases in the evolution of the concept. The original meaning of ageism, as age prejudice affecting only older people, is first considered. The analysis explores the origins, manifestations, theoretical underpinnings and some controversies associated with this formulation. Next considered is the subsequent and narrower treatment of ageism during the 1990s in the UK, as employment discrimination affecting older workers. This shift is explained chiefly by reference to the 'early exit' phenomenon. By examining the interaction of vested interests and opportunistic postures on the part of economic actors and age activists in responding to early exit, this part of the discussion also seeks to explain why the concept evolved during this phase to a version subservient to commercial exigencies, and one tending latterly towards greater age inclusiveness beyond older workers. Building upon this analysis, the final section considers the role of law, evidence of age discrimination affecting younger people, and age discourses originating outside the employment sphere as factors leading to current treatment of ageism as age inequality *per se*, with some brief comment also made on the legitimacy of this formulation.

## 1.2 AGEISM AND OLDER PEOPLE

The origin of the ageism term is usually attributed to Robert Butler, a US psychiatrist widely regarded as the foremost figure in developing the discipline of gerontology. The published papers locate 1969 as the first written appearance of the term (e.g. *Paper 1*, 2001: 26), though most obituaries following Butler's recent death in July 2010 report that he coined the term a year earlier in 1968 (e.g. *The Guardian*, 'Obituaries', 19 July 2010) to describe the 'NIMBY' (not in my backyard) opposition of neighbours to a proposed development for the elderly.

### Defining ageism

The concept of ageism as promoted by Butler was firmly rooted in his concerns specifically about old age or the 'elderly', and was considered as pioneering and setting a new paradigm for the study of ageing. As such, it qualitatively differed from, or at least was much broader in scope than, the phenomenon of age discrimination in employment. Public recognition and acceptance of the latter concept had already been enshrined in law a year earlier in the US in the form of the 1967 Age Discrimination in Employment Act (ADEA).

The oft-quoted definition of ageism subsequently provided by Butler was:

as a process of systematic stereotyping and discrimination against people because they are old, just as racism and sexism accomplish this for skin colour and gender ... Ageism allows the younger generation to see older people as different from themselves: thus, they suddenly cease to identify with their elders as human beings, and thereby reduce their own fear and dread of ageing... At times ageism becomes an expedient method by which society promotes viewpoints about the aged in order to relieve itself from responsibility toward them (Butler, 1987: 22), as cited in Biggs (1993: 85).

In the UK, Butler's definition was subsequently challenged on two grounds by Bytheway (1995), whose text was among the first in the UK to give the concept serious treatment. First, its equivalence to racism and sexism was disputed, on the ground that older people do not form an exclusive group, but one in which every individual will eventually become a member if fortunate enough to stay alive.

However, *Paper 1* (2001: 28) argues that Bytheway's chief objective here was not to achieve theoretical precision, but rather to seek to establish ageism as a quite distinct form of oppression in its own right, in view of a tendency to dismiss the concept as frivolous, or as a sub-component of more established prejudices or 'isms'. Second, Bytheway would not accept the existence of 'old age' as a specific condition arising from biological or chronological ageing, but rather viewed such terms as 'the old', 'elders' and 'old age' as social constructs and ageist labels. Accordingly, reference to older people was excluded, resulting in a somewhat convoluted and ambiguous definition which circumvented these two objections. Hence, ageism referred to:

a set of beliefs originating in the biological variation between people and relating to the ageing process.....[that]..... legitimates the use of chronological age to mark out classes of people who are systematically denied resources and opportunities that others enjoy, and who suffer the consequences of such denigration – ranging from well-meaning patronage to unambiguous vilification (Bytheway and Johnson, 1990: 37; Bytheway, 1995: 14).

The critique of this definition provided in *Paper 1* (2001: 28-29) queries which 'classes of people' he had in mind; and it seems clear that such ambiguities reflected Bytheway's attempt to link ageism, in common with Butler's definition, chiefly to prejudice against the old, while circumventing presumed ageist connotations of such labels. 'Well-meaning patronage' and 'unambiguous vilification' are indeed common descriptions of how older people are thought to be treated, and Bytheway's examples and case studies of ageism in the text were almost wholly confined to treatment of those of advanced years.

### *Manifestations*

A wide range of characteristics and manifestations have been held to denote this brand of ageism, including those summarised in *Paper 1* (2001: 27-28) and elsewhere in the published papers. One strand in the literature has been to locate as evidence prejudicial attitudes and mistaken beliefs commonly held by younger individuals towards the old. Such include erroneous views on the extent of physical

and mental decline with age, and thus assumptions that the old can contribute little and constitute a burden on society; negative stereotypes that treat the old as a homogenous group despite contrary evidence (e.g. Grimley Evans *et al.*, 1992) that variability between individuals *increases* with age; perceptions of old age as a kind of affliction or disease that strips older people of their 'personhood' and renders them as less than human; and in general, widely-held attitudes and beliefs that portray older people in a range of unflattering ways (ugly, out of touch, sexually impotent, cantankerous, sickly, rigid of mind and so on), well evidenced for instance in the 'humorous' content of birthday cards aimed at older people. Apart from contributing to the vilification of older people, such views, as evident from Bytheway's definition above, can also underlie more charitable postures toward the old, which are nevertheless regarded as ageist in being demeaning, patronising and disempowering. Instances of positive discrimination in allocation of resources might fall within this category, including free bus passes, cheaper television licenses and winter heating allowances. Indeed, Scrutton (1990: 25), even moots the possibility that the charitable status of age advocacy groups such as Age Concern (now called Age UK), may mean that they are involuntarily reinforcing rather than confronting ageist attitudes.

A second strand, hinted at in Butler's definition above, is that ageism is manifested not only in individual attitudes but is also sanctioned and reinforced by broader institutional, economic and social processes. This thinking chiefly derives from the 'structured dependency' school as represented in the work of such authors as Walker (1980), Townsend (1981) and Phillipson (1982). Townsend's article, 'The Structured Dependency of the Elderly; a Creation of Social Policy in the Twentieth Century', which appeared in the initial edition of the academic journal, *Ageing and Society* in 1981, appears especially to have had a major and enduring influence in the UK. The journal's website invariably reports that it remains the most continuously read and cited article of all published since the journal's inception in 1981 (<http://journals.cambridge.org/action/mostCitedArticle?jid=ASO>). In brief, and at risk of oversimplification, Townsend promoted the view of the enforced material, psychological and institutional dependency and mistreatment of the elderly, resulting chiefly from the spread of retirement as a social institution during the 20<sup>th</sup> century. The rapid increase in retirement and pre-retirement exit from the labour

market was regarded as a euphemism for enforced unemployment of older people, occasioned by the need to respond to structural changes required by industry or 'capital'. In this, and similar treatments of the 'political economy of ageing', ageism *per se* was rarely mentioned or treated as the driving force. Exclusion, dependence and institutionalisation of old age seemed less thought of as a consequence of ageist attitudes held by individuals, than as a result of rather impersonal forces related to the needs of capital and associated state policies. Indeed Townsend (1981: 13) contrasted the low status in which old people are formally held in public with the high regard in which they are often held privately as brothers, sisters, friends and neighbours. Nevertheless, structured dependency subsequently became incorporated into the ageism discourse as both an important cause and *component* of the phenomenon. Hence, Walker (1990: 61) argued that retirement 'provided the main wellspring for widespread discrimination against older people', while Scrutton (1990) coined the term 'structural ageism' in a clear allusion to Townsend's work, as an additional and vital component of the ageism phenomenon:

The structural confirmation of ageism is vitally significant. If age discrimination was entirely a matter of individual attitudes it could be more easily tackled. It is when ageist attitudes become part of the rules of institutions, govern the conduct of social life, and blend imperceptibly into everyday values and attitudes that they have a drastic effect on the way older people lead their lives (p. 61).

### **The causes of ageism**

Theories of structured dependency may therefore be viewed as providing some explanation for both manifestations of old age prejudice and their causes or origins. In the case of Townsend's work, the spread of both retirement and earlier retirement, and hence dependency and discrimination in older age, were linked to a number of structural changes affecting the economy and industry, especially the relative growth in higher-paid professional, managerial and other white-collar occupations, which required to be financed by gradually excluding less-skilled older workers from employment (Townsend, 1979: 804; 1981: 11). However, there is a range of further explanations and perspectives on the origins of 'attitudinal' components of ageism that are alluded to in several of the research papers. For

instance, as well as endorsing structural dependency perspectives, Scrutton (1990: 15), from an historical perspective, links the source of ageism to the high value that has always been placed upon physical strength, with prejudice against the old reflecting increasing frailty and loss of youthful strength. Furthermore, the positive social functions associated with older people, resting on the value placed upon knowledge, experience and wisdom, were eroded by the pace of technical change, decline of custom, and loss of oral traditions with the spread of literacy. However, perhaps the chief source in most accounts is that attitudinal ageism ultimately reflects fear of the ageing process and mortality, leading to a desire to postpone or deny old age, to distinguish ourselves from the old, and generating negative attitudes towards older people. According to Cole's (1992) influential cultural history of ageing in the United States, such sentiments reflected or were exacerbated by the gradual removal of old age from its religious, social and cultural significance as a meaningful end stage in the 'journey of life', and its redefinition by the mid-20<sup>th</sup> century as a scientific or medical problem. Old age therefore became bereft of any meaning or significance, with emphasis only upon its negative and degenerative aspects. The term 'ontological ageism' was coined by the present author to encapsulate this source of prejudice (*Paper 8*, 2008: 1144). Others argue that the causes and manifestations of ageism need also to be distinguished by gender. For instance, among the work reviewed in *Paper 6* (2004) is that by Arber and Ginn (1991), who attribute demeaning portrayals and labels applied to older women in popular culture, and their social invisibility, to the valuation of women according to sexual attractiveness, availability and usefulness to men. Another perspective links ageism and sexism via the theme of control over the body. As the ageing process is associated with, and stigmatised with respect to, loss of control over the body, and as men have more control over their bodies than do women – they do not menstruate nor give birth – then both ageism and sexism have common roots in being defined by male experience (Harper, 1997).

### **Reasons for emergence of the ageism concept**

Requiring some explanation is why this form of prejudice should only have been 'discovered' and labelled in the late 20<sup>th</sup> century. If credence is accorded to structured dependency perspectives, then retirement patterns are likely to have

proved influential. The gradual spread of retirement from the late 19<sup>th</sup> century, culminating in its institutionalisation and consolidation over the period 1950 to 1970 (Laczko and Phillipson, 1991: 44), together with a trend apparent from about the mid-1970s in the UK and elsewhere toward earlier (pre-state pension age) exit from the labour market, may have sharpened awareness and concerns over enforced dependency and its negative impact upon the social and material conditions of greater numbers of older people. Similarly, while ‘ontological ageism’ has a long history, the numbers prone to loss of role and meaning in older age have increased dramatically throughout the 20<sup>th</sup> century on account of demographic trends and increases in longevity. Indeed, for Laslett (1996), by 1950 in the UK, such trends, along with improvements in health and national wealth, had created the pre-conditions, pressures and indeed requirement for the emergence of a new ‘third age’ stage to the life-course. This stage was characterised by the potential for new positive roles and activity on the part of the growing army of older people during a period of life that could typically last some twenty to thirty years - between the second age of family responsibility and waged work, and a fourth age of dependency and decline. However this new, potentially-active, one third of the population, argued Laslett, continued to be subjected to the prejudice and traditional ageist assumptions of dependency and inactivity that in the past had been confined to a much smaller aged and inactive segment of the population, leading to their present characterisation as a generation forced into ‘mass indolence’ (Laslett, 1996: 177) or ‘in limbo’ (Bosanquet, 1987). Such ideas of a new, potentially productive, yet frustrated third age stage to the life-course were highly influential in the UK, reflected for instance in the setting up of the remarkable *Carnegie Inquiry into the Third Age*. Between 1989-92 that Inquiry commissioned, and in 1992 published, nine research reports on third age matters, dealing with practice and potential in such spheres of activity as work, education, leisure, health and ability, voluntary activity and citizenship. These did much to raise the profile of ageism and challenge the relevance of traditional ageist assumptions. (For a review of these studies, and the significance of the Carnegie initiative, see Laslett, 1994).

As was noted in *Paper 1* (2001: 25-26) there were also theoretical developments within the field of social gerontology that helped establish ageism as a legitimate concept, especially challenges to disengagement theory and similar perspectives that



dominated the work of gerontologists during the 1950s and 1960s. Disengagement theory, put forward by Cumming and Henry (1961) among others, considered physical, psychological and social decline to be normal features of growing old, thereby assuming a natural process of mutual disengagement between older people and society. Such perspectives were subsequently challenged from a number of disciplinary perspectives, helping to establish ageism as an alternative explanation. For instance, Butler's pioneering work on senility (1975, 1982) did much to establish alzheimers and similar conditions as illnesses rather than natural processes of growing old, while structured dependency perspectives substituted enforced exclusion for personal disengagement in explaining social isolation and inactivity in older age. Others have linked the establishment of the ageism concept, particularly in the US, to social movements such as the Gray Panthers, which were incorporated into the civil rights movement which also challenged racism and other forms of oppression (Kuhn, 1977; Macnicol, 2007: 31; Sanjek, 2009: *passim*). In both the UK and US, the example of existing voluntary and statutory discrimination templates, such as those dealing with race and sex, may also have facilitated conceptualisation of how older people are treated as yet another 'ism'. Finally, it is not implausible that greater recognition of ageism genuinely reflected intensified antipathy towards older people in the latter part of the 20th century, related to such factors as the counter-cultural 1960s youth movement, trends in consumerism that disproportionately focused on the needs of younger customers (Hobman, 1990), and an emerging cult of anti-ageing evident in the priorities of the cosmetic and cosmetic-surgery industries (*Paper 8*, 2008: 1138).

### **Some controversies**

Several components of ageism as portrayed above have been challenged. Johnson (1989), for instance, questioned the key premises of structured dependency perspectives, including automatic association of retirement with dependency, and of work with independence. That many employees might *choose* and value retirement as a release from dependence on work seems wholly discounted, and illegitimately so as will be argued in Part 2 by reference to empirical findings from the research papers. Moreover, Johnson (1989) also argues that the growth of state and occupational pensions, owner-occupation and other forms of savings had, by the late

20<sup>th</sup> century, conferred a considerable degree of economic independence upon much of the retired population, and more economic security than many had ever achieved when relying upon the sale of their labour power.

The extent of prejudicial attitudes towards older people has also been questioned, a debate hampered by formidable methodological difficulties in seeking to measure this empirically. (For a review of such difficulties, see Biggs, 1993: 87-88; Macnicol, 2006: 17-22). Some have even denied that such prejudice exists. Schonfield (1982), for instance, in reference to Butler's work, argued that attitudes towards one's own ageing are often confused with prejudicial attitudes toward older people. On the contrary, he argues, younger people generally act in a kind and considerate manner towards their seniors. Anti-ageism advocates on the other hand have tended to dismiss evidence of altruistic attitudes or policies toward the elderly as patronising, disempowering and as further evidence of ageism, a logic that would seem significantly to inhibit any empirical challenge to ageism. Sober assessment and theoretical development of the concept seem also to have been impeded by the campaigning tone of much of the early literature. There have also been suggestions that the relatively benign work experiences of academics and other commentators may have inappropriately coloured perspectives. For instance, with respect to the tendency to treat retirement as evidence of ageism, *Paper 4* (2000: 223) refers to the work of King and Stearns (1981), who observed that: 'A cultural history of gerontological literature would note that its authors are work enthusiasts themselves who find it difficult to imagine a satisfactory life divorced from employment' (p. 595).

Finally, one especial difficulty apparent in both early and subsequent treatments of the topic is failure adequately to distinguish (or to theorise the distinction between) 'ageism' and 'age discrimination', with the two concepts invariably treated as equivalent. In part, this is a consequence of how ageism was defined, which conflated causes and effects and attitudinal and structural components. By contrast, a prominent theme in several of the research papers is that age discrimination is not always easily linked to age prejudice or ignorance on the part of individuals or institutions.

## **Impact**

Outside the orbit of social gerontology and the age advocacy movement, it is difficult to judge the impact of this version of ageism upon public attitudes and policy in either the US or UK. Certainly, there is now some degree of recognition and acceptance that older people are often the subject of unwarranted discrimination based on ignorance or prejudice, and stereotypes concerning the old are now more often challenged. This is in contrast to the recent past when Bytheway (1980) felt it necessary to challenge public perceptions of ageism as 'just a joke'. Nevertheless, derogatory and offensive depictions of older people remain commonplace in popular culture, not least in birthday cards which persist to this day to portray older people in mostly negative ways such as ugly, failing in body and mind, losing sexual prowess, and so on. Such unpleasant stereotypes would not now be tolerated if applied, for instance, to race or gender. Moreover, certainly in the UK, this version of ageism had a relatively short period, if any, in the public limelight. Even by 1990, a text published by Age Concern dealing with age discrimination against older people, was subtitled 'The Unrecognised Discrimination' (McEwan 1990), while around the same time Laczko and Phillipson (1991: 33) observed that ageism was still 'an alien word' in the UK. Thereafter, throughout the 1990s in the UK and elsewhere, discussion of ageism quickly became dominated by, and largely confined to, the narrower issue of age discrimination affecting older people in employment.

### **1.3 AGEISM AND OLDER WORKERS**

Economic historians have located several instances when economic and labour market conditions, especially during recessions, had given rise to concerns over age discrimination affecting older workers, a phenomenon recognised long prior to recent discourses on ageism. As noted above, the US ADEA legislation outlawing such discrimination in employment preceded elaboration of the ageism concept. Moreover, Macnicol (2003: 14; 2007: 29) has noted US examples of state laws to protect older workers that existed over a hundred years ago, including in Colorado in 1903. In the UK, by the early 1990s, concern over this narrower manifestation of age discrimination, hitherto treated in social gerontology and by the age lobby as but one

component of a broader phenomenon, began to dominate the ageism agenda in academic treatment and public policy, helping to secure recognition of ageism as a legitimate and significant public policy concern. The published papers attribute this development chiefly to growing disquiet over the 'early exit' phenomenon – a trend apparent from the early 1970s towards the progressively earlier exit of older workers from employment, as referred to briefly above in relation to Townsend's work. This was manifested not only in earlier retirement but also in several other pathways out of employment including redundancy, dismissal and exit on health grounds, and was mostly permanent for the older workers affected, effectively excluding them from further participation in the labour market.

### **The causes of early exit**

The characteristics and causes of the early exit phenomenon received detailed treatment in several of the research papers (*e.g. Paper 1*, 2001: 31-35; *Paper 2*, 2000: 281-285; *Paper 5*, 2003: 101-5), and revealed two competing explanations for the phenomenon: those focusing upon economic variables; and those attributing early exit chiefly to attitudinal age prejudice on the part of employers.

#### *Economic explanations*

Such explanations were informed by the global reach of the phenomenon, which affected to a greater or lesser extent almost all developed economies, from which it was inferred that its causes too were most likely to reflect global economic conditions. Hence, declining demand for older employees was linked to such factors as: intensified competition and the need to respond by restructuring and rationalising work processes and HRM practices; changes in industrial and occupational composition in response to changes to global competition, including the decline of traditional industries that tended to employ large numbers of older workers; rapid technical change affecting work processes; and periodic recession resulting in slack labour demand (Standing, 1986; Kohli *et al.*, 1991; Johnson and Zimmermann, 1993).

In common with Townsend's somewhat narrow explanation for the phenomenon mentioned above, such treatment therefore favoured a depersonalised account of the causes of early exit. Global economic forces rather than a sudden (and somewhat implausible) global upsurge of prejudicial attitudes towards older workers were held to account for the phenomenon, with emphasis upon 'push' over 'pull' factors. Falling demand for older workers in this economic context (push factors) occurred not because of their ages *per se*, but on account of supply-side characteristics associated with older labour (costlier, inappropriate types and levels of skills, lower mobility, less malleable *et al.*). On the other hand, 'pull factors' deployed by economic actors, that further enticed older workers out of employment through welfare and pension provision or other financial inducements, and which are more easily argued as denoting age prejudice, tended to be accorded less analytical significance in driving early exit.

As explained in *Paper 1* (2001: 33), one characterisation of the role of the economic actors depicted in this strand of literature was that of 'antagonistic co-operation' (Kohli and Rein, 1991: 9-10), whereby the parties did not instigate early exit on grounds of irrational prejudice, but colluded in responding to falling demand by seeking to ease older workers out of employment on reasonable terms, while also seeking to pass the cost of exit to another party. Such facilitating measures on the part of governments included, in the UK, the Redundancy Payments Act 1965, which required employers to make lump-sum payments to workers who lose their jobs; and the Job Release Scheme that operated between 1977-88 which provided allowances for older workers if they gave up jobs to younger ones. Generous early retirement deals for some employees were another approach, funded by employers, not least from occupational pension surpluses; and on the part of trade unions, there were a number of reactive, defensive strategies as detailed in *Paper 4* (2000), including canvassing for a lowering of state and occupational pension ages and better pensions.

Such accounts can be challenged as displaying an unwarranted degree of economic determinism that can disguise age prejudice. From certain labour process and social control perspectives, including that of structured dependency, economic and commercial rationality can both embrace and mask, rather than preclude, prejudice

and exploitation. For instance, depictions of older workers as an exploited, contingent labour force or 'reserve army', drawn into, and expelled from, the labour market according to the needs of capital, have secured some legitimacy from examinations of historical trends (Tillsley, 1990: 4; Laczko and Phillipson, 1991: 39-42). It is, moreover, scarcely possible to defend on any social justice criterion some mechanisms that oiled the early exit process, such as the Job Release Scheme, which seemed overtly to endorse the view that in conditions of slack labour demand, older labour in general was expendable and younger labour preferable, notwithstanding that age can sometimes provide a useful, if over-crude, proxy for labour supply-side characteristics. Nevertheless, this strand of literature, as well as the more conventional economic explanations, imply that elements of age prejudice that might feature in the early exit process are not easily amenable to challenge by appeals to economic or commercial rationality. This observation is of some import given the approaches that developed to counter ageism and early exit, as described below.

#### *Ageism and early exit*

In the UK, tolerance of, and collusion in, the early exit process by the state and other actors did not survive the 1980s. One major reason was growing concern in government and among some academics (*e.g.* Johnson *et al.*, 1989) about its affordability in a context of population ageing and projected increases in welfare and pension bills. Thereafter, during the 1990s, the trend became widely portrayed as a manifestation of ageism against older workers that needed to be halted and reversed. Clearly, the development of the ageism concept as described in the preceding section played some role in this shift in providing a convenient framework for challenging early exit, particularly structured dependency which explicitly linked retirement and early exit to age discrimination. Moreover, recession in the late 1980s had begun to erode the job security of older workers in relatively comfortable, senior and white-collar occupations, while previously the early exit phenomenon had largely been confined to older manual employees. This added a powerful middle class note of dissent which helped shift perceptions of older worker displacement from that of a necessary and acceptable means of coping with unemployment and structural change, to a manifestation of age prejudice. Hence *Paper 4* (2000), which

investigated trade union age policies, found that unions representing white-collar staff disproportionately featured among those resisting early exit, and for whom the issue of ageism had most salience (pp 228-29).

The association of ageism with early exit, and subsequently with discriminatory labour market treatment generally of older workers, including in such areas as recruitment and training, acted to elevate and establish the concept of ageism for the first time in the UK as an issue of some public and public policy prominence. This was most evident in a flurry of academic, government, and NGO-sponsored research throughout the 1990s that sought, and purported to find, evidence of negative attitudes and inaccurate stereotypes held by employers concerning the qualities and abilities of older workers (e.g. Tillsley, 1990; Trinder *et al.*, 1992; Taylor and Walker, 1993, 1995; Worsley, 1996). This body of literature was curiously detached from, and rarely acknowledged, the parallel strand referred to above that explained early exit and the discrimination it gave rise to chiefly by reference to largely neutral economic, technical and competitive processes. Indeed, far from endorsing the economic and commercial rationality of age discrimination, this latter body of work took the opposite view by formulating a 'business case' against age discrimination (Taylor and Walker, 1995) as the centrepiece of a strategy to fight ageism and early exit. Not only were employers' prejudices and mistaken beliefs about older workers held to constitute the chief source of early exit and other manifestations of age discrimination, but such beliefs were promoted as both irrational and commercially damaging. Age discrimination was thus perceived as best tackled by a dual strategy of debunking ageist attitudes held by employers and appealing to their commercial self-interests.

Advocates of this thinking were clearly influenced by, and borrowed from, the earlier conception of ageism outlined in Section 1.2, and sought to marry together what had hitherto been treated as rather distinct phenomena. This is evident in the common focus upon debunking negative age stereotypes, especially the assumption that age constitutes a legitimate proxy for declining ability or performance. In other respects, however, the new conceptualisation of ageism in employment diverged from, or fudged previous thinking. For example, Townsend's treatment of retirement and early exit was as an economically rational (if socially inequitable) process that

*caused* age discrimination in the form of exclusion and dependency. It did not rely heavily upon assumptions about age prejudices held by individuals. However, it seemed largely to have been turned on its head, with early exit being treated by anti-ageism advocates as a *consequence* of *irrational* ageist employer attitudes. Moreover, the distinction between rational and irrational age discrimination embraced in business case thinking had no obvious counterpart in gerontological literature. Indeed, the business case strategy probably owed more to political context than to theorising about age prejudice. It is an anti-discrimination strategy that has been identified as becoming prominent only if required as a substitute for more formal equality measures when, as in the UK in the early 1990s, market-orientated governments are resistant to greater labour market regulation (Dickens, 1998).

Reflecting upon this phase, it is clear in the current author's view that anti-ageism strategies had taken a dangerous and flawed route, sowing the seeds for the restrictive statutory framework that now operates in the UK. Indeed, as noted by Metcalf and Meadows (2010: 4), age is the only equality strand in current UK law where direct discrimination can be lawful if it is objectively justified. This can be sourced to the curious presumption by advocates of the business case that age prejudice was mostly irrational in commercial terms, and that 'rational' prejudice was relatively uncommon, somehow unproblematic and by implication, legitimate. Business case thinking was especially influential in the case of age in part by an accident of timing. During the early 1990s it was a popular supplementary discourse too in challenging other forms of prejudice in the context noted above of government reluctance to strengthen formal equality levers. However, in the cases of race and sex discrimination, the use of business case arguments simply complemented anti-discrimination laws already existing rather than helping to shape them, as occurred with age.

### **The rationality of age discrimination**

It was the dangers of this approach that informed the focus of *Paper 1* (2001), which was among the first to formulate a systematic framework for analysing the rationality of age discrimination, and to question its presumed irrationality, a deeply



unfashionable approach at that time in seeming to challenge anti-ageism sentiments. Also influencing that paper's focus were nagging doubts that phenomena such as early exit could plausibly be explained by some kind of simultaneous intensification of irrational age prejudice from the early 1970s onwards on the part of employers throughout the developed world. Drawing upon a variety of sources, including 'economic' explanations for early exit referred to above, the paper demonstrated that an equally plausible, if not more compelling business case could be built *in favour* of discriminating against older workers in a broad range of circumstances, one that did not rely upon the presumption of irrational employer prejudices (*Paper 1*, 2001: Box B, pp 37-9). This analysis was subsequently developed in *Paper 5* (2003: 105-107) in demonstrating how the business case not only failed significantly to challenge early exit, but by encouraging evaluation of the business rationality of age decisions, could even act to *reinforce* the process. Here and elsewhere throughout the research papers, the business case against age discrimination is also challenged from another angle, by locating arguments and evidence that question the presence, strength and influence of negative ageist attitudes presumed to be widely-held by employers (*e.g. Paper 1*, 2001, pp 40-41, Boxes C and D; *Paper 5*, 2003: 104-105; *Paper 7*, 2005: 11-12; *Paper 8*, 2008: 1137).

In some other respects too, the ageism discourse surrounding older workers has been rather shallow, of questionable value to older people and inimical to the broader ageism construct. In promoting the business case, for instance, much work simply substituted positive stereotypes concerning the alleged qualities of older workers for negative ones (older workers are assumed to be more reliable, committed, loyal, better communicators and so on), thereby fighting stereotypes with stereotypes and reinforcing the tendency to treat older people as a homogenous group, a key symptom of ageism in the broader literature. An almost exclusive focus upon ageism in employment also deflected and downgraded concern for post-employment manifestations of ageism. In particular, the assumed centrality of work to well-being did not accommodate the interests of those older workers who wanted, or needed on health, caring commitments or other grounds, to withdraw from the labour market on reasonable financial terms. Nor did it provide any ideological basis for resisting subsequent pension erosion. The consequences of such shortcomings for well-being in older age are examined in detail in Part 2

## **Combating ageism: the role of the economic actors**

Nevertheless, the voluntary business case, anti-ageism bandwagon gathered momentum and support throughout the 1990s, seemingly endorsed by governments and employers' organisations too, in part because of common antipathy towards more direct legislative intrusion into the labour market. As detailed in several of the research papers (*Paper 1*, 2001: 35; *Paper 2*, 2000: 282-283; *Paper 4*, 2000: 220) government and employers' groups from the early 1990s launched a number of campaigns against ageism in employment, warning of its negative commercial implications. On the employer side, one of the most vociferous campaigners was an Employers Forum on Age (EFA), launched in 1996, which campaigned not only against discrimination affecting older workers, but promoted on business grounds the adoption of 'age neutral' and 'age diverse' employment policies. The Labour Opposition for its part promised age legislation, but dropped this commitment shortly before the 1997 election, after which it issued instead a voluntary code of practice on age diversity which once again favoured awareness-raising among employers and promotion of business case thinking as its chief instrument for tackling age discrimination.

Despite emphasis upon challenging ageist attitudes, the receptiveness of both governments and employers to business case arguments clearly reflected utilitarian rather than social justice objectives. For governments, the chief concern was how to offset worrying projected increases in welfare and state pension expenditure in the light of population ageing. Halting early exit and seeking to extend labour market participation into older ages were obvious responses. According to Macnicol (2006: 101-106), such objectives later became incorporated in the New Labour era as part of a more elaborate supply-side economic philosophy aimed at promoting work obligation and increasing labour supply as means of reducing labour and welfare costs and promoting economic growth. Employers too were concerned about the combined impact of population ageing and falling participation rates upon taxation levels, public expenditure and the economy, as well as implications for the future costs and viability of company pension schemes. Moreover, business case arguments had some legitimacy and posed no threat. If the use of human capital could be

improved by confronting ignorance and prejudice then that was all for the good, while there seemed no obligation in business case rhetoric for employers to take measures against age discrimination that did not further business interests. By contrast, social justice arguments regarding older workers' *right* to work did not figure prominently in either government or employer discourses on ageism or early exit.

This is not to argue, however, that there were no contrary motives and vested interests underlying how governments and employers sought to deal with older worker issues. Indeed, the research papers locate instances of covert and contrary objectives pursued by each party in policy postures adopted (e.g. *Paper 5*, 2003: 111-112), and upon reflection, these might usefully be classified as again representing a process of 'antagonistic co-operation' among the economic actors similar to that which had previously characterised collusion in the early exit process: subsequent collusion to halt or reverse that process by the state, employers and to some extent trade unions has also entailed each party attempting to shift the costs of increasing older worker participation to another, this time in the guise of anti-ageism sentiments. For example, governments have shown little inclination to subsidise or significantly finance older worker re-engagement. On the contrary, even in the post-early exit phase they continued to display a degree of age discrimination towards older workers in labour policy, evident for instance in the lower priority and minuscule resourcing of the 50+ Welfare to Work programme relative to programmes for younger people (*Paper 5*, 2003: 111). Their efforts to persuade employers of the merits of the business case against ageism, and to retain or engage older workers when in many cases it was clearly not cost-effective to do so, would have had the effect, if successful, of off-loading the costs upon employers. Or again, at the macro-level, the implication of work obligation and supply-side ideologies, supported by both parties in the guise of anti-ageism policy, along with falling demand for older workers, have meant that job opportunities for displaced older workers are mostly confined to the menial, low skilled end of the labour market (Macnicol: 2006: 110), thereby passing the costs of re-engagement from employers and government to older workers themselves. Trade union versions of anti-ageism, on the other hand, were a pragmatic response to the varying interests and demands of occupational memberships. Policies included both promoting on

equal opportunities grounds the right of older workers to have the choice to remain in employment if desired, while also seeking to defend early retirement arrangements, defend and improve pension provision, and resist increases in pension eligibility ages (*Paper 4*, 2000).

Vested interests, covert objectives and opportunism were also apparent in how each party sought to shape the ageism agenda. For government, anti-ageism sentiments were most usefully confined to older workers, while the EFA canvassed hard for an age-neutral definition of ageism. This latter stance seemed informed by a desire by employers to avoid general obligations towards older workers being imposed by government at a time when age legislation was official Labour policy and very much on the cards as the 1997 election approached. Moreover, an anti-ageism agenda which combined business case rationality with age neutrality (and by extension, age equality) represented an advantageous mix that could more easily legitimise discrimination against 'uneconomic' older workers through displacement or erosion of their employment conditions. Indeed, one EFA discussion paper (1997) promoted on equality and business rationality grounds, the phasing out of occupational pensions, a pernicious logic easily extended to challenging a whole range of seniority prerogatives enjoyed by many older workers.

As for other actors, commentary within academic gerontology and the age advocacy movement seemed broadly supportive of the increased attention devoted to the problems of older workers during this phase, which helped secure recognition and legitimacy for the ageism concept. There was some restlessness, however, over the almost exclusive focus upon ageism in employment. As Bytheway commented (1995: 105): 'Some ... think of ageism primarily as age discrimination in employment practices and that it affects people in their forties, fifties and sixties - they would be surprised if it were suggested that exactly the same phenomenon affected the lives of people in their nineties.' Given that age discrimination affecting older workers was conceptualised in this way, simply as a sub-component of the more general phenomenon rather than as a somewhat distinct labour market issue in its own right, there were no strong grounds for opposing this focus, nor apparent recognition that the original concept was being hijacked, eroded and distorted for political and economic ends.

### *The 1999 Code of Practice*

By the end of the 1990s, the most formal government initiative on ageism was publication of the Code of Practice on Age Diversity in Employment (DfEE, 1999), the product of a lengthy process of consultation. The contents and peculiarities of Code were the subject of *Paper 3* (2000), and further examined briefly in *Paper 5* (2003: 111), and in retrospect, are best explained as an unsuccessful attempt to reconcile the contrary interests and motives of the interested parties as outlined above. *Paper 3* (2000) first locates the unique non-statutory status of the Code, in contrast with other employment relations codes which hitherto had all been provided for in Acts of Parliament. An entirely new instrument had therefore been invented to deal with age matters. This reflected growing perceptions that something more substantial needed to be done about age discrimination in employment than simple exhortation directed at employers, but in a context where there was limited support for age legislation. Employers, including the EFA, were generally opposed to further legislative intrusion into the labour market, arguing that legislation could scarcely shift the chief source of the problem, which was argued to be attitudinal (*Paper 5*, 2003: 114); and as *Paper 4* (2000: 227) indicates, trade unions too were at best lukewarm towards a legislative solution, preferring to combat ageism through negotiation and monitoring of equal opportunities policies. Of the main actors, only age advocacy groups such as Age Concern were strongly supportive of age legislation (*Paper 3*, 2000: 151). As the Government faced contrary views on what ageism meant, and how it should be tackled, a voluntary code would have seemed the safer and easier option. The result, however was a masterpiece in fudge, ambiguity and incoherence.

The title of the Code was itself revealing, with 'age diversity' substituted without explanation nor discussion for 'ageism' or 'age discrimination'. Emerging from the USA in the late 1980s, the diversity discourse was a perceived means of providing both a business and social justice incentive to drive equality within organisations (Riach, 2009: 320), and constituted a similar, if more elaborate, formulation of business case thinking, one that was not solely confined to older workers. Evaluation of the concept in *Paper 3* (2003: 109-111) also revealed that it was quite distinct

from the more bureaucratic, social rights agenda of equal opportunities. Moreover, two main policy applications of diversity thinking were identified from the literature (*Paper 5*, 2003: 110): that of *valuing* or *celebrating* differences; or alternatively, of *dissolving* differences. In terms of age, the former implies inclusiveness policies specifically geared towards age-differentiated groups such as older workers, while the latter endorses age neutral or age blind policies as a means of achieving inclusion. However, such distinctions were wholly ignored and conflated in the Code, which seemed to use the terms ‘equal opportunity’ and ‘diversity’ interchangeably. It also promoted age neutrality in decision making, yet seemed to place most policy emphasis upon the treatment of older workers. Employers were also urged to work towards a ‘proper’ or ‘age-balanced’ workforce, yet no definitions were provided for such terms, nor how such a goal could be reconciled with age neutrality. Unsurprisingly, the Code was thus widely ignored, with one Government commissioned evaluation showing that by 2001 just 2% of companies surveyed had changed their age policies as a result of this initiative (Goldstone and Jones, 2001). What was of significance, however, was that the Code represented the first official, if tentative, acknowledgement that consideration of age discrimination in employment should not exclusively be focused upon older workers.

#### **1.4 AGEISM AS AGE INEQUALITY**

In the initial years of the new millennium the concept of ageism evolved into its current guise by encompassing age discrimination in general rather than that confined to older people or older employees, thereby popularising the notion that people of all ages should be treated equally, unless there are compelling grounds to do otherwise. As observed above, there had already been movement in this direction in the terms of the Code, and arising from the opportunistic preferences of employers, a tendency subsequently reinforced and consolidated by the advent and design of age discrimination law.

## Statutory equality

In 2000, the European Employment Directive on Equal Treatment (Council Directive 2000/78) required Member States to introduce legislation prohibiting age discrimination in employment, as well as discrimination on grounds of sexual orientation, religion and disability. Significantly, the Directive applied to all ages rather than just to older workers. Its origin and rationale are usually considered as part of the response to ‘eurosclerosis’ – the view that European labour markets had become over-regulated and too inflexible, leading to high unemployment and poor growth. Hence Macnicol (2006: 77) views the advent of age legislation in the context of a re-balancing of EU social policy from welfarism to workfarism, designed to increase labour supply from dormant labour categories in accordance with the principles of the Amsterdam Treaty 1997 and Lisbon Agreement 2000. How to deal with the pension and welfare consequences of an ageing population was also a common and prominent issue for most Member States, and may have been an additional consideration. However, a rather different interpretation is provided by Mabbett (2005: 100; 106), whose analysis located little EU-wide support for legislation on age, disability, sexual orientation or religion. Nor did she consider the Directive as even deliberate or intended EU policy. Rather, it emerged more by accident than design, the by-product of complex intra-Union politics and negotiations aimed at resolving legal and constitutional issues concerning human rights. A feature of this process was the pragmatic linking of civil with social rights, which allowed these more controversial forms of discrimination to make unexpected progress.

Whatever its origins, the Directive required the UK to introduce age legislation by December 2006, a date encompassing a three year extension negotiated by the Labour Government beyond when originally due to be implemented. This allowed an extensive period of consultation prior to the introduction of law in the form of the *Employment Equality (Age) Regulations* in October 2006, as subsequently consolidated in the Equality Act 2010. The prolonged consultation period reflected not only ambivalence on the part of the Government over the merits of age legislation, and disagreement among vested interests on the form that it should take, but also several thorny difficulties in translating a broad-based definition of age

discrimination covering employees of all ages into existing anti-discrimination templates. One major difficulty was how claims of direct and (especially) indirect discrimination could be adduced, and frivolous claims constrained, in absence of legitimate age benchmarks, as was discussed in several of the research papers (*Paper 5*, 2003: 108-109; *Paper 6*, 2004: 97; *Paper 7*, 2005: 15). Absence of a readily identifiable oppressed group provided broad scope for anyone, of any age, to argue that he/she had been treated unfairly relative to someone of a different age. A major part of the solution was to incorporate business case thinking firmly into statute as a constraining device which, as noted earlier, resulted in the new law being the only anti-discrimination strand where even direct discrimination could be broadly justified. As well as endorsing business case thinking, the legislation also formalised detachment of the ageism concept from older people, and indeed in some respects endorsed discrimination against the latter. Compulsory retirement for instance was outlawed (unless objectively justified) only prior to age 65, but allowed thereafter. This mostly reflected lobbying by employers who wanted to retain some control over retirement. Moreover, being largely confined to employment, the legislation did not outlaw discrimination against older people in the provision of goods, facilities and services.

The European Directive's endorsement of an age neutral definition of age discrimination corresponded with, rather than determined, the shifting meaning of the term in the UK, as this new formulation was already apparent in the 1999 Code. In several of the research papers (*Paper 1*, 2001: 31; *Paper 5*, 2003: 108; *Paper 6*, 2004: 96; *Paper 7*, 2005: 3-4) a key factor suggested as accounting for this shift, in addition to the opportunistic preferences of employers, was the gradual incorporation of age into equal opportunities agendas, and the prevailing logic associated with statutory anti-discrimination templates, both of which embraced 'formal equality' or consistency of treatment as the guiding principle. An age selective approach to confronting age discrimination that focused only upon older workers was therefore quite inconsistent with this principle and breached prevailing equality norms.

Upon reflection, however, this factor was perhaps less influential than was portrayed in the papers. An almost exclusive focus upon older workers was evident in age legislation that had been enacted elsewhere without apparent difficulty. The US



ADEA legislation applied only to employees aged over 40, and an international review of age legislation conducted in the early 1990s revealed that most legislative initiatives were similarly so confined, with Canada representing one of the few exceptions (Moore *et al.*, 1994). Moreover, in the UK a series of Private Members Bills was introduced in Parliament during the 1990s, calling for aspects of discrimination affecting older workers to be outlawed (*Paper 3*, 2000: 148), without such calls being perceived as iniquitous. Another factor identified in the research papers that acted to loosen the association of ageism in employment with older age, was evidence of fluid perceptions concerning what constitutes an 'older worker'. The age concerned could vary widely according to such variables as industry, occupation and gender, and in some cases, such as the IT sector, people as young as aged 30 were considered older workers (*Paper 1*, 2001 : 30; *Paper 3*, 2003: 109).

However, probably the most important influence was a growing belief around the turn of the century that ageism could significantly affect young people too, and indeed the research papers contributed in some part to this development by providing early empirical support from the employment sphere. The research reported in *Paper 2* (2000), based upon questionnaire data gathered in 1997, was among the first to investigate systematically the perceptions of younger people on age and employment matters, and found that around a third of the students surveyed claimed to have experienced age discrimination in employment, including attitudinal prejudice. Similarly, the research reported in *Papers 6* and *7*, based upon survey data gathered in 2000, was also among the first to attempt, *inter alia*, to map the contours of age discrimination in the workplace from case study data on employee perceptions, in contrast to the bulk of previous work that had simply sought to detect ageism by eliciting employers' attitudes towards older workers. This showed ageism to be almost as commonly reported by young as older employees. *Paper 6* (2004) also used this data set to analyse and compare systematically the incidence and manifestations of ageism by age and gender. There were both similarities and differences in how ageism impacted upon men and women. The chief difference was that across all age groups, women more often experienced age discrimination relating to aspects of appearance and sexuality than did men, and in these respects were apparently considered to be 'never the right age'. Women were also judged

'older' at earlier ages than men. These findings conferred some further legitimacy upon dealing with age discrimination across the age range, and raised questions too about the legitimacy of gender-blind approaches to tackling ageism as have so far predominated in the UK.

### *The legitimacy of age equality*

Despite the formal shift to an age equality framework in confronting age discrimination, government pronouncements and promotional material on age matters still seemed most focused upon older workers, as was apparent, for instance, in the 'best practice' examples contained in the Department of Work and Pensions' *Age Positive* website and programme, which were heavily weighted towards encouraging the greater labour market participation of older people. This may reflect more than the opportunistic policy priorities of government discussed above, as the same emphasis is apparent too outside government. Pressure groups specifically championing the interests of older workers have remained active and influential, most notably TAEN (The Age and Employment Network) set up in 1997 to promote the employment needs of those 'in mid and later life' ([www.taen.org.uk](http://www.taen.org.uk)). Moreover, in popular discussion and media coverage, ageism is still often assumed to be an issue affecting only or mainly older people; and while there is token acknowledgement in government publications and those of age advocacy groups such as Age UK, that ageism can affect younger people too, the unmistakable impression conveyed is that it is 'really about' older people.\*

Whether this continuing focus has some legitimacy in denoting that ageism affecting older people is sufficiently distinct analytically and in impact as to merit

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\* The empirical work reported in *Paper 7* (2005: 9) to some degree challenges these observations. When asked what they understood by the term 'ageism', two-thirds of employee respondents selected 'any form of aged-based discrimination, irrespective of age', and just a third understood the term to refer to older people. However, this result is likely to have been influenced by the forced choice format of the questionnaire. Juxtaposing what might be considered a discriminatory meaning, confined to older people, with an inclusive one that incorporated the powerful sentiment of equality, may well have pulled answers in that direction, possibly conveying what respondents felt ageism *should* mean rather than current understanding of the term.

special treatment, is a theme explored in later discussion. It may also reflect public unfamiliarity with the age equality construct implicit in age inclusive/neutral definitions of ageism, which is in some part a 'manufactured' concept that accordingly may lack perceived substance and popular sympathy. As the above discussion reveals, it represents the end-product of a complex process of fusion of contrary interests, political posturing, economic contingencies and pre-existing discrimination templates. Nor is there a single oppressed constituency group whose interests are unambiguously advanced by an age equality platform, nor any historical legacy of struggle towards its achievement akin to that of, say, the suffragette movement in the UK or the African-American civil rights movement. Age equality is also a highly problematic concept. In its simplest form, for instance, it can act to deny the legitimacy of age-related special needs. Moreover, as observed in *Paper 8* (2008: 1145-46), age distinctions and norms pervade the social fabric of any society, are widely accepted, can be used for legitimate social purposes and need not obviously denote prejudice. Indeed, Macnicol (2002:16) considers that a truly age neutral society can only ever be a 'hypothetical abstraction'.

On the other hand, the emotional, 'common-sense' appeal of applying equal treatment to age, as to other matters, should not be underrated. Indeed, it was endorsed by the current author in an early research paper, which called on social equity grounds for extending the application of the ageism concept to cover all ages (*Paper 2*, 2000: 299), though this position was subsequently revised in later papers. Moreover, as discussed in *Paper 8* (2008: 1138-1142), the principle of age equality has secured further sustenance from two influential discourses originating outside the employment arena. First, demographic trends and an ageing population have led to a revival of interest in recent years in debates on generational equity and the affordability of old age (e.g. Thomson, 1989; Wolf, 1999; Mullen, 2002). Second, in the field of social gerontology and on the part of age advocacy groups has been popularisation of the notion 'agelessness', a term coined in reference to the recent emphasis upon promoting 'positive' images of ageing and an active lifestyle for older people as an antidote to their ghettoisation or marginalisation. Assessing the implications for well-being in older age of the application of such age equality constructs, is the chief focus of Part 2.

## 1.5 CONCLUSIONS

The discussion reveals the complex and quite fascinating processes whereby the ageism concept became dislodged from its genesis in social gerontological theory, was substantially modified and eroded by its incorporation into policy and debates on the narrower concept of age discrimination in employment, and is now subsumed in age equality discourses and statutory templates. As revealed in the analysis, this transformation clearly owed more to utilitarian concerns and vested interests on the part of economic actors than to social justice preoccupations. Elements of chance and timing also played a role, as did the questionable stances adopted by some academic commentators and age advocates. From one viewpoint, the end-result could be portrayed as a welcome and legitimate paradigmatic shift in how ageism is analysed and tackled, one that allows fuller and fairer treatment of the phenomenon, including manifestations affecting any age. Yet the nature of the transformation process as revealed above, driven by complex political processes and contingent events, rather than by theoretical debate or popular advocacy, would seem to tell against this interpretation. Moreover, it is a viewpoint that presupposes that the original formulation was partial and devoid of legitimacy and distinctiveness as a phenomenon in its own right, a supposition challenged in the context of second part of this review.

## PART 2

### **CURRENT AGE EQUALITY AGENDAS: IMPLICATIONS FOR EMPLOYMENT AND PROSPECTS IN OLDER AGE**

#### **2.1 INTRODUCTION**

This part evaluates the legitimacy and consequences of subsuming ageism affecting older people within age equality discourses and statute. The discussion begins by setting out the case for differentiating old age prejudice from ageism experienced by younger people, thereby justifying the subsequent focus upon older age and raising doubts about the aptness of age equality frameworks as means of protecting and promoting older people's interests. Next considered is how older workers are affected by age equality constructs, both as embraced in the law, and as apparent in social and labour market policies pursued by government. The threat of workfarism posed by such policies is evaluated. The final section considers how such constructs threaten the financial, social and psychological well-being of older people in general, including challenges posed to the institution of retirement. Also considered are the relative merits of work versus labour market exit, and the importance of choice to well-being in older age. The key threats to well-being arising from application of age equality constructs, as were originally mooted in the research papers, especially *Paper 8* (2008), are re-evaluated and expanded upon in the light of subsequent developments, including recent age discrimination case law, economic turbulence since 2008, the accelerating pensions crisis, and the policy responses of the UK's new Coalition Government elected in May 2010.

## 2.2 THE DISTINCTIVENESS OF OLD AGE PREJUDICE

One rather surprising feature of the transformation process described in Part 1 is that the disassociation of ageism from older age has rarely been explicitly contested in academic work or by old age advocacy groups. This is all the more surprising given the centrality of the ageism concept to social gerontological theory. Indeed, as Biggs observed in 1993 (p. 86), ageism 'is now established among gerontologists at least, as a starting point for nearly all investigations of older age'. Yet there has been no significant attempt to reclaim the concept for that discipline, nor to challenge its current guise, and it is interesting to consider why this should be so. The oft-observed poorly developed state of gerontological theory in general (Biggs *et al.*, 2003; Bengtson, 2006), and of 'old age' ageism in particular (Biggs, 1993: 87), have clearly played a role. However, there have been several other factors involved.

First, it might be observed that endorsement of an age equality framework need not obviously be perceived as downplaying age discrimination against the old. To hold that old age prejudice is a more prevalent and damaging form of ageism need not obviously be challenged by the 'discovery' that age discrimination can affect other age groups too. Indeed, as was observed in Part 1, the extended application of the concept seems to have been mostly perceived by old age advocates in a positive light as helping to promote acceptance of the concept. Second, politically astute activists would have been reluctant to challenge the popular sentiment of equality. Indeed, campaigners on behalf of older people have long promoted greater intergenerational solidarity as a means of tackling the isolation and exclusion of older people from mainstream society, and also to challenge 'age war' perspectives concerning the distribution of resources between generations, which have invariably given rise to policy prescriptions detrimental to older peoples' interests (*e.g.* Kotlikoff and Burns, 2004; Bosanquet and Gibbs, 2005). Given this preoccupation, denial of the equivalence of age prejudice affecting old and young would not have been politic. Third, at a more abstract level, it might be argued that a hefty dose of reductionism has adversely infected the ageism debate, paradoxically as a consequence of Butler's endeavours to highlight the phenomenon. Labelling old age prejudice as 'ageism', and publicising it as yet another form of discrimination, may have weakened its perceived distinctiveness. As Macnicol (2008: 13) argues, the

concept of discrimination, though tempting to embrace as easily-understood, is nevertheless problematic in that it can obscure the deeper structural sources and manifestations of prejudice and inequalities. Discrimination can therefore be something of a red-herring, treated as the problem itself rather than a symptom or consequence of the real problem. By extension, the assumed equivalence of ageism affecting older and younger age groups may therefore owe more to the label than to similarities of substance, and it may be no more legitimate to conflate the two than to treat different discriminations on the bases of, say, sex, race or transexualism as essentially the same problem or deriving from the same roots. Reification of ageism as the problem rather than a symptom or outcome, also seems reflected in the definitional ambiguities commented upon in Part 1, with ageism rather confusingly conceptualised in a way which conflates both cause and effect, and attitudinal and structural components.

### **Special features of old age prejudice**

*Paper 8* (2008: 1142-43) argues that there are at least four features of age prejudice affecting older people that are quite distinctive. First, its origins lie ultimately in fear of the ageing process and the association of older people with decline, dependency and death. People therefore seek to distance themselves from such negative images, with the result that older people can become derided and marginalised. Second, in line with Scrutton's (1990) depiction of 'structural ageism', old-age prejudice is often held to be more pervasive in reach than ageism affecting younger people. It is evident in almost all walks of life, including in both private and public sector institutions, and in the rules governing public and social provision, which lead to exclusion or under-representation in such areas as diverse as the media, education, employment, or jury service. Third, old age prejudice is usually more intense and pernicious than that affecting younger people, extending on occasions to treatment of older people as a sub-human species. This view is apparent for instance in policies that limit social and financial independence in institutional care, and may feature too in the phenomenon of elderly abuse. It is also evident in the treatment of old age on occasions as akin to a disease; and in the assumption the older people should have a lesser claim upon rationed health resources, or that their deaths should cause less concern, because they have achieved a 'fair innings'. A fourth and arguably the

most fundamental malaise afflicting older people is that of ontological ageism, or the crisis of 'meaning' attached to old age, which is often both experienced and depicted as bereft of social role, spiritual meaning or useful purpose. Moreover, ontological ageism can be assumed to have greatly increased in significance in modern times, both as personally experienced and in terms of numbers affected, as populations have aged, longevity has increased and working lives have shortened. It is in this respect that ageism affecting older people would seem most distinct: no other age group as a whole can similarly be thought of as a 'generation in limbo' (Bosanquet, 1987). It might be observed in this connection that as ontological ageism is a broader concept than that of structured dependency, it need not be belittled by Johnson's (1989) critique of the latter as discussed in Part 1. Greater than assumed financial independence in older age, or the fact that retirement is often preferred over continued working, may challenge conventional accounts of the origins of old age prejudice, but need not preclude the ontological barrenness of later life as personally experienced or as proclaimed and influenced by others.

Of the four factors above, just one might also be considered relevant to age prejudice affecting younger people. As pointed out in *Paper 8* (2008: 1144), the treatment of older people as somehow less than human has a parallel in negative attitudes often displayed towards children, adolescents and young adults, sometimes referred to as 'adultism' (Flasher, 1978; Kivel, 1990). Indeed, as Hockey and James (1995) have argued, patronising and demeaning treatment of older people in institutional care often reflects the imaging of old age as a second childhood. Moreover, several of the research papers produced evidence that suggested that younger employees too experienced negative attitudes or behaviour towards them simply because they were young, rather than because of human capital issues or their labour market position (*Paper 2*, 2000: 296; *Paper 6*, 2004: 104-106; *Paper 7*, 2005: 15). This suggests that departure from some notional benchmark of 'prime-age' adulthood or full human status is one common root binding certain forms of age prejudice experienced by old and young alike, perhaps including extreme manifestations too such as child and elderly abuse. However, the other three factors above are quite specific to older age, and as argued in *Paper 8*, (2005: 1145), even this shared source has milder implications for most young people in being temporary and easing with age, while for older adults the opposite can be



expected, with prejudice intensifying into deep old age. As mentioned earlier in Part 1, one further feature of ageism that seemed shared equally by older and younger employees related to negative, age-based attitudes that women encounter regarding their appearance and sexuality (*Paper 6*, 2004: 110). However, whether this denoted sexism more so than ageism is a moot point; and in any case a higher proportion of older women (aged 45+) than younger women in that study reported ageist treatment *of all sorts* (Figure 1, p. 104).

The sources and manifestations of age prejudice as described above are not only largely confined to older people, but by their very nature can plausibly be assumed as more pernicious, sustained and prevalent than age prejudice encountered by younger people. Yet this view is not clearly supported in survey work, including that of the current author, and as was noted in Part 1, such empirical work seemed especially influential in promoting the current, non age-specific statutory definition of age discrimination. Moreover, with respect to employee perceptions, Figure 2 in *Paper 7* (2005: 14) showed that a similar proportion of employees in the 16-24 age group reported experiencing age discrimination (24.9%) as did those aged over 45 (27.1%), with lesser but significant proportions of employees in mid-age categories too experiencing discrimination. Ageism reported by employees in mid-age categories was not perceived as resulting from middle -age attributes, but because they were considered either too old or too young, or indeed both – persons of identical ages, particularly women in their 30s (*Paper 6*, 2004: 107), variously reported being considered both too old and too young. Such findings are similar to those reported elsewhere, for example by Snape and Redman (2003), who found that a comparable proportion of younger and older employees in their local authority study reported being discriminated against. Outside the employment sphere, opinion surveys on experiences of age discrimination have similarly shown that significant proportions of both young and old experience age discrimination, with some even finding a higher incidence of ageism reported by young people (Age Concern England, 2004; Ray *et al.*, 2006).

However, considerable care needs to be exercised when drawing conclusions from such findings. As was pointed out in *Paper 7* (2005: 16), only current employees were surveyed, and hence negative experiences of those discriminated against at the

recruitment stage or via early exit processes could not be captured, omitted categories that would underrate the extent of negative treatment experienced especially by older workers. There was also some evidence that older workers tended to internalise negative age stereotypes and were therefore less likely to perceive or report negative treatment (pp 12-13). More generally, as discussed in *Paper 8* (2008: 1144-1146), there are important limitations in relying upon subjective perceptions as a measure of ageism. Predilection to perceive or report discrimination can be influenced by many factors, including the extent to which personal goals and expectations are realised. Poor career progression, for instance, may legitimately reflect performance but can personally be interpreted as ageism. People therefore may perceive they are being discriminated against when they are not; or they may be unaware that they are being discriminated against. Nor can such data reveal differences in *degrees* of prejudice or injury visited upon different age groups. Moreover, as mentioned briefly in Part 1, legitimate age distinctions or 'age appropriate' behaviours or policies pervade the social fabric of any society and might contaminate the findings of such surveys if viewed by respondents as synonymous with age prejudice. Furthermore, if, as posited above, the current conception of ageism is chiefly a product of reductionist thought - simply a common label to describe unequal or negative age treatment, whose manifestations can vary radically across age groups in form, duration, intensity and injury caused, then its relative incidence by age as (imperfectly) measured in such studies would seem of dubious relevance to informing policy priorities. By the same token, a common or 'equal' approach to treating these diverse manifestations within crude equality frameworks risks perverse or unjust outcomes, as is considered below.

### **2.3 AGE EQUALITY AND OLDER EMPLOYEES**

This section assesses the implications of age equality constructs for older employees. First considered are the implications of 'statutory equality' as embraced in UK anti- age discrimination law. The next part argues that age equality, in the guise of the 'agelessness' construct, can confer legitimacy upon work obligation and welfare retrenchment, and in the light of recent developments, assesses whether workfarism constitutes a significant threat to well-being in older age.

## **The law on age discrimination**

There have been some developments in the law since publication of the last research paper in 2008. In 1 October 2010 age discrimination law was consolidated into the Equality Act 2010. With respect to age, the Act mostly incorporated the earlier Employment Equality (Age) Regulations 2006, though there have been some new provisions covering age discrimination by association and perception that are now effective. There is also a new public sector age equality duty, and provisions relating to dual discrimination, both due for implementation in April 2011; and extension of age protection to goods, facilities, services and public functions by 2012, including health and social services.

Since 2006, the legislation has provided protection to employees of all ages against both direct and indirect age discrimination. This applies over all parts of the employment cycle, including recruitment, training, pay and conditions, harassment, victimisation, redundancy and dismissal. Both direct and indirect discrimination can, however, be legal if 'objectively justified', and as mentioned in Part 1, this is the only equality strand that offers this defence. Objective justification requires the employer to show that the discriminatory treatment or provision is a proportionate means of achieving a legitimate aim or business need. Protection is also offered from compulsory retirement prior to the age of 65 unless objectively justified, after which compulsory retirement can occur without objective justification. Employees have a right to request working beyond age 65, and employers a duty to consider such requests. However employers do not need to give reasons for refusing such requests and there is no right of appeal. The new Coalition Government plans to phase out this 'default retirement age' (DRA) of 65 from April 2011, and abolish it completely by October 2011.

While applying to employees of all ages, in some limited circumstances the law allows relatively favourable treatment of older workers. For instance, benefits linked to length of service of less than five years are permitted. If the length of service required to qualify is more than five years, then the benefits have to be objectively

justified, but case law has shown this to be an easier test than normal for justifying discrimination favouring older workers (Age UK, 2010a: 7). Needs such as encouraging loyalty, motivating workers or rewarding experience are generally accepted as valid. The legislation also allows for 'positive action' in certain limited circumstances to prevent, or compensate for, disadvantage experienced by people of a certain age group, such as older or younger workers or women returnees. This applies to access to training and education facilities, or encouraging people of a certain age to apply for jobs, though actual selection on the basis of age still remains unlawful. Moreover, employers are not compelled by law to take such action.

### **Statutory age equality and older workers**

Clearly, the law provides some scope for challenging blatant forms of age discrimination against older workers. However, a prominent theme throughout the research papers is that overt discrimination based upon employer ignorance or simple prejudice plays a lesser role than is often supposed in influencing the labour market conditions of older workers, particularly their early exit. While it might be argued that age prejudice is also present in more subtle and damaging forms, inherent for instance in a labour process geared predominantly to the needs and characteristics of prime-age employees, the law as currently construed does not confront such discrimination. Moreover, as discussed in *Paper 8* (2008: 1136-1138; 1146-1147) and elsewhere in the research papers, there are several reasons to suppose that the narrow concept of equality embraced in the legislation may not only fail significantly to challenge labour market disadvantage affecting older workers, but could in several instances make matters worse.

First, if earlier arguments are accepted, that the business case *against* employing older workers is in many circumstances stronger than the case in support (possibly reflecting, *inter alia*, age bias in the current design of work processes), then it might be argued that legislation promoting 'equal' application of objective justification across all age groups represents, in fact, a built-in bias against older employees. This might be considered especially debilitating for older women, given that their 'merit' or perceived value to the organisation is often further diminished by a male-based and male-biased chronology of career development that few women can

conform to on account of greater employment discontinuity (*Paper 6*, 2004: 98-99). This is consistent with the finding in that paper that older women were found to be the largest category claiming to experience age discrimination (Figure 1: 104). Second, endorsement of 'formal equality', or consistency of treatment across age groups, as the dominant equality principle in the legislation, cannot promote appropriate treatment according to age *difference* or the special needs of older (or indeed younger) age-groups. Third, the same consistency principle can give rise to challenges from younger workers over seniority prerogatives and other treatment of older workers perceived as preferential. Moreover, such cases are more likely to result in a rounding down of older worker benefits rather than up to achieve parity. Fourth, apart from the limited scope for (voluntary) positive action as mentioned above, the legislation does not *require* employers to accommodate age-disadvantaged workers whose labour market characteristics or personal capabilities are judged inconsistent with business exigencies, in contrast, for instance, to the mandates of disability discrimination legislation which require employers to make 'reasonable adjustments'. This preferred focus of the legislation upon a *dissolving difference* rather than *valuing difference* approach, one that favours consistency of treatment over equality of outcome, seems an inevitable consequence of prohibitive potential costs for employers associated with the alternative route. As was noted in *Paper 5* (2003: 109; 110) the business case for an age-inclusive equality strategy is unconvincing, more so than that for older workers alone, on account of the likely presence of costly, multi-group age disadvantage in any workplace.

Finally, as discussed in *Paper 8* (2008: 1141), the application of formal equality to age matters at any one point in time may frustrate achievement of the more legitimate principle of 'proceSSIONAL justice' (Laslett, 1996: 233; Laslett and Fishkin, 1992), that is justice over time between age groups and generations. This holds that differential age treatment may be justifiable if each age cohort benefits equally over a lifetime. While this argument was developed with reference to broader debates on intergenerational equity, it has application in the employment sphere too. The theory of efficiency wages, briefly touched upon in *Paper 1* (2001: 38), seeks to explain why pay tends to rise faster than individual productivity as workers age. It holds that workers are often paid below their productivity during the first few years of their contract, and above in their final stage of employment with the firm. If workers do

not shirk, they will be allowed to stay with the firm to recuperate their initial loss. However, if they shirk and are dismissed, they lose the chance to recover wages owed to them. In essence, therefore, it is argued that efficiency wages represent an implicit contract and incentive aimed at motivating and retaining employees (Lazear, 1979). Accordingly, a time static equality framework directed towards consistency of treatment, as pursued in current legislation, may breach that contract, and to the possible detriment of older workers if deferred wages or other seniority prerogatives are subjected to challenge. \*

### *Evolving case law*

In the research papers, such observations were largely a matter of conjecture, made prior to, or shortly after the legislation coming on-stream. Subsequent case law<sup>+</sup> adds some corroboration. On the positive side, several examples may be cited where older workers have benefited from the law. For instance, in the case of *Baker v National Traffic Services Ltd (ET/2203501/07)*, the age limit of 35 for recruitment to train as an air traffic controller was successfully challenged. Similarly, in *Rainbow v Milton Keynes Council (ET/1200104/07)*, a 61 year old teacher who was not shortlisted for a job advertised for candidates 'in the first five years of their career' was found to have been indirectly discriminated against on the grounds of her age. Several other successful cases have been brought in the area of retirement. In *Martin and others v Professional Game Match Officials Ltd (ET/2802438/09)* an employment tribunal ruled that a retirement age of 48 for match officials was direct discrimination. In another case, an employee dismissed just one day before his 65<sup>th</sup> birthday succeeded in his age discrimination claim and was awarded £36,000 in compensation (*Plewes v Adams Pork Produce (ET/2600842/07)*). The same source

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\* By the same token, current policies to extend working life beyond current retirement ages, could result in over-compensation of older workers and stiffen employer resolve to resist such policies.

<sup>+</sup> For a good review of prominent cases to date, see the monitoring website: <http://www.agediscrimination.info/cases/Pages/keycases.aspx>. Cases mentioned here and subsequently in the text are from that source.

gives details of successful claims by older workers on several other grounds (pay and benefits, harassment, dismissal, ill health and age).

On the other hand, several judgements vindicate some of concerns raised above, where apparent discrimination against older workers has been permitted on objective justification grounds; and where the principle of consistency of treatment and claims from younger workers have overridden the interests of older employees. In *Homer v Chief Constable of West Yorkshire* ([2010] EWCA Civ 419), the Court of Appeal upheld an earlier Employment Appeal Tribunal (EAT) decision that the requirement to have a degree as a condition for promotion was not indirectly discriminatory in the case of a 61 year old employee who could not complete a degree before the age at which he would be required to retire. The somewhat unconvincing argument by the EAT in rejecting the claim was that his inability to obtain a degree prior to retirement was a consequence of his age, not discrimination, and that this would apply equally to younger workers who left prior to completing the degree. Similarly, in *Swann v GHL Insurance Services UK Ltd* (ET/2306281/07) an employment tribunal held that it was not discriminatory to offer to older employees, as part of a flexible benefits package, private medical insurance where premiums were age-related and costlier for older employees, thereby reducing the effective value of age-appropriate benefits offered to older employees. The tribunal found in favour of the employer on the ground that the same formula applied equally to young and old employees in determining the money value of the flexible benefits package. Or again, in *Galt & others v National Starch & Chemical Limited* (ET/2101804/07) an employment tribunal ruled that an enhanced redundancy scheme which gave greater credit for service over aged 40 was unlawful as the employer could not identify a legitimate aim for the less favourable treatment of the younger employees. In seeking to persuade the tribunal that favouring older employees represented a proportionate means of achieving a legitimate aim, the company argued that it was harder for older workers to find new employment, a view the tribunal was not prepared to accept without evidence, despite this fact being widely known and long confirmed in academic work and government publications (e.g. DWP, 2010a: 6; Hogarth *et al.*, 2009: 45). This example also demonstrates how genuinely altruistic motives on the part of employers in their treatment of older workers can be frustrated by age discrimination claims from younger workers. Perhaps the most prominent ruling held

to have negative implications for older workers, was what became widely known as the ‘Heyday Case’ (*Age UK v Secretary of State for Business, Innovation and Skills*, [2009] EWHC 2336 Admin). This was the High Court ruling that compulsory retirement at the DRA of 65 could be objectively justified and was thus legal. However, the Court indicated that were it not for the imminent review of the DRA announced by the Government, the decision may have been different.

However, arbitrary selection of judicial cases with positive and negative outcomes can tell us little about the likely overall and longer-term impact of the law upon the employment prospects or conditions of older workers. The law is still bedding in, as is indicated by Table 2.1, which shows a rapid year on year increase in claims accepted by tribunals, which almost doubled in number in the two year period between 2007-8 and 2009-10. Future outcomes will also depend upon the vagaries of legal adjudication and developing case law, which at present remains unclear on such issues as the role of costs or other financial considerations in sustaining objective justification. Moreover, statistics on tribunal claims or outcomes can only provide a rough measure of how discrimination is being interpreted where there is some element of doubt over whether the employer’s actions conform to statute; where discrimination against older workers is easily justified objectively on business grounds, it is unlikely to be subject to legal test. The findings of judicial cases may therefore convey an over-positive impression of the beneficial impact of the law for older workers.

**Table 2.1 Age discrimination claims accepted by employment tribunals (GB)**

2006-7	2007-8	2008-9	2009-10
972	2900	3800	5200

*Source:* Employment Tribunal and EAT Statistics (various dates). Accessed at: [www.tribunals.gov.uk](http://www.tribunals.gov.uk)



### *Ending mandatory retirement*

Restriction on mandatory retirement prior to the DRA, and plans to abolish the DRA outright, seem viewed by age campaigners as representing the most significant equality gain for older workers arising from legislative initiatives and plans. Indeed, it was a branch of Age UK that launched the *Heyday* test-case challenge to the legality of the DRA referred to above, with the subsequent judgement widely condemned by age advocacy groups. Employers on the other were initially resistant to restrictions on compulsory retirement prior to the introduction of DRA, and organisations such as the Confederation of British Industry (CBI), Engineering Employers Federation and Institute of Directors have continued to canvass strongly via recent consultative processes against its planned, wholesale abolition (CBI, 2010; Sykes *et al.*, 2010). It might be inferred from such resistance by employers that this is one area of future law where social justice criteria will triumph over business need in determining the treatment of older workers. However, ending mandatory retirement outright may represent a smaller gain for older workers than is commonly supposed. According to a survey of its members, the CBI (2010: 11) found that over 80% of employee requests to work beyond the current DRA were already being granted by employers. Moreover, while a small number of older workers might gain from abolition of the DRA, employers will still have the power under law to retire employees at any age they deem fit, providing that this can be objectively justified. This could mean that employers will rely more upon humiliating disciplinary and performance appraisal processes as alternative methods of dismissing older employees who they consider surplus to requirements. Indeed, as was noted in *Paper 7* (2005: 20-21), some employers argued that even restrictions on pre-65 retirement introduced by the DRA would motivate them to resort to bogus performance appraisal methods to dismiss older employees, who would otherwise have been celebrating their retirement, or who would have been enticed out by early retirement deals.

Another negative consequence may be greater reluctance by employers to hire older workers, thereby counterbalancing any gains to labour force participation. As the CBI observed:

CBI members believe that in minimising the risk associated with employing older workers, the DRA can actually boost employment levels for those aged 55-65 by removing disincentives to hire. Employers may be more willing to consider people who may be capable of working for a few years, if it is possible to retire them without being penalised when their performance begins to wane. Given the imperfect information available to firms at the time of hire, if this safety net is removed and employers are faced with the possibility of significant management time and cost if the situation does not work out, as well as the threat of litigation, the risk of employing older workers could become a problem (CBI, 2010: 20).

Such fears were also evident in the run-up to the Age Regulations in 2006 which restricted pre-65 retirement, with reports of employers deliberating dismissing older workers prior to the legislation coming on-stream (Taylor, 2008a: 102). US experience is also illustrative. As was observed in *Paper 5* (2003: 113; 114), there is some evidence that the banning of mandatory retirement under the ADEA led to increased dismissals of older workers on performance grounds, though with no noticeable impact upon hiring probabilities.

#### *Impact upon early exit*

The above considerations might clearly be expected to moderate any positive influence of the legislation upon early exit. The early exit trend, apparent from the early 1970s, bottomed out around 1993 (Hotopp, 2005), after which there has been a slow but sustained increase in the participation rates of older workers, as illustrated in Table 2.2. As shown in Table 2.3, expressed in terms of economic activity data, the decline in early exit is mostly accounted for by the increased economic activity of older women. It is difficult to judge how significant, if at all, have been age legislation and the anti-ageism campaigns that preceded it in contributing to this trend. However, as the start of the upward trend preceded legislation and, as was noted Part 1, voluntary initiatives such as the Age Code were widely ignored by employers, the role of anti-ageism initiatives would appear to have been slight. More influential factors that have been suggested include: a relatively buoyant economy and tight labour markets since 1993, along with structural shifts in employment from manufacturing to part-time flexible service sector occupations (Disney and Hawkes, 2003); welfare and pension reforms (Bell and McVicar, 2010: 263-264); and greater

labour market participation on the part of women in general that has mirrored their declining fertility (Bloom *et al.*, 2010: 239).

**Table 2:2 Employment rates of over 50s – UK 1992-2009**

<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>
63.5%	62.1%	62.6%	63.3%	63.8%	64.7%	65.7%	66.3%	66.9%
<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
68.2%	68.1%	70.0%	70.2%	70.7%	70.9%	71.6%	72.4%	71.8%

*Source:* Department for Work and Pensions (DWP) (2008), *Indicator 19*; and DWP (2009, 2010), *Older Workers Statistical Information Booklet*. All accessed from DWP website ([www.dwp.gov.uk](http://www.dwp.gov.uk)).

**Table 2:3 UK economic activity rates by age – selected years 1992-2010 (June-August each year)**

<b>Date</b>	<b>Men 50-64</b>	<b>Women 50-64</b>
1992	73.7	62.0
1995	71.7	63.3
1998	72.0	64.6
2001	73.2	66.1
2004	74.4	68.3
2007	75.2	71.3
2010	75.8	73.9

*Source:* Compiled from Labour Force Survey data, accessed at: <http://www.statistics.gov.uk/StatBase/expodata/files/1858113652.csv>

The value of the legislation in promoting or sustaining older workers' employment participation will best be tested by how they fare during the current turbulent economic climate. Current high levels of unemployment, and further projected increases as public sector cutbacks kick in, are conditions which in the past have

been associated with the accelerated relative displacement of older workers. However, the preventative role of the law would seem severely compromised by the centrality of the objective justification principle and other loopholes, and there have been ominous indicators of late. First was the European Court of Justice (ECJ) ruling in October 2010 in the case of *Rosenblatt v Ollerking Gebäudereinigungsge (mbH C45/09)*, which held that a German law allowing compulsory retirement at 65 (the state pension age) was objectively justified age discrimination and did not contravene the EU Age Directive. The ECJ found that the aims of the German legislation were legitimate, which included the need to share employment between generations and to avoid humiliating capability dismissals for older workers. The fact that the 65 retirement age had been collectively agreed in negotiations between employer and employee representatives also influenced the ECJ judgement. This case is currently being highlighted by legal commentators as helpful guidance to UK employers who wish to maintain a compulsory retirement age following removal of the DRA. Secondly, has been the decision by several UK police authorities in November 2010 to seek to invoke Regulation A19 of the Police Pensions Act 1987. The Regulation states that officers who have been in the job for 30 years or more can be 'required to retire' if their retention would 'not be in the general interests of efficiency'. This is in response to a planned 20% cut in police funding over the next four years. The Police Federation have argued that this provision was designed to enable forces to remove an exceptional under-performing officer, rather than as a means for forcing hundreds, if not thousands of officers into retirement. Similarly, the chief executive of TAEN has described the plans as 'naked ageism' (*The Independent*, 4 November 2010). While this move has yet to be put to legal test, it could be judged as satisfying the objective justification criterion of the Equality Act and /or may bypass the Act's provisions on the basis of 'Statutory Authority', an exemption from the Act where its provisions are held to contravene another statute.

On balance, therefore, statutory equality as embraced in current UK law would seem to offer little scope for protecting or advancing the interests of older employees, and in several important respects clearly further threatens their employment position.

### **Agelessness and workfarism: the new ageism?**

As briefly introduced in Part 1, the concept of agelessness in current age equality discourses refers to recent emphasis in social gerontology and on the part of age advocacy groups upon the merits and legitimacy of age-blind policies and positive images of ageing, where older people are argued to be little different in most respects from 'prime-age' adults. The agelessness construct was embraced by anti-ageism activists in the employment sphere too in challenges to negative age stereotypes and promotion of age neutral employment policies and greater labour market participation by older people. This version of age equality has also dovetailed neatly into the welfare and labour market preoccupations of recent governments in the UK and elsewhere. The message that there are no essential differences between older and younger workers promotes support for extending working lives as a means of relieving burgeoning welfare and pension costs. Moreover, as was noted in Part 1, increasing labour supply by activating dormant labour categories was also consistent with the broader supply-side economic strategies endorsed in the UK, USA and elsewhere during the Blair Government era. Accordingly, 'active ageing' as it applies to the labour market has currently secured a wide degree of acceptance, not only in the UK but in developed nations generally. As Taylor (2008b:1) observed from a recent overview of policy towards older workers in several industrialised economies, 'the necessity for economies, and the value for both industry and older people of extending working lives seems to be taken for granted and dissenting voices are seldom heard. Quickly it seems that a remarkable consensus among policy makers, employers, trade unions and social commentators has emerged'.

However, as was argued in *Paper 8* (2008: 1139), drawing especially from the work of Macnicol, such thinking can pose a major threat to well-being in older age. As Macnicol (2003: 32) observed, agelessness has as its obverse, the implication that the walls protecting the old in terms of pension and welfare provision should be torn down, a logic, as was noted in Part 1, already apparent in the deliberations of the EFA employer organisation. A crude form of workfarism could therefore

characterise such labour activation for those older workers displaced from regular employment, with opportunities for re-engagement mostly confined to insecure, predominantly service sector occupations at the bottom of the labour market. This, ‘work till you drop’ mentality, argued Macnicol, would constitute ‘the ultimate form of ageism’ if realised (2006: 266). Moreover, agelessness sentiments might be thought to be especially detrimental to the financial and social status of those segments of the older population less able to re-engage in employment for reasons of health, caring commitments or general employability.

Given its profound implications for well-being in older age, the threat of workfarism as highlighted in *Paper 8* (2008) clearly merits closer scrutiny, and is assessed below by reference to demand conditions affecting older workers and proposed welfare reform.

#### *Demand for older workers*

One pre-condition for the emergence of workfarism on a significant scale is the continued displacement of older workers from their regular employment. The likelihood that this pre-condition will be met is consistent with the thesis promoted throughout the research papers - that early exit will continue or worsen, because it is more a product of sound commercial decisions affecting the demand for older workers than of irrational ageist prejudice. However, one possible criticism of the derived business case *against* older workers (*Paper 1*, 2001: 37-40; *Paper 4*, 2000: 223; *Paper 5*, 2003: 105-108) is its formulation in an historical vacuum, informed by literature and events covering the relatively short period coinciding with the early exit trend from the mid- 1970s to early 1990s. Indeed, it might be argued that this period was atypical, affected by periodic recessions and a major phase of economic and industrial restructuring in response towards the new ‘post-industrial’ economy, with particularly harsh, but possibly time-limited, consequences for older workers. As was shown in Table 2.3 above, economic activity rates for older people began thereafter to recover, albeit slowly. Moreover, a popular projection in some literature is that labour shortages arising from population ageing may serve to revive and sustain labour demand for older workers, a view referred to in *Paper 5* (2003: 117) as the ‘Gaia’ effect.

However, historical analysis of trends in older worker participation rates reveals few periods of revival against a pronounced, long-run downward trend since the beginnings of industrialisation. Macnicol (2010: 6) estimates that between 1881 and 2008 the economic activity rates of UK men aged 65+ fell from 74% to 10%. Only during the Second World War was there a rise. In the context of post-war labour shortages, the rate stabilised but did not increase during the 1950s and 1960s, prior to the precipitous fall in the early exit era of the 1970s and 1980s. Moreover, in his seminal work on the politics of retirement (1998), powerful evidence is provided for assigning priority to demand over supply-side factors in explaining the origins and spread of retirement and the subsequent early exit phenomenon (pp 10-11), concluding that ‘changes in labour demand were crucial, and accounts of retirement which prefer to emphasise supply-side, behavioural or rational choice models are deficient’ (p. 400).<sup>\*</sup> This verdict is consistent with economic analyses by others of the early exit phenomenon as were reviewed in the research papers and in Part 1, which mostly assigned greater explanatory prominence to ‘push’ over ‘pull’ factors (e.g. *Paper 1*, 2001: 33).

As to the future, the prospects for older workers are now increasingly perceived as linked to the issue of ‘globalisation’. Intensification of global competition and the impact of greater global connectedness are not obviously beneficial for older workers as firms source cheaper labour from the EU accession states and elsewhere, or outsource or relocate functions abroad to access cheaper labour supplies. According to Taylor (2008a: 210), there has been a doubling of global labour supply over the last fifteen years or so, and capital will find the lure of younger and cheaper skilled labour impossible to resist, and much preferred to home-grown older labour surpluses. Accordingly, projected national labour droughts arising from demographic

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\* Analysis of trends and industrial patterns of retirement and early exit provides additional, complementary grounds from a rather different angle to those advanced in the research papers, for doubting the role of ageism in contributing to older worker displacement. Hence Macnicol (2010: 6) questions whether the decline in activity rates since 1881 can really plausibly be accounted for by a sevenfold increase in ageism at work. There are also more plausible reasons than unexplained variations in age prejudice that account for marked sectoral or regional variations in the incidence of early exit.

change are unlikely to work in favour of older workers or arrest early exit. In support, he cites evidence from several industrial countries covered in his text. There were few instances where firms were aiming to delay retirement; in most countries firms continued to be biased against recruiting older workers; and older people were still generally viewed as employees of last resort (p. 208). 'In sum', as Taylor (2008a: 212) somewhat belatedly recognises, 'the foundations of the business case [in favour of older workers] may, in fact, be rather weak', an admission of some import given that Taylor was a forefront figure in formulating and promoting the business case against ageism during the 1990s. It may additionally be observed that in the UK the increasing labour market participation of women generally and younger women in particular over the last four decades suggests that this source may be preferred to older workers in meeting any demographic labour deficit, a trend that may even have contributed to male early exit. Finally, protracted recessionary conditions and the limitations of anti-age discrimination law as discussed above, bode ill for the future job prospects of older workers.

### *Welfare reform*

In combination with the likely continuation or exacerbation of early exit for the foreseeable future, the risk of workfarism affecting later life has been enhanced by the radical welfare reforms and pension changes proposed by the new UK Coalition Government. These include the accelerated increase in the state pension age to 66 by 2020, despite the fact that currently some two thirds of employees have left employment by age 64. The June 2010 budget also announced cuts to Housing Benefit by 10% from April 2013 for those who receive Job Seekers Allowance (JSA) for more than 12 months, a change that will especially impact upon older people who are disproportionately represented among the long-term unemployed. Also likely to impinge unfavourably on older people is the current review of incapacity benefits. Over the next four years every person receiving benefits because they are unable to work due to illness or disability will have their benefit reassessed, and face either being moved over to the new Employment and Support Allowance (ESA), or if found fit for work, onto JSA. There has been much concern over the reliability of the assessment procedures, and evidence that many seriously sick and disabled people are being found ineligible for the new benefit (Citizens Advice



Bureau, 2010). Perhaps the most radical changes are the enhanced 'conditionality' and sanctions clauses contained in the Government's November 2010 White Paper on welfare reform (DWP, 2010b). For instance, ESA recipients may be compelled to take part in work related activity to prepare them to move into work, including those with a health condition and limited capability for work. JSA recipients will lose benefits for at least three months and up to a three years if they fail to accept a job offer, fail to apply for jobs or refuse 'mandatory work activity' - unpaid manual labour of at least 30 hours per week for a four- week period for those claiming benefits for more than a year and considered work-shy.

If accepted that there are sound business grounds for displacing older workers from their regular employment, then they are unlikely to secure re-employment in similar jobs elsewhere. While there is little firm evidence on the job destinations of displaced older workers who secure re-employment, there are clear indicators that insecure, non-standard employment is the most common route out of unemployment (Lissenburgh and Smeaton, 2003), and that such jobs are of poor quality on a number of dimensions (McGovern *et al.*, 2004). This is consistent with the discussion in *Paper 1*, (2001: 40) which observed that firms that have publicised their openness to older workers are mostly confined to the retailing and catering sectors and other non-standard service occupations of the 'McJob' variety; and consistent too with the 'success stories' concerning positive policies towards older workers as were publicised on the Government's *Age Positive* website, which were heavily weighted towards firms in such sectors. That increasing economic activity to date among older people has been more evident among women than men (Table 2.3) is also suggestive of greater job opportunities in 'feminised', marginal sectors of the economy.

On balance, therefore, the threat posed by workfare as the 'new ageism', fuelled in part by age equality sentiments, welfare retrenchment and weak labour demand, would seem far from fanciful. As considered below, pension retrenchment represents a further pull in this direction.

## **2.4 AGE EQUALITY AND FINANCIAL, SOCIAL AND PSYCHOLOGICAL WELL-BEING**

This section assesses the implications of age equality constructs for well-being among older people generally, including those outside the labour market. First it is argued that an erosion of the institution of retirement is taking place, a process which has links to agelessness thinking. The discussion also considers the relative merits of continued working versus labour market exit with respect to impact on social well-being. Next considered is the challenge to social and material well-being represented by discourses on intergenerational equity. Finally considered are the implications of agelessness thinking for psychological well-being in older age.

### **The erosion of retirement**

Erosion of retirement on adequate financial terms is the counterpart of work obligation, a process, as argued in *Paper 8* (2008: 1139-1140), also promoted by agelessness and active ageing sentiments as well as by structured dependency perspectives. In that paper, the work of Ghilarducci (2004) was cited, which suggested that erosion had been occurring for some time in the US. She argued that between 1970-2003, US citizens had encountered a significant decline in 'old age leisure', because pension income had fallen to a greater extent than had life expectancy increased (p. 1140). A similar erosion seems currently underway in the UK, accelerated of late by the credit crunch and recessionary conditions, and exacerbated not only by the planned welfare reforms discussed above but also by the pensions crisis and consequent retrenchment.

#### *Pension crisis and retrenchment*

With regard to UK personal pensions, one estimate is of a drop of 70% in their value over the first decade of the new millennium (MoneyFacts Group, 2010). Recent ONS data also confirm the rapid fall in the coverage and quality of occupational pensions. Between 1997 and 2009 the proportion of employees covered fell from 55% to 50%. This was particularly marked for private sector employees. Only 3.6 million were members in 2008, down from 6.5 million in 1991 and from a peak of 8.1 million in

1967. The more advantageous and costly defined benefit (DB) schemes were most affected, and have virtually disappeared from the private sector. Just 12% of private sector employees were building up new DB pension entitlements in 2009, while ten years earlier the figure was 30% (ONS, 2010, *passim.*). The public sector has not been immune and is also in the throes of reform. Among reform options signalled in the recent Hutton Report (Independent Public Service Pensions Commission, 2010) of mostly DB schemes, is a move to less beneficial career average rather than final salary arrangements, increases in employee contribution rates, raising of retirement ages from 60 to 65 and switching from the Retail Price Index to the Consumer Price Index in pension indexing, a move which Hutton acknowledges could reduce the average value of pensions by 15%. The Government also intends to raise the state pension age to 66 by 2020, despite the fact that most employees have already left employment prior to the current state pension ages (Berry, 2010: 7).

The causes of the pension crisis are popularly attributed chiefly to their increasing costs arising from demographic trends, increases in longevity and impending retirement of the baby-boom generation. Subsidiary factors include falling equity values, taxation changes, and injudicious contribution holidays on the part employers when funds were in surplus. What is less obvious is why politicians and employers did not respond to such predictable difficulties at an earlier stage to ensure sustainability of income arrangements for older age. Among the more considered analyses of the origins of the crisis, and of reform options, are those contained in the edited text by Pemberton *et al.* (2006a). There, failure to anticipate difficulties was attributed to political and managerial short-termism and 'delusional consensus' (Johnson, 2006), poor demographic prediction and actuarial practice (Hills, 2006), and to the legacy of pension history in restricting policy options (Pemberton, 2006). Ominously for older workers, Clark (2006) also linked the declining coverage of occupational pensions to their decreasing value to employers as an HRM tool in the context of globalisation and attendant changes in corporate structures and HRM strategies. Such factors, as discussed earlier, may also be contributing to a falling demand for older workers, so that the same set of developments may be motivating employers on competitive grounds both to shed older workers and reduce their retirement provision.

While the pension crisis cannot be attributed to age equality discourses, a central theme in *Paper 8* (2008) and elsewhere in the research papers has been that in the face of such threats, older people are poorly served by anti-ageism constructs built upon agelessness and positive ageing premises, which can ideologically disarm resistance to workfarism and pension/welfare retrenchment. Illustrative was the rather muted response by age advocacy groups to the announcement of planned increases in state pension ages, certainly in contrast to the virulent social protests in France during autumn 2010 against the raising of the state pension age from 60 to 62. An Age UK press release (2010b) merely observed that people nearing retirement will be 'disappointed', but that 'we understand that difficult decisions have had to be made in the current climate.' Similarly, Emma Soames, Editor of *Saga Magazine*, described the increase as 'inevitable – we simply can't afford to finance some 30 years of life in retirement – and who would wish to be retired for that long?' (Soames, 2010). This is despite estimates that the increase will cost everyone currently aged under 57 at least £5,000 in lost pension, and will cost some women up to £15,000 (*Guardian*, 20 October 2010).

### **Social well-being: work versus exit**

It seems clear that current age equality concepts offer older people little in the way of ideological protection from pension and welfare cuts and the danger of workfarism, and indeed can confer a degree of legitimacy upon such measures. Such thinking contrasts starkly with the radically different version of active ageing proposed by Laslett (1996), as reviewed favourably in *Paper 8* (2008: 1149-1151; 1153-1154). Far from advocating an erosion of retirement, Laslett argues for its extension, strengthening and re-casting into a revitalised third age, one characterised by new positive social roles outside the employment sphere that can enhance social well-being in older age and help dispel ontological ageism. Though endorsing positive ageing and age activation, Laslett's version eschews assumptions about agelessness and work obligation. A richer notion of age equality is substituted- the achievement of social worth and equality of citizenship outside work rather than the aping of second age lifestyles. In common with the current analysis, Laslett's thinking was also built upon the premise that demand for older workers is likely to remain weak.

An important component of this vision was that the new third age would not occur unless forged by older people themselves. A pre-requisite is clearly the achievement of a degree of financial independence in older age, a condition that might seem remote in the current context of pension crisis. However, though the two phenomena are often confusingly conflated, a distinction needs to be drawn between the sustainability of current pension arrangements and the general economic affordability of present and future cohorts of the non-working old. As observed in *Paper 8* (2008: 1140), with reference to the work of Mullan (2002), the 'burden of the elderly' seems to have been exaggerated. By reference to the 'total economic support ratio' - measuring those in work against those not (including older people and children) - Mullan estimated that the ratio will not decline significantly as the baby-boom generation retires; and if modest economic growth is assumed, then contrary to popular assumption old age will remain easily affordable for the foreseeable future.

This is not to minimise the formidable obstacles to devising adequate and sustainable arrangements for financing a growing number of non-working older people for longer periods. Any such endeavour would by necessity be a long-term and incremental project, and would undoubtedly entail radical and strongly-contested re-distributive elements and major institutional transformation. Currently, there seem to be as many diverse views on the appropriate direction of pension reform as there are commentators. Indeed, perhaps the only significant point of consensus among commentators over recent proposals, including those of Turner Commission (Pensions Commission, 2004; 2005; 2006), is that they fail adequately to confront the inferior pension position and relative old-age poverty affecting women, due in large part to the continuing policy of relating pension entitlements to labour market participation (Ginn 2006; Hollis, 2006; Thane, 2006; Foster, 2010). While the appropriate direction of pension reform lies outside the scope of this review and the published papers, others have concluded that radical change in pensions policy is at least possible (Pemberton *et al.*, 2006b: 256), with Laslett himself favouring a combined personal retirement fund and tax-financed model along the lines proposed by Falkingham and Johnson (1995) as consistent with his third age vision (*Paper 8*, 2008: 1153).

### *Older people's preferences*

The presumption against retirement and early exit – often treated as denoting age inequality and prejudice in ageism and structured dependency discourses - seems rarely informed by the views of older people themselves (Loretto, 2010: 288). The same criticism might also be levelled at Laslett's grand proposals for refashioning older age outside the employment arena. Clearly the relative impact of work versus exit upon well-being needs assessed by reference to the attitudes, preferences and circumstances of older people.

In this connection, the empirical elements of the research papers tend to lend weight to the view that preferences for continued working have been somewhat exaggerated by advocates of older workers' rights, and to the neglect of post-employment protection. Hence *Paper 4* (2000: 230-231) concluded that for many groups of workers and their unions, retirement on reasonable terms and at the earliest possible date was the preferred option, viewed as a hard-won labour right and 'reward for work'. Similarly, the findings of *Paper 7* (2003: 18) showed that out of 1,128 responses from financial services employees, some 43% wanted to retire 'as early as materially convenient', with only twelve people wanting to retire beyond the age of 60, the company's normal retirement age. The most common preferred retirement age was 55. Similar findings have been replicated in some recent work. For instance, a survey by the EFA of 853 employees across a variety of organisations in 2010 found that over-50s wanted to retire on average at age 59, though over a third of respondents also said that they would consider working after 65 (EFA, 2010). Similarly, in a SAGA/Populus survey of 14,178 people over 50 in 2009, 97% rejected the idea of working doggedly until state retirement age, and expressed a preference for scaling back their working hours before state retirement age (on average, at the age of 57) (cited in Sykes *et al.*, 2010: 32-33). Or again, a qualitative study, probing the circumstances and attitudes of people aged between 50–64, revealed a complex range of attitudes to working, but in general no great appetite for working longer (Vickerstaff *et al.*, 2008).

On the other hand, there is much contrary evidence that can be cited in support of the view that many older people are at least willing to continue working if

circumstances permit, even beyond state retirement age, and that many are displaced from employment against their will. As was noted in *Paper 5* (2003: 105), one Cabinet Committee estimated that early retirement was only truly voluntary in one out of three cases (Performance and Innovation Unit, 2000: 22). Similarly, according to a range of evidence reviewed by Smallwood and Obiamiwe (2008: 30-33), it was estimated that around 80% of people in work are willing to work beyond state retirement age, whilst 54% of those who have retired wish that they could have stayed longer. They also estimated that around one million inactive over-50s are willing to work if the barriers they face are tackled. Certainly, the humiliation and potentially devastating impact on some people displaced prematurely from employment on such grounds as health, discrimination or declining productivity cannot be lightly dismissed. In this connection, an interesting study by Strandh (2000), found that exit of older people from unemployment to permanent paid labour very significantly increased mental well-being, and even exit to insecure employment had a positive, if weaker, impact. Exit from unemployment to retirement status on the other end had a largely neutral impact on mental well-being.

Perhaps the most comprehensive statistical information on attitudes to working by older people is that provided by Smeaton *et al.*'s (2009) survey of 1,494 older people, which attempted to establish degrees of enthusiasm for returning to work among inactive and unemployed older people aged between 50 and state pension age (SPA), as well as differences by gender and the ages of the older people concerned. The results are summarised in Table 2.4 below, which shows that the desire for employment tails off at the oldest ages, and that smaller proportions of women than men wanted to secure employment. Overall, however, the survey indicated that high proportions of inactive older people would like to return to work. Close to half the unemployed and inactive below SPA would consider returning to work, 36% who were highly enthusiastic and 10% a little more reserved.

**Table 2.4 Percentage stating they would like to return to work: inactive and unemployed older people aged 50-SPA**

	<b>Definitely</b>	<b>Maybe</b>	<b>No</b>
Men 50-55	64	10	26
Men 56-59	45	12	42
Men 60-64	21	3	77
Women 50-55	35	18	47
Women 56-59	23	18	59

*Source: Smeaton et al. (2009: 52)*

Such contrary findings will in part reflect differences in samples and methodologies used, but may also indicate that attitudes to working are rather complex and nuanced, with results sensitive to how questions are phrased and responses interpreted. Older people may favour the concept of work in abstract, but not necessarily their current jobs or jobs available to them, and how they respond will depend upon the specific question posed. For instance, in their qualitative study, Vickerstaff *et al.* (2008) found a positive desire to work in jobs of high quality and characterised by degrees of flexibility that few employers were ever likely or able to offer. With regard to interpretation, Loretto (2010: 288) observes how evidence purporting to show that ‘most’ older people ‘want’ to work, often breaks down under scrutiny. ‘Intending to work’ on account of financial or other circumstances is often treated as synonymous with ‘wanting’ to stay or re-engage in employment. She also notes evidence that older people strongly differentiate between the ‘right’ to work after 65, and a ‘duty’ to do so, the former regarded positively and the latter unanimously viewed negatively (p. 289), a distinction easily missed in questionnaire surveys on attitudes to later working.

It seems clear, nevertheless, that sizeable proportions of older people would consider working, or would positively prefer to go on working if circumstances permitted. This is hardly surprising given that heterogeneity is said to increase with age, so that



diverse attitudes to working are to be expected. Well-being in older age may therefore best be considered, not in terms of work versus exit, but by how well policies maximise the possibility of *choice* between these options. In this connection, the drift of the discussion in *Paper 8* (2008), in seeking to challenge the prevailing consensus over labour activation, might be considered somewhat defeatist and over-dismissive of the potential of the labour market to promote well-being and counter ontological ageism. On the other hand, erosion of retirement reduces the ability to exercise that choice. The same applies with regard to working where labour demand is weak, particularly so, as discussed below, for older people who have already left employment.

### *Barriers to employability*

Recent work has been decidedly downbeat concerning prospects for overcoming the formidable barriers to re-connecting jobless older people to the labour market in significant numbers (Beatty and Fothergill, 2008; Phillipson, 2008; Vickerstaff *et al.*, 2008; Smeaton *et al.*, 2009). This seems confirmed by panel data on transitions into and out of work. Older people out of work are ten times more likely to be workless than working a year later (Emmerson and Tetlow (2006: Table 3A.1), and ‘those who have been out of work for a long time are very unlikely to start working again’ (Banks and Tetlow, 2008: 20). This is unsurprising given the composition of jobless older people as detailed in Table 2.5 below, where approximately half are in receipt of incapacity benefit. Moreover, around a third of these recipients suffer from mental health or behavioural disorders (Griffiths, 2008: 127). Another large category are the 17% performing caring roles. Interestingly, Phillipson (2008: 197), a prominent adherent in the past of the structured dependency school, concludes his discussion of barriers to employability by now warning against postponing or abandoning retirement, an institution ‘that might be regarded as a major triumph of the previous century’. A similar conclusion is reached by Smeaton *et al.* (2009), who argue for extending the institution of retirement to earlier ages for the most vulnerable groups:

For some groups of less advantaged and less skilled older people the expectation to work until 65 and beyond, with access to occupational and State Pensions withheld until much later in life compared with recent years, may cause problems and represent a threat to dignity and wellbeing .... Early retirement may therefore be a better option in terms of perceptions of self-

worth for those with health problems or other difficulties which, in practice, give rise to long-term unemployment... (p. 142).

**Table 2.5 Status of inactive and unemployed older people aged 50-SPA (mid-2000s)**

On incapacity benefit	49%
Retired on an inadequate pension	18%
In caring roles	17%
Retired on an adequate pension	9%
Registered unemployed	7%

*Source:* The PRIME Initiative (2009), *An analysis of the experiences in the job market of older and younger workers, based on the latest official labour market figures*, London: The PRIME Initiative, p. 5. (Compiled from disparate data sources relating to 2004-2006).

#### *Retention versus return*

There now seems increasing recognition of the intractable nature of barriers to employability, and that intensive help in re-entering employment may only raise prospects at the margins. This has led to a noticeable shift in recent thinking from a focus upon 'return' to that of the 'retention' of older workers in employment through policies that might create more sustainable working lives (Griffiths, 2008; Hirsch, 2008). Invariably cited in this respect as a suitable model to emulate is the Finnish 'workability' concept. This addresses the interplay of a wide range of factors that enable people to remain later in employment, including policies covering skills, health, stress management, work-life balance, motivation and job re-design (Ilmarinen, 2005). As with pension reform, this is necessarily a long term approach in terms of expected pay-back. Moreover, it is unclear whether benefits would be perceived by, or accrue to, employers as well as employees. It does seem doubtful that employers would be motivated to institute costly, long-term programmes in these areas to help retain older workers without some element of compulsion. In Finland, employers are obliged by statute to participate in such efforts, and this would seem a pre-requisite for UK progress in this direction.

However, this would require some movement in conceptions of age equality from the ‘dissolving differences’, age equivalence assumptions underlying current UK statute, to acceptance that age differences need to be accommodated, valued and managed through differential age treatment. Ominously, however, research and strategies to date in this area seem similarly infected by the concept of agelessness or age equivalence as apparent in statute and current labour activation strategies. Griffiths (2008) observes that recent research activity and policy prescriptions in such areas as job re-design, training, well-being and stress-management have mostly embraced ‘age-free’ models which ignore the particular needs of older workers.

### **Intergenerational equity**

A more direct challenge to financial and social well-being in older age is represented by discourses on intergenerational equity, an application of the age equality principle that has become more prominent of late as populations have aged and older people have increased their share of public spending relative to younger age groups. The concept is unravelled in *Paper 8* (2008: 1140-1142) and shown to be highly complex and prone to facile understandings. The latter are most evident in crude ideological attacks, often during periods of fiscal stress, upon the current distribution of resources allocated to older people, based upon time-static age comparisons of public spending, together with alarmist projections (as challenged earlier) about the growing cost or ‘burden’ of the old. Such simple comparisons self-evidently demonstrate greater proportions of public spending allocated to older people, both absolutely and on a per capita basis, than to other age groups. The UK welfare state has always essentially been a welfare state for older people, who represent the largest client group. One estimate is that for 2009-2010 some 42% of benefit expenditure (£80 billion) was spent on the elderly (including pensions), relative to about half that sum spent on working families, and just 12% spent on out of work benefits (Haldenby and Trewhitt, 2010: 4). In terms of NHS and social care spending, people over 65 make up about 16% of the population but accounted for 43% of the total NHS budget in 2003-4 and 58% of social services’ budgets in 2004-5 (Philp, 2007: 1). However, the implication in some accounts that too much is spent on the elderly hardly follows from such comparisons unless it is assumed that age-related needs should be ignored, or that equal per capita spending by age should

trump sounder social justice principles such as equality of outcome, dignity or citizenship. *Paper 8* (2008: 1142) also notes how such arguments have been associated with extremely derogatory terminology in describing older people or the consequences of population ageing (fiscal child abuse, mountain of flesh *etc.*) that has both fed upon and reinforced old age prejudice. One further example in this mode, recently cited by Bloom *et al.* (2010: 234), quotes Peter Peterson, former CEO of Lehman Brothers, describing global ageing as a ‘threat more grave and certain than those posed by chemical weapons, nuclear proliferation, or ethnic strife’!

Laslett’s (1996) more considered notion of ‘proportional justice’, mentioned briefly in Part 1, also challenges crude age comparisons of public spending at one point in time as indicative of age injustice. Needs differ with age, and differential treatment need not violate equality principles if each cohort benefits equally over a lifetime. However, the gist of the discussion in *Paper 8* is that theories of intergenerational equity are presently insufficiently developed, and perhaps can never secure sufficient integrity and clarity as to constitute a legitimate tool for guiding spending allocations by age. There seems little agreement as to which conflicting justice principles should prevail. Reallocations derived from Rawlsian precepts, for instance, can frustrate the principle of proportional justice. Moreover, any resource transfer by age, whatever the underlying criteria, can risk exacerbating more debilitating intra-generational inequalities such as by class or gender. Interdependencies between cohorts or generations can also mean that age-equity policies can lead to unintended consequences. Pension cuts, for instance, may mean that employees have to provide for elderly parents. Conversely, raising unemployment benefits may benefit retirees in reducing the need to provide for their children.

A rather novel application of the generational equity argument has featured recently in the UK Coalition Government’s attempt to justify the ‘fairness’ of dramatic spending cuts announced in October 2010 in the context of the yawning budget deficit. Given widespread public disquiet over apparently lenient treatment of bankers and others in the finance sector - those popularly regarded as responsible for current difficulties - and continued Government toleration of the lottery-style

bonus culture associated with that sector, portraying the cuts as fair was no easy task. The chosen message, articulated especially by Liberal Democratic Deputy Prime Minister Nick Clegg in a number of recent speeches, was that the cuts were required to prevent the ‘mistakes’ and profligacy of the current generation disadvantaging the young and future generations (e.g. as reported in *The Telegraph*, 20 December 2010). Attempting to fortify this message was the modest sweetener of a £7 billion ‘fairness premium’ targeted on the poorest children at pre-school, school and university levels. In this version of generational equity, the cuts are therefore being sold not so much as redistribution from old to young, but as means of achieving fairness between current adults as a whole and pre-adults and future generations. Fairness was also sold on the sentiment of ‘all being in the same boat’, with ministers emphasising the equal or progressive impact of the cuts upon income distribution, a claim that has subsequently been challenged (Institute for Fiscal Studies, 2010; Horton and Reed, 2010). While there have been few detailed analyses of the projected impact of the austerity package on specific adult age-groups, Age UK (2010c) have estimated that older households, along with families with young children, will bear the brunt of the cuts, given their greater reliance upon public services, especially the poorest pensioners over 75 who could lose up to a third of their household income.

### **Agelessness and psychological well-being**

A final prominent theme in *Paper 8* (2008: 1138-1139) is how current versions of age equality, as underpinned by notions of agelessness, ‘positive’ or ‘successful’ ageing, may prove psychological debilitating for older people in terms of self-identity and worth. The discussion draws especially upon work of Andrews (1999, 2000), who offers a powerful critique of prominent gerontological thinking that endorses the aping of prime-age life-styles as the antidote to ageism and guarantor of well-being in older age. This thinking is represented in extreme form in the work of Bytheway (1995) who, as mentioned Part 1, sought to persuade that old age does not exist in any meaningful sense. For Andrews (1999) by contrast, the concept of agelessness is itself a form of ageism, that damages older people in several respects. Negative depictions of old age are reinforced as something to be avoided, which is especially debilitating for those who are unable to conform to frenetic activity or

prime-age lifestyles. Older people are also encouraged to deny their very being by postponing the ageing process, which leads to loss of identity as signs of bodily ageing inevitably encroach, thereby leading to a 'socially induced schizophrenia'. Moreover, anti-ageist strategies built upon premises of agelessness reinforce *anti-ageing* sentiments, further buttressed by the anti-ageing industry, and thereby further denigrate old age, a theme also pursued by Calasanti (2005): 'But the anti-ageing industry does not combat ageism. Instead it reflects and reshapes ageism – reinforcing the belief that old age is repugnant and promising relief to those who can pay enough' (p. 11).

In addition to the anti-ageing industry, and inadequacies of gerontological theory, Andrews (1999) attributes the popularity of agelessness thinking to the predisposition of older people themselves to internalise negative attitudes towards ageing, a response commonly adopted by members of an oppressed group. Hence they desperately seek 'personal exceptionalism' which challenges, not the ageist stereotype, but rather its application to themselves (p. 306). The youth-centred focus of developmental psychology was another factor identified, where the developmental possibilities of change and growth in later years are simply ignored or discounted. With reference to the work of Cole (1992), *Paper 8* (2008: 1144) also locates the origin of agelessness thinking to the marginalisation of older people that accompanied industrialisation. Similar to distinctions that then emerged between the deserving and undeserving poor, conceptions of a 'good old age' of health, virtue and self-reliance were consistent with dominant class interests. In common with Andrews, however, Cole (1992: 228) argued that such 'positive ageing' prescriptions reinforce ontological ageism by endorsing notions of older age as bereft of its own identity, purpose and status.

As a corrective, Andrews (1999) urges that older people need to reclaim, and gerontologists to recognise, old age as a unique and valuable component of the lifecycle, replete with continued developmental possibilities, a view very much in tune with the version of age activism proposed by Laslett (1996), who similarly eschewed sentiments of agelessness and anti-ageing.

## 2.5 CONCLUSIONS

Old age prejudice is argued to be distinct from, and relatively more serious than, age discrimination affecting younger people, and therefore merits treatment as a phenomenon in its own right. Its incorporation instead into crude age equality agendas threatens well-being in older age at a number of levels. Statutory age equality that endorses agelessness thinking and consistency of treatment across age groups, fails significantly to challenge the labour market disadvantage of older workers. On the contrary, the recent case law reviewed provides support for concerns raised in the research papers that the law may often act to the detriment of older workers; and the analysis also suggests that it is likely, at best, to have a neutral impact upon older worker participation rates. In the current economic and political context, agelessness sentiments also contribute to the threat of a more virulent type of ageism in the form of workfarism, a threat to well-being in older age that seems far from fanciful in the light of weak labour demand for older workers and current welfare and pension retrenchment. The same equality constructs have acted to undermine resistance to erosion of the institution of retirement. However, continuing displacement of older people from employment, and the formidable barriers to their re-engagement, mean that for the most vulnerable older people, adequately financed retirement needs not only to be preserved but to be made available at earlier ages if well-being is to be protected. Though well-being in general is best served by affording older people a realistic choice between work or retirement, agelessness thinking may also be undermining the recent focus upon prevention rather than cure: efforts to keep older workers in employment through job re-design and similar initiatives also seem informed by age-free models. The crude equality constructs embraced in intergenerational equity discourses also challenge financial and social well-being in older age, and there are indications that public sector cutbacks justified upon this thinking will have a disproportionately negative impact upon the poorest pensioners. Finally, notions of agelessness are also argued to be psychologically debilitating for older people, not least because they foster anti-ageing sentiments which erode self-identity and worth.

## CONCLUSIONS

It is a profound irony that ageism, a term originally coined to highlight and challenge prejudice and disadvantage suffered by many older people, should now serve to de-prioritise them and threaten livelihood and prospects in older age. The analysis in Part 1 of how and why the concept evolved in a direction that entailed disassociation with its roots in older age, and one in many respects inimical to the interests of older people, reveals a complex and highly politicised process, driven chiefly by opportunistic postures and vested interests on the part of economic actors, rather than informed by theoretical debate, social justice criteria or popular advocacy. On that ground alone, the integrity of the concept in its current guise, defined by reference to the relatively new construct of age equality, might be regarded as highly suspect. Such doubt is reinforced by the observation that there is no single oppressed minority whose interests are unambiguously advanced on an age equality platform, nor any historical legacy of struggle towards its achievement, in contrast to the more distinct, long-recognised and egregious phenomenon of age prejudice affecting the old that the ageism construct, in its original formulation, was intended to highlight and address.

However, from the discussion in Part 1, it is apparent too that in some important respects, the diminishing value of ageism discourses as means for protecting or promoting prospects in older age, may also be attributed to ambiguities of definition and poor theoretical treatment and development of the original concept. There were two major failings in this respect that have yet to be adequately acknowledged and confronted by social gerontologists. First was the rather curious conflation, commented upon in Section 1.2, of attitudinal and structural manifestations of age discrimination in initial definitions of ageism, with a strong causal link erroneously presumed between the two. This has proved especially detrimental in the employment sphere, where it led to the view, held by age campaigners, that relative labour market disadvantage experienced by older workers was mostly a product of irrational ageist attitudes held by employers, an assumption strongly challenged



throughout the research papers. That labour market discrimination against older workers might better be explained by commercial and competitive imperatives, and the resultant prevalence of forms of the labour process tuned to ‘prime-age’ employees and poorly geared to the needs and sustainable employment of older workers, seemed wholly overlooked.

The elaboration of a ‘business case’ built upon this mistaken premise had several deleterious consequences. Urging employers to confine criteria for age decisions to commercial criteria did little to challenge labour market disadvantage experienced by older workers, and may even have acted to reinforce manifestations such as early exit. It also endorsed the questionable view that ‘commercially rational’ age discrimination was relatively uncommon, somehow unproblematic and by implication, legitimate. Moreover, subsequent incorporation of business case thinking into age statute, in part as a restraining device to narrow the scope afforded by the new age equality construct for multiple claims of age discrimination, resulted in the new law being the only anti-discrimination strand where even direct discrimination could be objectively justified on the basis of commercial imperatives. This had especial negative implications for older workers. If, as seems confirmed by the appended research papers, the business case *against* employing older workers is in many circumstances stronger than the business case in support, then legislation promoting ‘equal’ application of objective justification across all age groups may be held as constituting an in-built bias against older workers, a view partially confirmed in the review of recent case law in Part 2.

A second theoretical difficulty that rendered the concept prone to manipulation and erosion is related to the influence of Butler’s original definition. Contrary to popular assumption, Butler was far from the first to ‘discover’ and highlight the presence of attitudinal and institutional forms of old age prejudice. Rather, Butler’s ‘new paradigm’ was to consolidate and re-label these phenomena, designating them as a form of oppression equivalent or parallel to those of sex and race discrimination, and (implicitly) meriting challenge by application of the principles of pre-existing anti-discrimination policies or templates. This has proved problematic on a number of counts.

First, as observed in Section 2.2, the concept of discrimination is prone to reductionism and reification than can equate and obscure quite distinct sources and manifestations of prejudice. As everyone has an age, this is especially pertinent with respect to the concept of age discrimination, leading to treatment of age discrimination affecting older and younger age groups as the same phenomenon and of the same status, obscuring the distinctiveness of old age prejudice, and facilitating acceptance of the problematic notion of age equality. Second, existing discrimination templates are time static and thus are unable to adjudicate upon equality or discrimination over time. However, different age groups have different needs, and unequal treatment need not constitute discrimination if different age cohorts benefit equally over a lifetime. Again this is an issue that is specific to age, and unproblematic with respect to race, gender and other forms of discrimination. It means that the legitimate claims of older people upon welfare and other resources can be undermined when equality criteria are applied at any one point in time. Third, endorsement of the over-simple concept of 'formal equality' or consistency of treatment in pre-existing anti-discrimination templates, at least those applying in the UK, can further promote the notion of age equivalence and discourage appropriate treatment on the basis of age *difference*. Hence with respect to age, UK legislation has endorsed the 'dissolving differences' or 'agelessness' route to age diversity in employment and elsewhere in preference to the 'celebrating differences' route more conducive to catering for the specific needs of older people.

Indeed, it is tempting to conclude that it would have been better for older people had Butler not formulated the ageism concept at all. Seeking to highlight old age prejudice by locating or equating it with other forms of discrimination has had the opposite effect from that intended. Moreover, it is not just a diluted focus upon old age in recent applications of the term which is concerning. As was demonstrated in Part 2, ageism in its current guise is highly problematic and clearly threatens prospects and well-being in older age at a number of levels. While the evolution of the concept was the product of a highly politicised process, *application* of the current concept is proving to be even more so. The simple versions of age equality now embraced in statute and broader discourses, mostly resting upon the presumption of age equivalence, seem especially suited to the pursuit of political and economic goals quite at variance with social justice preoccupations and the interests of older

people. Moreover, developments reviewed relating to pension and welfare retrenchment, and the operation of the law, suggest that the threats posed by age equivalence constructs for prospects in older age have intensified since the publication of *Paper 8* in 2008, along with the advent of credit crunch and recessionary conditions. In particular, pension and welfare retrenchment, alongside weak and possibly weakening demand for older workers, have provided fertile conditions for workfarism and further erosion of the institution of retirement.

Accordingly, as a contribution to theory, perhaps the main value of the analysis is the strong case presented for reclaiming the concept of old age prejudice as a distinct and pressing phenomenon in its own right, and for re-establishing its analytical importance as a central component of social gerontological theory. A second identified need, particularly with respect to employment, is for a more considered theoretical treatment than hitherto of the relationship between attitudinal and structural manifestations of age discrimination. Finally, the analysis challenges the parallels that have drawn between age and other forms of discrimination, and in so doing, highlights an urgent need for scrutinising the theoretical legitimacy of the concept of age equality, given its growing influence in age discourses, political and public policy debates, and recent incorporation into statute. The contribution of the current analysis and research papers in this respect, demonstrates that it is not the idea of age equality *per se* that threatens prospects in older age. Rather it is the crude versions embraced in the law and recent age discourses that mostly rest upon the presumption of *age equivalence*. Less common and needing promoted are richer versions such as those embracing equality of dignity and citizenship, which are better able to accommodate legitimate age difference and age-related needs within a social justice framework.

In addition to theoretical implications, the policy implications as outlined in *Paper 8* (2008: 1146 -1152) with respect to how prospects in older age are best defended and advanced, still seem germane. Upon reflection, however, it has been realised that they rather neglect the positive role that employment can play in tackling, or at least postponing, the onset of ontological ageism. Neglected too was the importance for well-being of policies that afford older workers a realistic *choice* over whether to go on working or to exit the labour market. Without promoting choice, presumptions

about what is in the interests of older people can be patronising and risk the trap of treating the 'old' as homogenous. However, achieving conditions that widen current choices is necessarily a long-term project, with uncertain outcome. The ability to enter a re-vitalised third age along lines proposed by Laslett (1996) seems crucially dependent upon attaining adequate independent means in older age, and in this respect, little optimism may be derived from current policies and reform proposals in the pensions sphere. Similarly, making work conditions more amenable to longer working lives by application of policies akin to the Finnish workability concept is a relatively new focus in the literature, and is also long-term with regard to any potential payback. Progress in this direction would also seem to require a fundamental shift from age equivalence thinking on the part of employers. Rather, it is organisations that will need to change, better to accommodate the needs and supply characteristics of older employees. Whether such changes can ever offset falling demand for older workers, by creating conditions conducive to maintaining their productivity, is uncertain. What does seem clear is that in current competitive conditions, employers are unlikely to embark upon such costly reforms without some degree of compulsion or subsidy. In the shorter term, for many older people facing weak demand conditions, personal employability issues, and poor savings and pension prospects, the exercise of choice only seems feasible through greater government subsidy of both retirement and working, by providing a set of measures along the lines proposed by Macnicol (*Paper 8*, 2008: 1151). Such a course of action is, of course, wholly at variance with current government ideologies and workfarist thinking, as well as with agelessness and age equivalence sentiments, even though, according to Macnicol (2006), net savings to the Exchequer could accrue from lower social security spending.

The current analysis has raised substantial doubts concerning the value of age discrimination law as currently constituted for protecting the interests of older employees, and in certain respects it is clear that it can act to their detriment. The advent of the Equality Act 2010 represented few significant changes to the pre-existing law, and none of clear benefit to older people. No further progress is evident, for instance, towards incorporating the notion of equal human dignity into age statute, as advocated in *Paper 8* (2008: 1147-1149), a richer and more legitimate application of the age equality principle that could promote appropriate

treatment according to age difference. Other ways legal protection of older people could be improved would be to strengthen the (currently voluntary) 'positive action' action elements of age law, again providing a mechanism for allowing differential age treatment on grounds of age-related need or relative disadvantage. Legal compulsion to oblige employers to invest in workplace reforms to sustain the employability of older workers, as occurs in Finland, could also prove beneficial in the longer term.

However, even if the law were to be based on sounder social justice principles, it is unlikely that objective justification would ever be wholly dispensed with in the case of age, or that social justice principles would (or even could) be allowed to trump commercial exigencies in the current competitive environment. In the absence of government subsidy and, in the short term at least, policies to improve the workability and profitable employment of older people, such a development would compel employers alone to shoulder the costs of what might well be sizeable numbers of unproductive workers. Moreover, it is unlikely that legal intervention can ever do more than challenge the symptoms of old age prejudice, whether within or outside the workplace. Indeed, if the roots of old age prejudice ultimately lie, as many have argued, in fear of decline, decrepitude, and death, and of current old-age lifestyles, then in many respects it may be impossible to extinguish by external agency. This point seems embraced in Laslett's thinking - that such prejudice and ontological ageism need confronting by older people themselves in an autonomous fashion through age activation and activism, leading to forms of fulfilment, social worth and dignity in older age that do not rely upon patronising notions of social protection and intergenerational solidarity and dependence.

Recent developments have not been wholly negative nor at variance with elements of the critique developed herein and in the research papers. As has been observed, some influential figures have recently moderated their views towards those more consistent with the present analysis, including Taylor (2008), who now recognises that the business case favouring older workers is rather weak, and Phillipson (2008), who seems more positively disposed than in the past to fortifying the institution of retirement and recognising it as a social right rather than as a symptom of age discrimination. There are welcome signs too of movement from gender-blind

age policies. The dual discrimination provisions of the Equality Act 2010 provide prospects for confronting distinctive manifestations of age prejudice facing women in the workplace as identified in *Paper 6* (2004), relating to the intersection of sexuality/appearance and age, which are not easily remedied by either current age or sex discrimination legislation. Similarly, plans mooted by the UK Coalition Government to revamp the current state pension towards that of a 'citizens' pension' would, if realised, be especially beneficial for older women in at last severing pension benefits from work history. Finally, age advocacy groups have demonstrated some awareness of the dangers for older people of crude age equality constructs. Indeed, the present author was invited to give the keynote address at a conference arranged by Age Concern (Age Concern/Help the Aged, 2009), specifically to consider some of the ideas presented in *Paper 8* (2008), especially the danger of age equivalence concepts in policy formation. An invited audience of academics and representatives from a variety of age organisations were broadly receptive, though it was clear from the proceedings that many remained unconvinced of the dangers of simple age equality constructs. Also still very much in evidence was a general presumption favouring employment over retirement, and generational interdependence over age autonomy. It was clear too that the belief, challenged throughout the research papers, that displacement of older workers from employment simply signifies irrational employer age prejudice, is still widely held and will be difficult to dislodge.

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## **APPENDIX 1**

### **PRESENTATION OF THE PUBLISHED PAPERS**

*Errata: Paper1* (2001), p. 32, first line. 1980s should read 1880s.

# PAPER 1

# 2 Ageism, early exit, and the rationality of age-based discrimination

*Colin Duncan*

## **Introduction**

The recent elevation of the phenomenon of 'ageism' to the realm of public and political discourse derives chiefly from the trend in most industrialized economies towards 'early exit' of older workers from the labour market. This trend, along with recent demographic projections, has led to concerns over longer term social, welfare and budgetary consequences. Such concerns underlie current initiatives that seek to persuade employers to jettison ageist assumptions and employment practices. The message to employers has been that discrimination against older employees is not only socially unjust but also irrational and damaging in commercial terms, a view invariably promoted through reference to growing evidence that negative stereotypes typically held by employers regarding the productivity and other supply-side characteristics of older workers are, in general, quite erroneous.

This chapter first explores the concept of ageism, in view of its relatively recent arrival on the social agenda and continuing ambiguities surrounding its meaning. The discussion traces the evolution of the term and considers whether the concept of ageism, as developed by academic gerontologists, can be regarded as the same phenomenon now said to be influencing the labour market. The next section discusses some features of the early exit phenomenon, and the section which follows considers whether this trend can be attributed chiefly to age prejudices held by employers. Following from this analysis the final section draws some conclusions concerning the efficacy of current and proposed policy responses.

## **The concept of ageism**

Concern over age-related discrimination has a relatively short pedigree. In both Britain and the United States the roots of concern are often located in challenges to 'disengagement theory' and similar perspectives which dominated the work of gerontologists in the 1950s and 1960s, and which emphasized physical,

psychological and social decline as the normal features of growing old. The ageing process from such perspectives portrayed an inevitable, mutual disengagement between the older person and society and implied a 'blame the victim' mentality towards explaining the poor social and material conditions associated with old age. This thinking was challenged from a variety of disciplinary perspectives that sought to promote more positive images of the ageing process and to demonstrate that the conditions of older age groups owed more to factors such as poor social provision, low incomes and enforced retirement than to biological or psychological decline.

According to the extended *Oxford English Dictionary* the term 'ageism' made its first appearance in the *Washington Post* in 1969 and was attributed to an American psychiatrist, Dr Robert Butler, who 'believes many of his Chevy Chase neighbors suffer from "age-ism"'. Then in the *Gerontologist* Winter 1969, Butler is quoted: 'we shall soon have to consider ... a form of bigotry we now tend to overlook: age discrimination or age-ism, prejudice by one group toward other age groups'. The same source attributes the first UK reference to the *Observer* colour supplement, 30 September, 1973. The first mention of the term 'ageist' anywhere in the English speaking world was in the *Daily Telegraph* in 1970. The dictionary invites comparison with the terms 'racism', which first appeared in 1936; 'racist' (1932); 'sexism' (1968); and 'sexist' (1965).

In the United States, the concept increased in popularity with the growth of such social movements as the Grey Panthers, reflecting 'its geneology [sic] as part of the impetus for civil rights, now recognized as a distinctive feature of the late 1960s' (Biggs, 1993, p. 85), but in Britain the term did not really enter popular vocabulary until the 1990s in the context of concern over early exit. For example, in 1980 Bytheway (1980) felt it necessary to challenge the view of ageism as 'just a joke'; and even by 1990 an edited text published by Age Concern that dealt with age-related discrimination was sub-titled 'The Unrecognised Discrimination' (McEwen, 1990).

The more recent association of the term with early exit trends has been accompanied by some shift in the focus of research from ageism, as it affects the welfare of the elderly beyond normal retirement age, (the so-called 'old-old'), to ageism as implied by labour market discrimination against (chiefly) men in their fifties and sixties (the 'young-old'). This division is broadly paralleled in the conceptualization of a new stage in the life course, the Third Age, that intervenes between a Second Age - characterized as one of maturity, productive work and child rearing - and a Fourth Age of final dependence, decrepitude and decline.

Butler was among the first to attempt to define ageism systematically, and his definition is still often quoted. It was defined (Butler, 1987, p. 22) as: 'a process of systematic stereotyping and discrimination against people because they are old, just as racism and sexism accomplish this for skin colour and gender'. Prior to the current vogue for distinguishing different categories of old age, the concept of ageism that evolved under this definition seemed chiefly informed by the conditions and experience of the 'old-old' beyond normal retirement age. Descriptions of ageism in this tradition usually include some or all of the following as its features:

1. Ageism represents and creates prejudices about the nature and experience of old age. Such prejudices and negative stereotypes are held by all age groups, including the elderly themselves. A crucial point in most accounts however, is that prejudice is *socially* rather than *biologically* determined and that it is the social construction of old age that is more damaging to the fortunes of the elderly than is the biological ageing process.
2. Ageism is not a new phenomenon and its history long predates capitalism as a form social organization. According to Scrutton (1990), negative views of old age that are embraced in dominant social ideas, chiefly originate from the high value that has always been placed upon physical strength. Prejudice thus reflects the loss of strength that is associated with old age. On the other hand, more positive images of old age, that have rested upon the value attached to experience, knowledge and wisdom, have declined along with the decline of custom, the acceleration of change and the loss of oral traditions: 'Civilisations which pass on their learning and experience verbally have to rely on older citizens to provide the vital link between generations. The development of writing and the widespread circulation of books undermined the importance of memory, thereby destroying one of the most useful social functions provided by older people' (ibid., p. 15).
3. Negative images of old age are instilled in almost all individuals by a process of socialization through language, religion, literature, the media and the theories and practices of the medical establishment and social services professionals. The result is fear and anxiety over the ageing process and our future ageing selves, which reinforces negative attitudes, encourages attitudinal distancing of the elderly from ourselves, and fosters a tendency to 'blame the victim'.
4. Such attitudes are also confirmed and reinforced by the phenomenon of 'structural ageism', which operates to determine the functions and rules of everyday life. For example, compulsory retirement enforces non-productivity, depresses social status, and promotes the idea of old age as a burden, leading also to officially sanctioned neglect of the elderly in medical, educational and social service provision.
5. Ageism thus leads to a perception of old age as some kind of disease or affliction. The elderly are stripped of their 'humanness' or 'personhood' and are also treated as a homogeneous mass, even though heterogeneity is argued to increase with age (Laslett, 1989). This reinforces the them/us mentality and fosters the belief that the ageing process makes independent action, participation and self-determination by the elderly in policy matters impossible.



6. The net effect is a manifestation of ageism in at least two forms, each denying an independent role for the elderly, but distinguished by charitable intent: as a form of patronising concern, where old age is associated with a denial of competence and freedom, thereby undermining independence and morale; and as a form of neglect and vilification, depriving older people of a secure status and role and denying them a fair share of resources.

In Britain, the work of Bytheway represents one of the few attempts to further develop and clarify the concept (Bytheway, 1995; Bytheway and Johnson, 1990). Here, Butler's definition is forcefully challenged on two main counts. First, the equivalence of ageism to sexism and racism is disputed on the ground that older people do not form an exclusive group, but one in which every individual will eventually become a member:

The unique character of ageism in later life can best be conveyed by evoking the ideas of worlds in which we each over the course of a full lifetime slowly and consistently change from white to black, or from male to female; and conversely of worlds in which blacks and women have statistical life expectations of no more than 15 years. It is in this way that social responses to the ageing process and old people differ radically from those to gender and women and race and ethnic groups (Bytheway and Johnson, 1990, p. 33).

The authors seem keen to distance ageism from other 'isms', in part to establish its credentials as a form of oppression in its own right, in view of attempts by some to treat the concept as a sub-component of more salient oppressions, and by others to deny it any substance whatsoever: 'if ageism is perceived to be simply an idea formulated in the mode of sexism and racism, then it can be dismissed as being no more than joining a bandwagon' (ibid., p. 30). However, Itzin (1995) among others, while not disputing the distinctiveness of ageism, has argued that it has much in common with other oppressions such as sexism, which have developed through similar processes, and that it is helpful to recognize this. Moreover, she contends that many of Bytheway's examples of ageism relate to women and illustrate not just ageism but the combined impact of ageism and sexism.

Second, Bytheway takes issue with the use of the term 'old' in Butler's definition. 'Old age', it is argued, is in the nature of a social construct and does not exist as a specific condition arising from biological or chronological ageing. Rather, the ageing process should be viewed as a continuum and, as such, there is no logical border beyond which a condition occurs that can legitimately be labelled 'old age'. Thus such absolute terms (old age, elders, the elderly, the aged) are themselves ageist, in distancing the 'old' from the 'not old' and further encouraging 'them and us' thinking. He makes clear that he is not disputing that a process of physiological or biological decline occurs with age, but that this should be distinguished from the social phenomenon that forms the basis of the disadvantage and oppression of older people:

You cannot deny that many [older people] are frail and that they have declined both physically and mentally ... Where ageism comes in is, in our pathetic attempts to be certain about the changes that come with age, in the assumption that they are all universal, in our efforts to distance ourselves from those who appear different, in our negative interpretations and in the consequential regulation of the social order ... If we are to be effective in challenging ageism, we have to recognize the significance of *difference* (Bytheway, 1995, p. 125).

However, the legitimate observation of absence of precision or substance to terms such as 'old age' leads Bytheway to a somewhat confusing train of thought in attempting to arrive at a definition considered more suitable than Butler's. He toys with the idea of defining ageism as being 'any unwarranted response to age' but rejects this on the basis that 'paradoxically' this conceptualization 'implies that we are all victims of ageism and that there is no oppression of one group by another' (Bytheway and Johnson, 1990, p. 32). Hence the authors' conception of ageism is clearly distinct from age discrimination *per se*. However, the basis for rejecting the latter as a definition is curious in that the criterion now adopted for constituting ageism - oppression of one group by another - seems to imply rather closer similarities between ageism and the other 'isms' than the authors were initially prepared to admit, even accepting that the oppressors may one day become the oppressed.

The authors continue: 'Although it complicates what should be simple, it seems appropriate to conclude that ageism is experienced both through the negative valuation of the ageing process throughout the life course, and through the consequential stigmatizing and institutional identification of 'special' groups on the basis of chronological age' (*ibid.*, p. 33). In similar vein, the final definition arrived at considers ageism as:

a set of beliefs originating in the biological variation between people and relating to the ageing process ... [that] ...'legitimizes' the use of chronological age to mark out classes of people who are systematically denied resources and opportunities that others enjoy, and who suffer the consequences of such denigration - ranging from well-meaning patronage to unambiguous vilification (Bytheway and Johnson, 1990, p. 37; Bytheway, 1995, p. 14).

However, the composition of these 'special' groups or 'classes of people' remains unclear, as do the criteria by which they might be judged 'special'. It is unclear, for instance, whether this definition is meant to cover *all* groups or age categories subject to age-based discrimination, or just those accorded 'special' status on some unspecified ground. As such, the definition is most ambiguous, not least as to whether ageism should be confined in its meaning to age discrimination against older people, however the latter are defined. Bytheway seems to face both directions on this issue. On the one hand, he asserts (Bytheway, 1995) that 'we are all ageing, are all of an age and are all vulnerable to ageism' (p. 120), and that 'the ageism experienced by young people is the same phenomenon as that experienced

by older people ...' (p. 13). On the other hand, components of his definition that refer to 'well-meaning patronage' and 'unambiguous vilification' seem to confine the definition to treatment meted out to those at least of retirement age and beyond.

### *Ageism in employment*

Such definitional ambiguities seem to reflect some difficulty in extending the original concept of ageism to the field of employment, while maintaining its integrity. It is not clear that the concept of ageism, as described in its six features above, is the same phenomenon that is alluded to in analyses of early exit and other aspects of age-based discrimination in employment.

On the one hand it might be argued that there are many parallel themes in the literature that deals with the employment experience of older workers and that concerned with the treatment and experience of those of more advanced years. Negative stereotyping, undervaluation of ability and potential, denial of opportunities and reluctance to acknowledge the heterogeneity of older age categories are examples shared in common. In the case of older workers, however, it is rarely suggested that discrimination extends to a denial of 'personhood' or the assumption of a sub-human species. Nevertheless, this difference may be viewed simply as one of degree. For Bytheway, there would seem to be little difference, apart from one of misplaced emphasis on ageism in employment: 'Some ... think of ageism primarily as age discrimination in employment practices and that it affects people in their forties, fifties and sixties - they would be surprised if it were to be suggested that exactly the same phenomenon affected the lives of people in their nineties' (Bytheway, 1995, p. 105).

On the other hand it might be argued that while age discrimination in employment, including that implied by early exit trends, more evidently affects older workers, it is by no means a phenomenon experienced only by those in their fifties and sixties. Upper age bars in recruitment advertisements are often set around the 40 age mark, and training and promotion opportunities in many occupations tend also to diminish around this age (Taylor and Walker, 1993; Trinder et al., 1992). For some occupations, recruitment and career prospects are adversely affected at much lower ages. Moreover, age-related discrimination amongst women exhibits complex patterns that reflect the 'double jeopardy' of age and gender. In their local authority case studies, Itzin and Phillipson (1993) observed that at whatever age they were, women's age tended to be held against them, and that from line management perspectives 'women are never the right age' (p. 45). The adverse labour market experience of school-leavers and other young workers below 'prime age' (normally considered by employers to lie within the 25-35 age band) in terms of pay, employment and other working conditions (Blanchflower and Freeman, 1996) can also be judged as deriving in some part from age discrimination.

The presence of apparent age discrimination over such broad age ranges - indeed possibly affecting every age, even if more evident among older employees - begins to raise doubts as to whether ageism in employment can be considered the same beast as that once assumed to be largely confined to those over state retirement age.

It is certainly difficult to conceive of the victims as in any sense a minority group, when the age range of 'older workers' who experience age discrimination can extend over some three decades from just beyond 'prime labour age' to retirement. Moreover, there are signs that in employment policies, the association of the term 'ageism' with old age is beginning to loosen, and that ageism is sometimes being equated with age discrimination in a general sense. To date this is most apparent in the wording of voluntary codes directed at employers, and in employers' own equal opportunities codes. For example a code issued by the Institute of Personnel Management in 1991 made a number of recommendations with a view to reducing arbitrary age discrimination in general, rather than with respect just to older employees (IPM, 1991). Similarly, Itzin and Phillipson (1993), in their review of age-related employment practices in local authorities, cited some examples where ageism was being interpreted in the broader sense. For instance, Cleveland County Council's code of practice on ageism defined the term as 'prejudice, misconception and stereotyping which hinders proper consideration of an individual's talents, skills, abilities, potential and experience'. The code explained that age discrimination 'can affect people of all ages', but ... 'consistently disadvantages older workers, young people and women returners' (p. 15).

The application of the term in the employment sphere differs from its traditional application in another respect, in that a distinction is often drawn between 'arbitrary' or 'unwarranted' or 'irrational' discrimination and that based upon commercial criteria. In other words, discrimination on the grounds of age becomes ageist only if such discrimination is guided by irrational prejudice or mistaken beliefs, rather than commercial exigencies, a distinction with no obvious counterpart in applications of the term outside employment. In recent government-backed campaigns against ageism in employment the message to employers seems to be that age discrimination against older workers chiefly falls into the former category and therefore is both irrational and commercially damaging. This viewpoint is assessed below with reference to the early exit phenomenon.

### Early exit

In Britain and elsewhere the trend towards early exit from the labour market is often considered as *prima facie* evidence for increasing ageism in employment. The phenomenon of early exit has been described as 'one of the most dramatic economic transformations of labour markets in modern industrial economies' (Rein and Jacobs, 1993), and has occurred to varying degrees in all Western economies, irrespective of their institutional regimes (Kohli et al., 1991). The term refers to the trend towards withdrawal of older workers from employment during the years preceding state pensionable age, as illustrated for Britain in Table 2.1.

The figures show that the trend is most apparent in the case of older men, and, for those below 65, is especially noticeable from the 1970s onwards. The decline in activity of those above 65, on the other hand, is part of a longer trend that is usually considered as a different process from the early exit phenomenon. In Britain in the

1980s nearly three-quarters of men aged 65 plus were still in employment (Laczko and Phillipson, 1991), and the subsequent progressive decline in this proportion to just 7.5 percent by 1994 chiefly represents the institutionalization of the life-course and emergence of the concept of retirement.

**Table 2.1 : Economic activity rates (percentages) of older men and women in Britain 1951-1994**

Age:	1951	1961	1971	1975	1981	1985	1990	1994
<b>Men</b>								
55-59	95.0	97.1	95.3	93.0	89.4	82.6	81.5	76.1
60-64	87.7	91.0	86.6	82.3	69.3	55.4	55.4	51.2
65+	31.1	25.0	23.5	19.2	10.3	8.5	8.7	7.5
<b>Women</b>								
55-59	29.1	39.2	50.9	52.4	53.4	52.2	55.0	55.7
60-64	14.1	19.7	28.8	28.6	23.3	18.9	22.7	25.6
65+	4.1	4.6	6.3	4.9	3.7	3.0	3.4	3.2

Source: Taylor, P. and Walker, A. (1995), 'Utilising older workers', *Employment Gazette*, April.

By contrast, the decline in participation of those below state pensionable age is a comparatively recent phenomenon that has been judged to be distinct from retirement in several respects. For both governments and those affected it has been mostly unplanned and unpredicted. Moreover only a privileged minority - those excluded from the labour market through early retirement or voluntary redundancy schemes on generous terms by their employer - tend to think of themselves unambiguously as retired. Other exit routes have included redundancy, dismissal, or retirement on grounds of ill-health, routes which are mostly involuntary but, in combination with recent labour market conditions in Britain and elsewhere, have effectively excluded older workers from further participation in the labour market. Rather than retired, the ambiguous status of such groups has been characterized as 'a generation in limbo' (Bosanquet, 1987).

For Britain, the trend is less apparent in the case of women, and for women in the 55-59 age band, activity seems to have increased slightly from 1971. However, a similar decline in the activity rates of older women is masked by a trend towards higher activity rates of women in general. The easiest way to disentangle these opposite and overlapping trends is to examine the employment participation of different birth cohorts of women over time. Such an exercise reveals a significant, if less marked, trend towards early exit among older women also (Trinder et al., 1992; Ginn and Arber, 1996).

Two further features of the early exit trend should be noted. First, the declining labour force participation rates of older workers cannot simply be viewed as a statistical consequence of demographic trends that are leading to a progressively ageing labour pool, with employers simply maintaining their traditional age

balance. Not only has the proportion of older men who are economically active declined, but the *numbers* of men in employment aged over 55 have also fallen significantly, from 3.2 million in 1971 to 2.1 million in 1991. The corresponding reduction for women over 55 was from 1.7 million to 1.3 million, most of the fall being in groups over 60 (Trinder et al., 1992). Second, such trends cannot be wholly or mainly explained by changes in industrial structure, for example by a decline in the share of employment of industries that have traditionally employed relatively high proportions of older workers. Nor has early exit been confined to rapidly declining or 'troubled' industries but is taking place in almost every industry, including those that are growing in employment terms (Jacobs et al., 1991).

### *The causes of early exit*

The debate as to the causes of early exit has focused on the relative role of 'pull' and 'push' factors. The former approach assumes that early exit is chiefly the result of social policies that have created attractive exit routes, while the latter assumes that early exit is driven by the evolution of the labour market and assigns a dominant role to the influence of high levels of unemployment. Kohli et al. (1991), in analyzing exit trends in seven countries, favour the 'push' explanation, assigning the major role to employer policies and economic conditions as the main driving forces. For example, the trend has been significant even in countries with restrictive public welfare regimes such as the United States, a country also with explicit legislation forbidding age discrimination. From this perspective, social policy may facilitate or inhibit exit trends, but does not represent the main driving force, with the state not so much instigating the process as reacting, in most cases, to ease the course of exit. Moreover, the authors argue that many institutional causes of early exit, including state or company early retirement schemes, are themselves motivated by 'push' factors. Often this has meant that state welfare arrangements designed for other purposes have been incorporated into pathways of early exit, and are now used not to deal with specific risks (such as unemployment or disability), but with the burden of a whole age group.

The relationship between the chief 'actors' involved in early exit processes (employers, the state, employees and their representative organizations), has been characterized as one of 'cooperative antagonism' (Kohli and Rein, 1991), where each actor seeks to contribute to the process of exit, but shift the burden of costs to another party. From the standpoint of governments, the motivation to collude in early exit programmes lay in macroeconomic considerations. Problems encountered by Keynesian economic regulation meant that policies of employment stimulation fell into disrepute, so that early exit (along with deferred entry) became one of the few remaining alternatives for aggregate labour market management. In Britain this was reinforced by a broad consensus that youth unemployment constituted the priority social issue which, in slack labour market conditions, justified job sacrifice on the part of older workers. Government measures that facilitated exit included the Redundancy Payments Act 1965 and the Job Release Scheme that operated between 1977 and 1988, as well as certain modifications to unemployment and other

benefits. Similarly, British trade unions have supported the early exit path as a more acceptable option than redundancy or dismissal, especially if voluntary and financed by concessions from industry or the state.

For Britain and elsewhere the role of employers as the key actors in fostering early exit is usually explained by reference to the need to reduce headcount in a context of overmanning, changes in industrial structure and periodic recession. Processes of organizational restructuring, 'delaying' and other 'leaner and meaner' strategies required by competitive pressures and rapid technical change also contributed to the displacement of older workers. However, early exit was not just confined to reducing manpower. In both contracting and expanding industries employers also used early retirement selectively to alter skill mixes, reduce labour costs and overhaul human resource strategies (Guillemard and Van Gunsteren, 1991).

The process of antagonistic cooperation described above in favour of early exit evaporated in the late 1980s with the growing belief that society could not afford the mounting costs of early exit in the longer-term, and amidst warnings about a demographic time-bomb and impending intergenerational conflict (Johnson et al., 1989). In Britain, the shift in perspective was remarkably abrupt, as was noticed by the House of Commons Employment Committee in 1989 in an inquiry on the employment patterns of older workers:

When we began to plan our inquiry, interest still centred on the development of schemes to ease older workers into early retirement. By the time we had finished taking our evidence there had been a dramatic shift of emphasis and there was growing discussion of ways in which older people could be persuaded to stay at work in order to offset the impending shortage of young workers. The pendulum has rarely swung so swiftly (House of Commons, 1989, para. 1).

This 'dramatic shift in emphasis' was broad-based, apparent in Government policy statements, policy positions adopted by the age lobby, and also evident among some employers, employees and their trade unions. One feature of the recession beginning in the late 1980s was its relative effect upon previously secure and relatively senior white-collar occupations in commerce and finance. Such groups added a powerful middle-class note of dissent that helped shift the perception of early exit from that of a necessary and socially acceptable means of coping with mass unemployment and structural change to a phenomenon deriving from age prejudice.

This new perspective has been largely endorsed in subsequent campaigns supported by the Government, the Carnegie Third Age inquiries, voluntary organizations and some employers, that are aimed at halting or reversing early exit trends. These seem to be built chiefly on the premise that early exit and other forms of age discrimination owe more to age prejudice on the part of employers than commercial criteria, and further, that such prejudice is not only irrational but commercially damaging. However, the commercial rationality of age discrimination

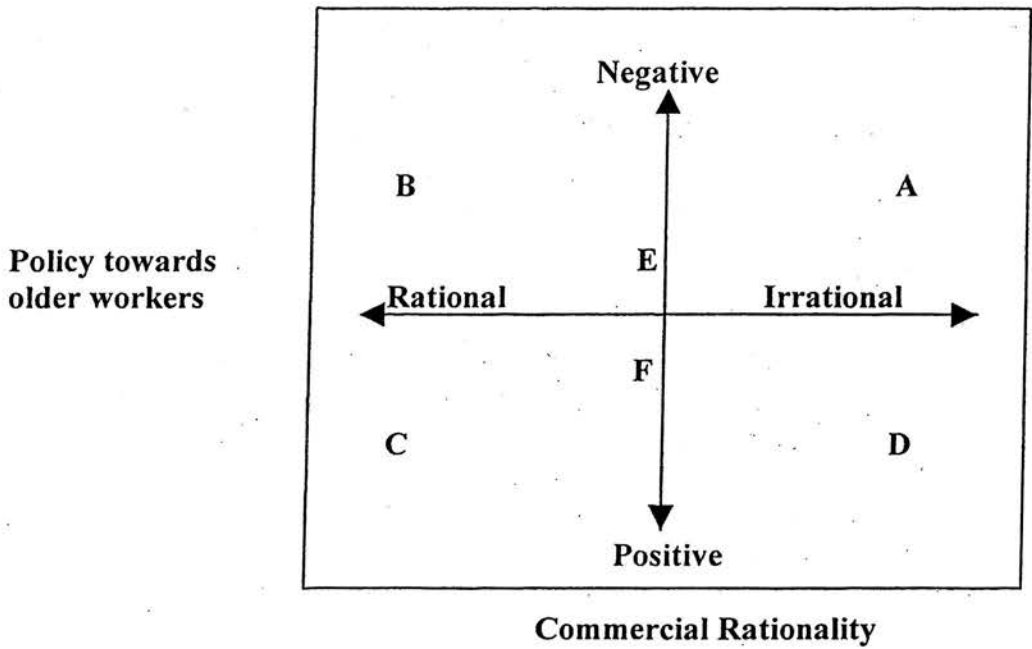
is a topic that has been rather poorly explored, though from the point of view of framing policy options this issue would seem to be rather important. For example, if 'ageism' in employment can be shown to embrace rational commercial criteria, then present campaigns to persuade employers to reform their practices voluntarily are likely to achieve little.

### **The rationality of age-based discrimination**

There are at least four ways in which the rationality of employer policies towards older workers might be classified, as illustrated in Figure 2.1 in matrix form: policies which discriminate against older workers and in so doing are commercially damaging (Box A); those which treat older employees unfavourably but which are rational in a commercial sense (Box B); policies which are favourably disposed towards older workers and which are again commercially rational (Box C); and policies that favour older workers but which might be judged irrational from a business perspective (Box D). If ageism is taken to mean age-related policies or practices that have no commercial basis, then these would be confined to boxes A and D. It is also possible that employers may pursue age-based policies that have a neutral or indeterminate effect on business performance, as represented by points E and F in the figure. Perusal of the literature suggests that employer policies are by no means confined, as is often supposed, to Box A.

*Box A* represents the current orthodoxy. Discrimination against older workers, not only with regard to exit policies but also with respect to recruitment and training restrictions, is deemed both irrational and commercial damaging. This view is currently so prevalent as to seem almost unchallengeable. It is the message that was promulgated by the Advisory Forum on Older Workers set up by the Conservative Government in 1992 to encourage employers to abandon age discriminatory practices, a body that include representatives of employers, trade unions, the Equal Opportunities Commission, Age Concern and the Institute of Personnel and Development. This initiative led to the Government publication, *Getting On*, that was sent to 165,000 employers in March 1994, advising them of the benefits of employing older workers and how to avoid discriminating against them. This was followed by a further Government booklet, *Too Old - Who Says So?*, in February 1995, which offered advice to older people about finding work, training and changing jobs, and which sought to boost their confidence. That ageism is bad for British business is also the central message of the Employers Forum on Age, launched in May 1996 to combat age discrimination. The Forum at its launch was composed of eighteen organizations, including British Airways, British Telecommunications, Marks and Spencer, the Post Office, J Sainsbury and W H Smith, with Howard Davies, the Deputy Governor of the Bank of England, as its chairman. The Carnegie Inquiries and continuing programmes have also promoted this message strongly.





**Figure 2.1: Typology of age-based employer policies towards older workers**

The basis of this perspective lies in evidence of negative stereotypes underlying employer attitudes and practices towards older workers, stereotypes that endorse a deficit model of ageing and are held to have little basis in fact. In general older workers are thought by employers to be less productive, to have less relevant skills, to be resistant to change and new technology, to be less trainable, and to leave employment sooner so that training them to provide updated skills has a low rate of return (Tillsley, 1990; Taylor and Walker, 1993, 1995; Trinder et al., 1992). Accordingly they are discriminated against with respect to recruitment - as evidenced by the widespread use of upper age bars in job advertisements and other more covert forms of age filtering in recruitment processes - and in training and promotion opportunities, as well as exit policies. Upper age bars on recruitment, together with policies of early exit, mean that older workers who become unemployed remain so for longer periods, and often indefinitely. Such stereotypes have been challenged by some twenty-five years of industrial gerontological research, which seems to show that age is a rather poor proxy for performance, as illustrated in Figure 2.2 below. Accordingly, it is argued that ageism leads to sub-optimum use of human resources, including a poor return on investment in human capital, a sub-optimum balance between youth and maturity in labour composition and a narrowed pool of talent to draw upon in recruitment. Indeed, Trinder et al., (1992) found evidence of upper age bars being applied even in jobs where the generally perceived qualities of older workers (stability, reliability, low turnover, commitment, responsibility) should have been an advantage.

Other 'bad for business' arguments have included the view that early exit has resulted in important skill shortages and a loss of the 'collective memory' of

organizations, with damaging consequences for business performance; and the view that along with the ageing of the population, older workers are increasingly necessary in that they better understand the needs of the market and may also be more suited at the customer interface. A further argument has been the contention that early exit has not always achieved even short-term cost-savings for companies, as compensation packages have sometimes exceeded salaries saved. The observation that employers rarely conduct a cost-benefit analysis of age policies has also led to the presumption of irrationality and prejudice in age-related employment practices. Worsley (1996) observed that few employers were even aware of the current age composition of their organizations.

*Box B* of Figure 2.1 above, concerns the implication that employers in most industrialized economies have been acting against their objective self-interests in displacing older workers seems intuitively unsound, and there are several grounds for arguing that early exit and other age-related policies may represent quite rational employer responses to macro-economic and competitive conditions. For example, Kohli and Rein (1991) argue that to focus only upon

1. Laboratory tests demonstrate that some abilities such as muscular strength, reaction times and some aspects of memory decline with age. But assessments of older workers on the job tend to show that, except where these particular abilities are especially important, experience may compensate.
2. Studies in the USA and Sweden have shown that in many situations older workers are as productive as younger ones provided they are not under stress; in particular they work better if they are part time.
3. In training, older people may be disadvantaged if training methods used for younger people are applied without modification. In particular, rote learning, or a fast pace of presentation may cause difficulties. Older persons can be equally successful provided training is geared towards their needs.
4. A person's performance is governed as much by their experience and skill as by their age. Experience compensates for many underlying changes, thus a range of experiences earlier is highly important to adaptability in the third age.
5. The majority of laboratory studies show that performance deteriorates with age in areas involving heavy demands on sensory and perceptual mechanisms; but in some areas older people seem to perform at about the same level as younger people in tasks requiring sustained attention and extended practice appears to reduce age differences.

6. Studies of technical 'knowledge based' jobs showed an inverted U relation with age, productivity peaking in the early 30s and declining after 55. Nevertheless, productivity of the oldest groups can still remain higher than the youngest groups.
7. Managerial performance as assessed by appraisal tests also shows some decline with age although one study showed that older and younger managers employed different decision making strategies and this was what produced differences in performance appraisal rating.
8. As age increases so does variability between individuals; averages become less representative: differences within age groups may be greater than those between groups. Therefore, chronological age should not be the sole criterion by which a person is assessed for employment purposes.

**Figure 2.2: The effect of age on performance**

*Source:* Grimley Evans, J. et al., (1992), *Health: Abilities and Well-Being in the Third Age*, Research Paper 9, Carnegie UK Trust, Dunfermline.

the work performance of older workers is to take too narrow a view of the employment contract. What must also be considered is that older workers usually earn more than comparable younger workers because of formal and informal seniority arrangements. They also enjoy a series of other seniority-based prerogatives making them less easy to move around or fire as the interests of the firm change, thereby representing higher transaction costs. Such observations support an efficiency wage model of the labour market with a life-time earnings contract consisting of sub-productivity earnings at the beginning and above-productivity earnings towards the end of work-life. Accordingly, it may be more profitable when job reductions are required for firms to terminate their older workers early. The fact that the cost of occupational pensions tends to increase as the formal retirement date approaches adds weight to such considerations, as does the general trend towards an ageing population and workforce which puts upward pressure on wage costs. In this context the absence of institutional practices which would make it possible to reduce the wages of older workers increases the likelihood of job shedding.

Pressures to substitute younger for older workers on cost grounds were enhanced, according to Standing (1986), along with the quest for greater flexibility in labour markets, itself a response to competitive pressures. One effect of growing flexibility has been an increase in the elasticity of substitution between different age groups:

the movement away from lifetime, secure employment, the growth of narrow static jobs for which workers are interchangeable, and the growth of casual indirect forms of employment have all encouraged the substitution of other groups for older workers, or rather have increased the substitutability of different groups and the impact of relative costs and the external labour market (p. 336).

In this context, five specific costs are identified that militate against the employment of older workers in conditions of labour surplus and growing flexibility: *productivity costs*, arising from the tendency, however weak, for older workers to be less productive; *overhead costs*, arising from seniority-based pay systems; *protection costs*, arising from work arrangements designed to shield older workers from hazardous or arduous work or to lighten the burden on them; *adaptability costs*, where in some respects at least older workers are less flexible in their ability to adapt to change; and *motivational costs* which arise if a high ratio of older workers limits promotion opportunities and thereby adversely affects morale and general productivity. This last cost tends to increase in times of labour surplus and employment stagnation when older employees in particular are reluctant or unable to develop their careers through job-changing, so that over time the age profile of individual organizations can become dangerously skewed.

It has also been argued that older workers tend to be less well educated or educated in technologies that have long become obsolete, and thus are of less value to firms in times of rapid technological change. The cost of requalifying older workers may be higher than younger workers, not necessarily because they are less trainable but because younger recruits may partially possess such skills from outwith the firm. With respect to computer skills, for example, Johnson and Zimmermann (1993, p. 13) observe that: 'the socialization and acculturation processes experienced by children today, both at home and at school, mean that they grow up using and identifying with computer technology and so develop a competence which is unlikely to be achieved by more than a handful of 50-60 year olds'.

Other arguments used to confer some legitimacy upon apparent age bias, include the observation that older workers tend to be less mobile than younger groups; that in growing youth markets younger employees are required at the business/public interface; and that the recruitment of displaced older workers to relatively junior positions can undermine the position and authority of younger senior personnel. Upper age bars on recruitment and poor redeployment of displaced older workers may also reflect the presence of internal labour markets with ports of entry restricted to younger groups for succession planning purposes. There is also the point that in a context of required labour reductions early retirement policies may be more socially acceptable than forced redundancies, thereby minimizing industrial relations problems and maintaining organizational morale and hence productivity.

Moreover, in a period of almost continuous reorganization and restructuring by many businesses during the 1980s and 1990s, in responding to competitive pressures, it is possible that the greater experience and 'wisdom' of older employees

may not have been valued positively by some employers. Such reform processes have invariably entailed decollectivization of employment relationships together with shifts towards more unitary management styles, as embraced for instance in HRM and performance management systems, approaches that seek to motivate through attitudinal restructuring via inculcating employees with corporate values, goals and culture. However, as Hallier, Glover and Lyon (1995) have argued, the judgements of longer-serving employees about such initiatives will be distinguished from those of younger workers in being based more upon their past treatment by management. Accordingly, older employees, especially if reared in a pluralist-collectivist tradition, will generally be more wary, less malleable and more likely to greet such initiatives with a measure of cynicism and resistance. Resistance to change on the part of older employees will be reinforced where they retain advantageous contractual conditions of service from older regimes. Accordingly, it may be simpler and cheaper for employers to retire off older employees than seek to alter ingrained attitudes and re-negotiate or buy-out employment contracts.

Finally, there are broader labour process perspectives that assign a certain rationality to age discrimination. The use of older workers as a contingent labour force or 'reserve army' to be drawn into and expelled from the labour force as and when conditions demand, has received some support from examinations of past trends (Tillsley, 1990; Laczko and Phillipson, 1991).

Examples of *Box C* policy approaches, where older workers are positively favoured on commercial grounds, seem mostly confined to those widely-publicised policies of firms chiefly in the retail and catering sectors (e.g. B&Q, Tesco, Sainsbury's, McDonalds, Thistle Hotels), which, in responding to labour supply difficulties, have found that recruiting from a pool of displaced older workers has secured certain commercial advantages in terms of reduced turnover, employee commitment, improved customer interface and public relations. However, it is unclear whether this approach can profitably be extended beyond 'non-standard' forms of manual employment and lower paid jobs in the service sector, where older workers have been found to be cheap and convenient.

*Box D* supposes the existence of policies favourable to older workers that might also inhibit business performance. As several commentators have argued a company's age mix is rarely informed by careful evaluation of organizational requirements, but rather seems guided by factors such as organizational culture or custom; or it may have evolved somewhat arbitrarily, influenced by such factors as past labour availability and firm-specific turnover rates. It therefore seems plausible that some firms will employ too many older workers relative to what might be judged an optimum mix, and thereby incur cost or productivity disadvantages of the sort identified under *Box B* above. In addition, the application of automatic formulae such as LIFO (last in first out) in redundancy situations, can favour older workers on the basis of customary rather than commercial criteria.

It is also plausible to suppose that differing policy approaches towards older employees may have an indeterminate or neutral impact on business performance. Trinder et al., (1992) refer to evidence showing that firms operating in the same product market with similar technology can have widely varying age profiles, some

with predominantly young workforces and others with predominantly mature workforces, and there was no evidence to suggest that either age profile led to improved economic efficiency. Such differences might reflect again differences in company philosophies and management styles or, quite simply, differing degrees of age prejudice. This need not, however, imply that such companies could more easily be persuaded to adopt policies favourable to older workers. In terms of Figure 2.1, a move from points E to F would not necessarily be costless. A new age profile in favour of older workers could entail substantial initial set-up costs, including job redesign and new training approaches to allow older workers to maintain productivity. Firms might therefore be quite reluctant to move in this direction, especially if existing sources of labour supply are perfectly adequate. Revisions might also be required to deep-rooted corporate philosophies, beliefs and styles, and to elaborate human resource strategies underpinned by these, changes that are unlikely to be made in the absence of some clear financial inducement.

The typology represented in Figure 2.1 clearly oversimplifies matters and can be challenged on several counts. For example, different age policies are invariably applied to different categories of labour in any one firm. The existence of internal labour markets, for instance, can lead to quite different age policies as between manual and non-manual people or between core and peripheral employees, and policies can also vary according to gender. Moreover, as the discussion reveals, there is an ambivalence in employers' treatment of older staff: disadvantage with respect to recruitment, training and job displacement can coincide with relatively favourable treatment with regard to pay and other seniority prerogatives. Accordingly, it is difficult to judge in any clear sense whether a company's approach to older employees is predominantly negative or positive. Or again, defining ageism as prejudice unwarranted on commercial grounds is problematic. As with other forms of discrimination age-based employment policies can take a form that reinforces or exploits prejudices for economic gain. The use of older workers as a contingent labour force is an obvious example, as is prejudice towards older employees as a means of avoiding industrial relations difficulties.

However, the matrix is nevertheless helpful in indicating that a much broader and more complex range of employer approaches to older employees may exist than is often assumed by those seeking to combat ageism. Moreover, the model is useful in focusing attention upon where employers' policies might *predominantly* lie on this matrix, a matter of some import from a policy viewpoint. That employers' practices predominantly fall within Box A is invariably assumed but rarely demonstrated. Trinder et al., (1992, p. 55) represent this dominant view in asserting that 'there is no doubt that much age discrimination in employment is not justified'. However, for Guillemard and van Gunsteren (1991), Box B-type considerations explain early exit trends better. Indeed the authors argue that early exit, far from demonstrating greater age prejudice, may reflect a *decline* in the use of age-based criteria in employment policies; early exit can be viewed as denoting a shift from chronological age to functional criteria in determining retirement. Older employees are being laid off under present conditions not simply because they are old but

because they are less useful or efficient, possibly, *but not necessarily*, as a result of ageing.

## Conclusions

The concept of ageism was first coined to describe irrational prejudice towards older people, a prejudice born of fear of mortality and the ageing process. The extension of the term to the employment sphere is a relatively recent phenomenon, linked to an abrupt switch in public policy towards employment trends affecting older workers which have been apparent and indeed encouraged for at least two decades. While some parallels can be drawn between the experiences and treatment of the 'old-old' and the recent labour market experience of third agers, there are differences that go beyond those of degree. In particular, age disadvantage in employment need not wholly denote irrational prejudice, though this is rarely acknowledged in a climate where public policy objectives towards older workers seem to converge with those of the age concern lobby. This recent, somewhat fragile, alliance has reinforced a view of age discrimination in employment as both irrational and commercially damaging, a prognosis that is rarely challenged. The extent to which early exit and other employment conditions experienced by older workers simply reflect irrational prejudice is an issue that has as yet been poorly researched, but the consistency of such trends across national boundaries and in widely varying institutional and cultural contexts, suggests their substantial underpinning by rational employer responses to competitive pressures, technical change and changes in the macroeconomy. Indeed early exit trends may denote not so much an upsurge of ageism in employment but rather some shift from age-determined employment policies to age-neutral functional criteria as the basis for management decision-making, irrespective of how managers choose to rationalize such decisions.

If this view is accepted then policy initiatives may have unintended consequences. Present campaigns to persuade employers voluntarily to reform their attitudes and practices towards older workers are unlikely to have much impact in terms of halting or reversing early exit trends. Indeed, they may have the opposite effect if employers are called upon to justify the rationality of their current age profiles. In terms of Figure 2.1, the move may not be chiefly from Box A to Box C as policy makers intend, but possibly from Box D to Box B, were employers to become more sensitive to the relative cost and other disadvantages that can be associated with older workers. Legislative intervention that constitutes an effective challenge to irrational age prejudice could have a similar, if more dramatic, effect in that employers would then be compelled to focus upon the rationality of age-based policies.

Though the British Conservative Government consistently rejected the legislative path as neither 'practical nor beneficial' the Labour Party, when in opposition, undertook to 'consider comprehensive legislation on age discrimination similar to that currently applying to sex and race discrimination should they secure office'.

Apart from the possibility suggested above, that legislation could conceivably act to reinforce the labour market disadvantage of older workers, there are a number of other thorny issues touched upon in the discussion that would require some thought prior to embarking upon a legislative path. For example, it needs to be decided whether legislation should be confined to older age groups or whether it should be framed to challenge all forms of age prejudice. As argued earlier there would seem to be few grounds in principle for confining the concept of ageism to older age groups, though a recent review of international policies towards age-based employment practices revealed that most legislative initiatives were so confined, with Canada representing one of the few exceptions (Moore et al., 1994).

A broad-based approach would seem more sound on social equity grounds, providing scope to challenge discrimination against both older and younger workers and also the diverse patterns of age discrimination affecting women. However, given the distinctive nature of ageism as discussed earlier, where there is no clear oppressed group, where almost everyone might be considered as both perpetrator and victim, and where the sources of prejudice are deeply ingrained in human nature, broadly-framed legislation of this sort would seem to provide almost limitless scope for challenging employer practices. In particular, the concept of indirect discrimination, an important feature of sex and race discrimination laws, would seem especially hard to apply in any practicable manner to age matters where there is no clearly oppressed minority group. Fierce employer resistance is therefore likely, leading to poor enforcement or a restrictive legal framework as has been found in other countries. In Canada's case for example, the Supreme Court has ruled that while compulsory retirement is discriminatory, it is still legal.

On the other hand, confining the scope of anti-discrimination law to older age groups, while possibly more manageable, may be construed as inequitable and even sexist and may foster intergenerational tensions. Indeed recent evidence on trends in youth labour markets in OECD countries in the 1980s and 1990s suggests that young workers are equally deserving of protection in having been similarly marginalized and discriminated against in recent years. Despite a decline in the youth share of population, increased enrolments in school, and shifts in industry mix toward youth-intensive sectors, the wages of youths relative to adults fell and the employment rates of youths have declined sharply in Britain and other OECD countries (Blanchflower and Freeman, 1996).

Whatever legislative approach may be adopted it is almost certain to provide exemptions to protect commercial interests, and as the discussion has suggested the scope for defending age-based policies on commercial grounds may be broader than is often supposed. If British legislation is modelled along the lines of the US Age Discrimination in Employment Act 1967, then such exclusions are likely to be wide-ranging. Exemptions under this Act include: where age is a *bona fide* occupational qualification; where differentiation is based upon 'reasonable factors' other than age; where a decision is based upon observing a *bona fide* seniority system for benefits; or where employees are being disciplined or discharged for a 'good cause'. Legislative remedies so curtailed provide little prospect of altering age-based employment practices, even where these are built upon simple prejudice.



For these and other reasons, most commentators are doubtful that early exit trends will be reversed to any appreciable extent in the foreseeable future, irrespective of whether such trends are viewed as deriving from irrational prejudice or commercial exigencies. Moreover, in view of radical and abrupt policy swings in the past towards the employment of older workers (Tillsley, 1990; Laczko and Phillipson, 1991), the recent positive stance of governments towards older workers is by no means assured in the longer term. Worries about the demographic time-bomb and future dependency ratios already seem to be subsiding along with indications that in comparison to other OECD countries the economic and budgetary consequences of demographic and employment trends in Britain may be relatively benign (OECD, 1995). Accordingly, the employment prospects of older workers would seem rather grim, and their continuing exclusion from the labour market, especially if accorded some rational, commercial justification, may serve both to reinforce irrational age prejudices and traditional ageist attitudes, and to extend the victim base to a larger proportion of the older population.

It is this prospect that has fostered alternative policy responses, as manifested in the Carnegie programme and other initiatives, which entail the delineation of a new third age stage to the life course, and focus upon how third agers should be integrated into society through new social roles that do not necessarily contain a work element. One danger here is that social concern over ageism, that has been reinforced by the recent employment experience of older workers, may evaporate as third agers seek to distance themselves in self-image and life-style from the plight of 'old-old', a process that may undo the sense of solidarity recently generated between third and fourth agers. In the United States, this trend is already apparent in the intensity of prejudice by the younger, affluent and active older people against those who are frail and dependent (Marshall, 1990), and for Britain, Laslett (1995) detects a similar tendency in the offhand attitude of the Carnegie researchers towards fourth agers, indicating an apparent willingness to reinstate the distinctions and inequalities of traditional old age.

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## **PAPER 2**

## Ageism and employment: controversies, ambiguities and younger people's perceptions

WENDY LORETTO\*, COLIN DUNCAN\*  
and PHIL J. WHITE\*

### **ABSTRACT**

This paper traces the emergence and evolution of the concept of ageism with respect to employment matters in the UK, and challenges some features of the emerging concept as defective and undermining of efforts to eradicate age discrimination in employment. Also revealed is some loosening in recent years of the association of the term 'ageism' with older employees. This latter observation informed the focus of our empirical work, which examined the views of 460 Business Studies students concerning age and employment. A significant proportion had experienced ageism directly in employment, and a large majority favoured the introduction of legislative protection against age discrimination, with blanket coverage irrespective of age. Though negative stereotypes regarding older workers were by no means uncommon among the sample, little firm evidence emerged of intergenerational tensions or resentment towards older people. The concluding section considers the policy implications of our findings, including the relative merits of weighting policy responses towards older employees. It is argued that initiatives restricted in this way, and further constrained by commercial imperatives and macro-economic objectives, are likely to prove divisive and self-defeating as a means of combating ageism.

**KEY WORDS** – Ageism, age discrimination, early exit, employment, attitudes, decline, younger people.

### **Introduction**

According to the extended *Oxford English Dictionary*, the term 'ageism' first appeared in the *Washington Post* in 1969 and was attributed to the American psychiatrist, Dr Robert Butler, who believed that many of

\* Department of Business Studies and the Management School, The University of Edinburgh.

his neighbours suffered from 'age-ism'. The proposed siting of public housing for older residents had provoked a virulent reaction from middle-aged local residents. The dictionary invites comparison with the terms 'racism', which first appeared in 1936, and 'sexism' in 1968. Butler's subsequent and oft-quoted definition of ageism (Butler and Lewis 1973) draws parallels with these other forms of oppression, where ageism is described as 'a process of systematic stereotyping of and discrimination against people because they are old, just as racism and sexism accomplish this for skin colour and gender'.

In Britain, the term only entered public discourse during the 1980s. Even as late as 1991, Laczko and Phillipson (1991: 33) observed that ageism was still 'an alien word' in the UK and that there had been very few academic studies of age discrimination. Indeed, a book published under the auspices of Age Concern in 1990 was entitled '*Age: the Unrecognised Discrimination*' (McEwen 1990). Earlier acceptance of the concept in the United States has been attributed to the greater cohesiveness and success of the age lobby, represented by the growth of such groups as the Gray Panthers, reflecting its genealogy 'as part of an impetus for civil rights, now recognised as a distinctive feature of the late 1960s' (Biggs 1993: 85).

Concern over ageism in Britain in the 1990s derived chiefly from worries over the trend in the labour market towards the 'early exit' of older workers from employment. This focus upon ageism in employment has influenced the evolution of the concept in directions that depart significantly from earlier formulations. In the section which follows, we trace the emergence and development of the concept with respect to employment matters, and review some controversial features of the evolving concept. One important development is a significant degree of consensus among commentators, also apparent in recent policy initiatives, that ageism in employment is mostly 'irrational' in commercial terms. We argue that this overly-narrow conception of ageism may impede efforts to combat age discrimination in employment. Also discussed in this section, is a loosening in the initial association of the term with discrimination against older employees: ageism in the labour market is now increasingly recognised as potentially affecting *any* age category. It is this development that informed the focus of the empirical work which we present in our second section. This investigates the perceptions of younger adults on a range of matters relating to age and employment, an area that has so far received little systematic investigation. On the basis of our analyses and findings, the concluding section considers some requirements of an effective policy in combating age discrimination in employment.

### Early exit and discrimination against older workers

The 'early exit' phenomenon has occurred to varying degrees in almost all Western economies, and has been described as 'one of the most dramatic economic transformations of labour markets in modern industrial economies' (Rein and Jacobs 1993: 53). It refers to the trend towards earlier withdrawal of older workers from employment and is well illustrated by economic activity rates for Britain (Table 1).

For men, the trend towards early exit seems to have begun in the early to mid-1970s, and to have accelerated during the 1980s and 1990s, especially during recessionary periods. Expressed in the same terms, early exit among women is masked by the general increase in women's participation in the labour market. However, analysis of the employment participation of different age cohorts of women over time reveals a similar, if less marked, trend towards early exit (Ginn and Arber 1996). Early exit entails a number of routes out of employment, including early retirement or voluntary redundancy, compulsory redundancy, dismissal, and retirement on grounds of ill-health. Moreover, the evidence is that very few of these displaced employees find their way back into jobs. Accordingly, early exit in most cases proves permanent (Campbell 1999: 40-2). The phenomenon seems widespread across the economy, occurring in both the public and private sectors, and in growth industries as well as those experiencing employment decline (Campbell 1999: 39; Jacobs *et al.* 1991).

Explanations for early exit have tended to favour 'push' over 'pull' factors, identifying employer policies and economic conditions as the main driving forces (Kohli and Rein 1991: 9-10). In Britain and elsewhere, however, governments and trade unions have often colluded in the process in the belief that this trend would create jobs for the young and reduce official rates of unemployment. In Britain this consensus did not survive the 1980s. Increasingly, in a context of alarmist projections of a 'demographic time-bomb' arising from population ageing, declining fertility and an increase in the dependency ratio that such trends implied (Johnson *et al.* 1989), there was a growing belief that, in the longer term, society could no longer afford the costs of early exit. This shift in perspective was remarkably abrupt, as is illustrated by the oft-quoted first paragraph of a report of the House of Commons Employment Committee:

When we began to plan the inquiry, interest still centred on the development of schemes to ease older workers into early retirement. By the time we had finished taking our evidence there had been a dramatic shift of emphasis and there was growing discussion of ways in which older people could be

TABLE 1. *Economic activity rates of older men and women in Britain, 1951-97*

		1951	1961	1971	1975	1981	1985	1990	1994	1997
						%				
<i>Men</i>	55-59	95.0	97.1	95.3	93.0	89.4	82.6	81.3	76.1	74.6
	60-64	87.7	91.0	86.6	82.3	69.3	55.3	55.3	51.2	51.6
	65+	31.1	25.0	23.5	19.2	10.3	8.5	8.7	7.5	7.5
<i>Women</i>	55-59	29.1	39.2	50.9	52.4	53.4	52.1	55.0	55.8	53.2
	60-64	14.1	19.7	28.8	28.6	23.3	18.9	22.8	25.7	27.0
	65+	4.1	4.6	6.3	4.9	3.7	3.0	3.4	3.3	3.2

Sources: 1951-1971: Taylor and Walker (1995).  
1985-1997: Armitage and Scott (1998).

persuaded to stay at work in order to offset the impending shortage of young workers. The pendulum has rarely swung so swiftly. (House of Commons 1989: para.1)

In addition to the worries of the Government and some employers about impending labour shortages, and the longer-term costs and affordability of early exit, employees and trade unions were also becoming concerned. This reflected the impact of the recession in the late 1980s and early 1990s upon previously secure and relatively senior white-collar occupations in commerce, finance and the public sector. This added a powerful middle-class note of dissent that helped shift popular perceptions of the desirability of early exit. Previously it had been seen as a necessary and socially acceptable means of coping with mass unemployment and structural change, mainly affecting manual employees. Now, in contrast, it was seen as a phenomenon deriving from age prejudice.

Through such developments, ageism in general, and its manifestations in employment in particular, have secured a place of some prominence on current social and political agendas. One early sign of the new consensus was the government setting up in 1992 an *Advisory Forum on Older Workers*, to encourage employers to abandon age discriminatory practices. The Forum included representatives of employers, trade unions, the Equal Opportunities Commission, Age Concern and the Institute of Personnel Management (now the Institute of Personnel and Development). An *Employers Forum on Age* followed in 1996, again aimed at persuading employers to jettison ageist practices. The Labour Party, when in opposition, promised comprehensive legislation to outlaw age discrimination but, upon securing office in 1997, promptly performed a policy U-turn. It issued a non-statutory



code of practice in 1999 and warned that, should this prove unsuccessful, subsequent legislation was not ruled out (DfEE 1999).

The goal of these initiatives has been to discourage discrimination chiefly against older employees, not only with respect to exit, but also in recruitment, training and promotion practices. Many parallels have been drawn between the employment experience of older workers and the treatment and experience of those of more advanced years: negative stereotyping, undervalued ability and potential, denial of opportunities, and a reluctance to acknowledge the heterogeneity of older age categories. Nonetheless, application of the concept in the employment sphere is narrower, in that a distinction has been drawn between 'unwarranted' or 'irrational' discrimination and that based upon commercial criteria (*e.g.* Campbell 1999: 57). In other words, the argument has developed that discrimination on the ground of age is ageist only if guided by irrational prejudice and mistaken beliefs, rather than by commercial exigencies.

This narrower conception is implied by, and in some part a consequence of, the methods chosen to measure and combat ageism in employment. Investigations have focused upon the 'accuracy' of employers' beliefs concerning the employment characteristics of older employees. This has produced much evidence that negative stereotypes underlie employer attitudes and practices, endorsing a deficit model of ageing. In general it has been found that employers think that older workers are less productive, have less relevant skills, are resistant to change and new technology, are less trainable, leave employment sooner so that training them has a lower rate of return, and are more prone to absenteeism and ill health (Taylor and Walker, 1993, 1995; Tillsley 1990; Trinder *et al.* 1992). Accordingly, there is discrimination in recruitment – evident in the widespread use of overt and covert upper age bars in job advertisements – and in training and promotion opportunities, as well as exit policies.

The claim that such beliefs are mistaken and irrational is based chiefly upon a large body of industrial gerontological research that argues that age is a poor proxy for performance (*e.g.* Doering *et al.* 1983; Grimley Evans *et al.* 1992). As a result, the aim of recent government-backed campaigns against ageism, and much academic work, has been to persuade employers that discrimination against older employees is not only irrational but also commercially damaging. This is the '*business case*' against ageism: the argument that discrimination against older workers can lead to a sub-optimum use of human resources, including a poor return on investment in human capital, a sub-optimum balance between youth and maturity, and a narrowed

pool of talent to draw upon in recruitment. (Taylor and Walker 1995; DfEE 1999). It is also argued that early exit has resulted in important skill shortages; a loss of the 'collective memory' of organisations; and that, given the ageing of the population, older workers help firms understand better the needs of the ageing market, and that they provide a more age-balanced interface with customers.

The popular presentation of ageism in employment as widespread, irrational and commercially damaging, may be said to represent the current orthodoxy. It is forcefully canvassed by government and lobbying groups. In several respects, however, it has been challenged. Early exit and other age-related policies have been seen as rational responses to current macro-economic and competitive conditions (Duncan 2000; Kohli and Rein 1991; Standing 1986). For reasons that do not include the assumption that personal productivity declines with age, it has been argued that there may be clear advantages in terms of cost, flexibility and industrial relations in discriminating against older workers in exit and recruitment strategies and reorganisation processes. Indeed, it is possible to argue that early exit practices reflect a *decline* in the use of age-based criteria in employment; it denotes a shift from chronological age to functional criteria in determining retirement. Older workers are being laid off, not because they are old, but because they tend to be costlier, less flexible and less useful to the organisation, possibly *but not necessarily* as a result of ageing. Concentrating job losses upon older employees may secure public relations or industrial relations advantages for employers, simply because this approach conforms to prejudices in the wider community. It may be rational in commercial terms to insist upon greater job mobility, but this may be more difficult for older employees given family commitments or a more settled lifestyle. There are also broader labour process perspectives that assign a certain rationality to age-based discrimination: the use of older workers as a contingent labour force or 'reserve army' to be drawn into the labour market as and when conditions demand, is a case in point. The existence of such a process receives some support from analyses of past trends (Tillsley 1990: 4–6; Laczko and Phillipson 1991: 39–42).

Thus the business case against ageism, while attractive as a lobbying tactic, may be too limited as a means of protecting the employment interests of older workers. Commercial rationality need not preclude discrimination. The limitations of the business case approach have been recognised elsewhere. For example, Dickens (1998) dubbed this approach towards eliminating sex discrimination as inevitably 'contingent, variable, selective and partial' and, at best, a useful addition to statutory intervention. In the case of ageism, however, such

limitations and reservations seem rarely articulated. The business case is clearly endorsed in the language of the government's *Code of Practice on Age Diversity in Employment*. Unlike sex and race discrimination, this approach is not yet complemented by legislation. This disparity reflects how concern over age discrimination in Britain originates in employment matters and in commercial and economic imperatives, and how there has been a failure to connect age discrimination in employment to ageism in other areas: discrimination which continues to receive lower recognition and priority than other forms of oppression. Indeed, some 10 years after the term had been coined by Butler, Bytheway felt the need to discuss whether ageism in Britain was 'just a joke' (Bytheway 1980) and, 15 years later, he bemoaned the near-exclusive focus on manifestations in employment:

Some... think of ageism primarily as age discrimination in employment practices and that it mainly affects people in their forties, fifties and sixties – they would be surprised if it were to be suggested that exactly the same phenomenon affected the lives of people in their nineties. (Bytheway 1995: 105)

In another respect however, the focus upon employment has *broadened* the meaning of ageism from that as originally defined by Butler. It has raised the question of discrimination against younger workers.

#### Ageism and younger employees

The origin of the concept of ageism has meant that, in policy terms and in public discourse, the phenomenon is still mostly associated with prejudice against older age groups. In recent times, however, this association has begun to loosen as evidence mounts that age prejudice in employment can be experienced at any age. For example, upper age bars in some recruitment advertisements for professional posts are set as low as 30, and training and promotion opportunities tend to diminish rapidly after 40 years of age (Tillsley 1990: 9; Trinder *et al.* 1992). Moreover, age discrimination in employment policies is often apparent not in terms of an old/young dichotomy. There is instead the notion of 'prime age' labour (often considered as falling within the age range 25–35). This age group is favoured relative to *both* older and younger workers. Furthermore, age-related discrimination among women exhibits complex patterns that may reflect the 'double jeopardy' of age and gender. In their local authority case studies, Itzin and Phillipson (1993: 45) found that, whatever their age, women perceived their age to be held against them, and that line management attitudes revealed

in interviews were consistent with the view that 'women are never the right age'. Finally, ageism seems to have become established as a broad-based industrial relations issue. The recent (and massive) *Workplace Employment Relations Survey*, for example, found that around 40 per cent of the 3,000 workplaces surveyed had a formal, written equal opportunities policy that included reference to age (Cully *et al.* 1998: 13), and by definition such policies and procedures can hardly be age selective.

As with older employees, it is difficult to establish whether ageism significantly affects younger employees, and to untangle the extent of unwarranted prejudice. However, recent trends in youth labour markets in OECD countries suggest that age discrimination may play a significant role in the marginalised position of many young workers. Despite a decline in their share of population, increased enrolments in full-time education, and shifts in industry mix toward youth-intensive sectors, the relative wages of young people fell and youth employment rates declined during the 1980s and 1990s in Britain and other OECD countries (Blanchflower and Freeman 1996). Moreover there is some evidence that many younger employees perceive themselves as victims of age discrimination. For instance, a telephone survey of a 1,000 adults conducted by Gallup on behalf of Age Concern found that a quarter of people aged between 16 and 24 claimed to have experienced age discrimination in employment (Age Concern 1998).

The gerontological study of ageism has by no means ignored evidence of discrimination against younger persons. Bytheway (1995: 11) and Bytheway and Johnson (1990: 33) argue that ageist prejudice is based primarily upon presumptions about chronological age, that there is a common conceptual base in terms such as 'children', 'youth', the 'middle-aged' and 'elderly', and that parallels can be drawn between oppression of children and of people regarded as old. Negative stereotypes concerning older people are matched by similar ones that are applied to children, forms of prejudice sometimes labelled as 'adulthood' (Itzin 1986). It is only to be expected that vestiges of this will affect the employment opportunities of young adults, just as older employees experience forms of prejudice most apparent among those beyond retirement age.

### **The experiences and attitudes of younger people**

Despite this recognition that ageism can affect younger employees, there has been relatively little systematic investigation of the

perceptions of younger adults on matters relating to age and employment. Our research was motivated by this observation, and we sought information on three areas that we considered most relevant to policy formation. The objectives in these three areas were:

- to establish the extent to which younger adults experience ageism in employment, directly or indirectly, and to determine how salient the issue of ageism is among younger adults;
- to establish to what extent younger adults are themselves ageist in their attitudes and beliefs about older employees; and
- to explore the degree of cross-generational solidarity and inter-generational tensions in the attitudes of younger people.

#### *Fieldwork and sample*

To address these objectives, undergraduates studying Business Studies at the University of Edinburgh participated in a questionnaire survey in spring 1997. Questionnaires were distributed in lectures across each of the four years of the degree course. Participation was voluntary, but as far as could be determined, everyone present at the lectures agreed to complete a questionnaire. The resulting sample of 460 students constituted nearly 77 per cent of those registered for the degree. The respondents ranged in age from 17 to 29 years, with the majority aged either 19 or 20. The gender composition of the sample (55 per cent male and 45 per cent female), although slightly under-representative of females registered for the Business Studies degree course, was consistent across all four years.

As the aim was to investigate ageism in the work setting, students were asked to provide details of their past or current employment experience, *e.g.* during vacation and term-time, or in a 'gap' year. The vast majority of students (89 per cent) reported experience of at least one job, mainly in service sector industries, such as retailing and hotel and catering. Although there were no differences in relation to age or year of study, 95 per cent of female students reported employment experience compared to 85 per cent of their male counterparts ( $p < 0.001$ ). Table 2 illustrates the sex differences between the number of vacation and term-time jobs.

In investigating attitudes towards older workers, we included many of the items utilised by Lyon and Pollard (1997: 251–2) in their study of MBA students (Masters in Business Administration). These in turn had been adapted from an Institute of Personnel Management study of the attitudes of personnel managers (IPM 1993). The effects of age, year of study, gender and job experience on all the issues of interest

TABLE 2. Number of vacation and term-time jobs held, by sex

Number of jobs	Vacation jobs		Term-time jobs	
	Males %	Females %	Males %	Females %
0	23	13	66	53
1	37	35	28	36
2	17	28	6	10
3	14	14	—	—
4	9	10	—	—
Total (= 100%)	253	207	253	207

were investigated and, where appropriate, inter-relationships between the discriminator variables were also taken into account.

#### *Understanding and experience of ageism*

The first question the students were asked was simply what they understood by the term 'ageism'. This was a closed response question; the possible answers were:

- discrimination against *older* workers on account of their age
- discrimination against *young* workers on account of their age
- *any* form of age-based discrimination, *irrespective* of age.

The majority of respondents (82 per cent) indicated that they understood ageism to refer to *any* form of age-based discrimination. Seventeen per cent of students thought that ageism referred to discrimination against older workers only, while a mere one per cent felt the term referred to discrimination against young people.

Of the 410 students who had experience of working, some 35 per cent had experienced age-related discrimination (Table 3). Although some had received *more* favourable treatment because of their age, mainly in respect of attitudes or recruitment decisions, rather more had experienced *less* favourable treatment.

There were no significant differences between males and females or between the age groups in their experience of ageism. It is of interest to note that, although 48 students perceived they had been treated more favourably because of their age, nearly half of this group also claimed experience of having been treated less favourably. For example, those respondents who felt they had been given a job because they were young had found they were paid relatively low wages as a result of their age.

The respondents were also asked about other negative age-based

TABLE 3. *Students' experience of positive and negative age-related discrimination*

Type of discrimination	Examples of treatment	% of those with employment experience
<i>Positive</i>	Being given a job because they were young	12
<i>Negative</i>		29
– Attitudes	Seen as untrustworthy because of their youth	11
– Wage-related matters	Worked for a lower rate of pay	9
– Job deployment	Given less responsibility because they were young	7
Total (= 100%)		410

discrimination known to them. Sixty-four students (16 per cent) replied that they knew of co-workers who had experienced such discrimination, mainly in the areas of attitudes, wages and job deployment. Of these, 41 reported that their parents had encountered ageism, most notably in relation to recruitment decisions. For example, 15 respondents mentioned that their parents had come across age bars in advertisements when looking for jobs.

#### *Attitudes towards ageism legislation*

As an additional measure of the salience of age-based discrimination to these young people, they were asked if they were in favour of legislation to tackle ageism: over 86 per cent were, female students (92 per cent) more so than male (82 per cent) ( $p < 0.01$ ). Given their understanding of ageism, it is not surprising that 88 per cent of those in favour of legislation expressed a preference for legislation that would cover *all* employees. Nevertheless, seven per cent and five per cent respectively felt that older workers and young employees should be the sole focus of any legislative intervention.

Those in favour of legislation were also asked about the scope of such measures. As Table 4 shows, the most popular area covered attitudes and behaviour. Some of these respondents, however, were against legislation regarding dismissal, redundancy and recruitment practices.

A notable proportion (13.8 per cent) *disagreed* that anti-ageism legislation should be introduced. Most of these 63 students argued that ageism legislation would not work and that it would interfere with 'natural' labour market forces. The content of their responses ranged from general statements expressing the concern that 'legislation is

TABLE 4. Preference for scope of anti-ageism legislation

Area	%
Dismissal or redundancy	61
Recruitment	63
Training and promotion	65
Attitudes and behaviour	76
Wages and salaries	70
Total (= 100%)	397

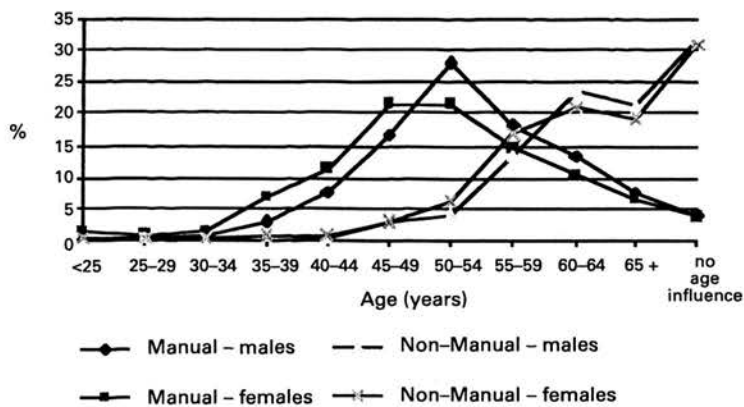


Figure 1. Perception of onset of decline in job performance.

costly to competitiveness', to more vigorous opposition: that legislation would be 'a petty extension of the nanny-mentality that is currently undermining the efficiency of the West'.

#### *Attitudes towards age and older workers*

In addressing the second of our objectives – the extent to which the students were ageist themselves – we focused first on one of the principal recurring debates, that of performance declining with age. The students were asked to indicate at what age they considered the performance of an employee might decline. The response categories were split into males and females employed in manual and non-manual occupations respectively. The answers obtained are profiled in Figure 1.



TABLE 5. *Difference in mean ages (years) of perceived decline in performance*

	Male employees	Female Employees	
Manual employees	52	48	< 0.001
Non-manual employees	64	60.5	< 0.05

TABLE 6. *Differences in mean ages of perceived decline in performance, by age and attitude towards anti-ageism legislation*

Attitude towards anti-ageism legislation	Age of respondent	Manual Employees		Non-manual employees	
		Males	Females	Males	Females
In favour	17-18	50	48	62	58
	19-20	52	49	64	58
	20-21	52	52	63	59
	22+	54	53	63	61
Against	17-18	52	49	63	58
	19-20	53	52	63	59
	20-21	55	54	64	62
	22+	64	60	64	64
ANOVA		< 0.05	< 0.01	NS	< 0.05

Overall 96 per cent of respondents believed that there is an age-related decline in performance of manual employees, while only 68 per cent thought this of non-manual employees ( $p < 0.001$ ). In the case of manual employees, most considered that this decline started around the ages of 45-54; whereas for non-manual employees the decline was thought to begin at 55 or later ages. Treating the data as interval in nature<sup>1</sup> revealed that the students perceived performance amongst female workers to begin to decline at a younger average age in both manual and non-manual categories (Table 5).

Analysis of variance (ANOVA) was subsequently conducted on these data to ascertain if and how perceptions of decline were affected by the characteristics of the respondents - gender, age, year of study, employment experience, and respondents' attitude towards and experience of ageism. The results can be seen in Table 6. With the exception of non-manual male employees, the age of respondent and whether or not the respondent was in favour of anti-discrimination legislation affected the pattern of responses. In general, compared with

TABLE 7. Students' attitudes towards older workers

	Agree	Unsure	Disagree
<i>Older workers:</i>		%	
Are better team workers	40	26	34
Have better interpersonal skills	28	29	43
Are more patient	34	26	40
Are more conscientious	28	27	45
Are more reliable	37	26	27
Are more committed	29	30	41
Are more mature	75	15	10
Have lower expectations	12	32	56
Are less flexible	40	27	33
Are less productive	9	26	65
Are prone to higher absenteeism	8	22	70
Are resistant to change	73	13	14
Are more difficult to train	57	21	22

those who were in favour of legislation, those not in favour felt that the performance of manual workers started to decline at a later age. This tendency was stronger amongst the older students, particularly those aged 22 and over. The only difference between male and female respondents' opinions was found to be in relation to non-manual female employees ( $p < 0.05$ ). The mean age indicated by male students (58 years) was significantly lower than the average of 61 years indicated by female students.

To measure further the respondents' attitudes towards older workers, a list of statements was presented (adapted from Lyon and Pollard 1997). This contains both positive and negative items and respondents were asked to indicate whether they agreed, disagreed or were 'unsure' (Table 7). Attitudes to employment-related attributes of older workers were extremely varied. For example, comparing three of the negative items, nearly three-quarters of the respondents agreed with the assertion that older workers were more resistant to change. In contrast, fewer than one in ten considered older employees to be less productive or prone to higher absenteeism.

In order to investigate whether there is an underlying pattern to the responses, we undertook a hierarchical cluster analysis (Hair *et al.* 1995). This reveals that the students can be split into two groupings regarding their attitudes towards older workers. Cluster 1, with 284 students, tended to be more opinionated, and more sympathetic to older workers, while the 166 in Cluster 2 tended either to have more negative views or, especially in relation to the more positive items, to choose the 'not sure' option. Thus, for example, while (as explained

TABLE 8. Students' attitudes towards older people

Statement	Agree	Unsure	Disagree
Working population is subsidising the elderly	56	23	21
Too much public expenditure is devoted to the elderly	10	28	62
Sometimes resent the affluence of the older generation	20	0	80
Willing to pay extra tax to improve State pensions	23	25	52
In best interests that more older people secure employment	22	46	32
Youth employment more important than employment of over 50s	53	17	30
Early retirement should be encouraged to improve job prospects for the young.	20	26	54
Employers should adhere to LIFO in redundancy decisions	18	23	59
Pay should increase automatically with length of service	47	19	34

above) most respondents agreed that older workers are more resistant to change, cross-tabulation revealed that 68 per cent of Cluster 1 agreed with this statement as opposed to 84 per cent of Cluster 2. In relation to a more positive item, 51 per cent of Cluster 1 agreed that older workers were more reliable. This compares with only 10 per cent of Cluster 2, the majority of whom stated that they were 'unsure'.

The two clusters were cross-tabulated with age, gender, year of study, employment experience, experience of ageism and whether or not the respondent was in favour of legislation to tackle ageism. The only variable significantly to differentiate between the two groups ( $p < 0.05$ ) was year of study. Cluster 1, the more opinionated group, was characterised by students in their earlier years (66 per cent of members were in their first or second years), whereas membership of Cluster 2 was higher amongst years 3 and 4 (these years accounted for 52 per cent of members).

#### *Intergenerational tension*

The third objective – to assess whether intergenerational tension exists from the point of view of young people – was explored through several further attitudinal questions. Unlike the previous set of items, which concerned older people in employment, the first four of these nine statements relate to the older population *in general*.

As can be seen from Tables 8 and 9, there was considerable variation

TABLE 9. *Students' attitudes towards older people: differences with gender and employment experience.*

Statement		Agree	Unsure	Disagree	p
Working population is subsidising the elderly	Has work experience	56	25	20	< .05
	No work experience	60	8	32	
Too much public expenditure is devoted to the elderly	Has work experience	8	29	63	< .001
	No work experience	26	18	56	< .05
	Male	12	33	56	
	Female	9	22	69	
Willing to pay extra tax to improve State pensions	Has work experience	23	26	51	< .05
	No work experience	23	10	67	< .05
	Male	23	20	57	
	Female	22	31	47	
Youth employment more important than employment of over 50s	Male	57	12	31	< .05
	Female	48	23	29	
Pay should increase automatically with length of service	Male	51	14	35	< .05
	Female	44	24	32	

in responses. It is therefore worth paying some attention to each item in turn, beginning with the more general statements. First, while a small majority agreed that today's 'working population is subsidising the elderly', rather more disagreed that 'too much public expenditure is devoted to elderly' as a discrete group. Those who had experience of at least one job were much less likely to disagree that 'the elderly' were being subsidised, and were significantly more likely than those who had not worked to be unsure of their response. Female students and students with experience of the labour market were significantly less likely to agree that 'too much public expenditure was devoted to the elderly'. This gender effect was particularly strong amongst those with experience of at least one job ( $p < 0.05$ ) – in this subgroup, only eight per cent of female students agreed with the statement.

The third general statement was also negative and responses revealed that only one-fifth resented the affluence of the older generation. This sentiment was consistent across the genders and ages, and was not affected by experience of employment. However, altruistic attitudes do have their limits: less than one-quarter of students agreed with the fourth statement: that they would be willing to pay extra tax to improve State pensions. Students with work experience were no more likely than their peers who had no job experience to agree with this proposition. Nevertheless, they were less likely to disagree, instead

preferring the opt-out category. Differences between the sexes were particularly apparent in the sub-group who had never worked – amongst these students, males (74 per cent) were almost twice as likely as females (40 per cent) to be reluctant to consider extra taxes ( $p < 0.05$ ).

Turning now to statements that related to employment policies (Table 8), while just over one-fifth of respondents considered that it was in their best interests that more older people secure employment, and a small majority (especially females) agreed that youth unemployment should be accorded a greater priority. Only one-fifth felt that early retirement should be encouraged as a means of improving job prospects for young people.

The students were also asked about two well-established, age-related employment practices. The first of these refers to one of the most common methods of selecting employees for redundancy, that of ‘last in, first out’ (LIFO). Nearly three-fifths of the students disagreed with this principle, while fewer than 20 per cent agreed. There were no differences according to gender or any other of the independent variables of interest. However, in relation to another well-established practice, that of pay automatically increasing with length of service, males were more likely than females to agree with this; female students being more likely to choose the ‘unsure’ category.

Finally, one further age-related attitudinal question was asked. The students were asked to indicate what ages they would prefer in their work colleagues. The majority (58 per cent) stated that they would prefer to work with a mixed age range; 23 per cent had no strong preference; and 17 per cent claimed they would rather work with people predominantly their own age. Only five students indicated that their choice would be to work with colleagues mainly older than themselves. These five responses were combined with the mixed age range category for further bivariate analysis. The results of this revealed that female students were more likely to prefer a mixed-age work team (65 per cent of females chose this option as opposed to only 55 per cent of males), whereas males were less likely to have a preference (28 per cent of males and only 17 per cent of females fell into this category) ( $p < 0.05$ ).

## **Discussion**

There was an overwhelming response from the students that the term ageism should refer to any form of age-based discrimination,

irrespective of age. As indicated in our introduction, this finding runs counter to the prevailing view of ageism, but is in line with the current evolution of the concept. One in three students with employment experience felt they had been subject to age discrimination in employment. It is interesting to find that this was not only in pay and conditions which, it might be argued, would reflect their labour market position rather than attitudinal prejudice. They also reported experience of negative behaviour towards them. Given this, it is perhaps not surprising that the majority were in favour of legislation to tackle ageism, particularly that which would challenge discriminatory attitudes and behaviour. It is interesting that the most common reason given by the minority of students who were not in favour of invoking legislation, was that this would interfere with labour market forces. It has been argued that, in the development of equal opportunities programmes during the 1980s, it was the commitment of the Conservative government to the free-market that led to the ascendancy of the business case strategy over enhanced legislation (Dickens 1998: 11).

#### **Are these young people ageist?**

The heterogeneity of responses to the various attitudinal measures poses some difficulty in interpreting these findings. There was certainly evidence of what might be described as ageist attitudes. This was especially noticeable in perceptions of an early decline in work performance amongst employees in manual roles and amongst women workers. These views secure little support from empirical work in this area (*e.g.* Snel and Cremer 1994). Our survey findings do support the notion that women are faced with the 'double jeopardy' of age and sex discrimination, at least in the perceptions of these students of an early decline in job performance. However, the analysis of perceived decline in performance also shows that those students who did not favour legislative intervention were less likely to assume an early decline. It could be argued that these individuals were *less* ageist than their colleagues who felt there was a need to 'protect' people whose performance they assumed would decline as they grew older.

The other finding of note was that, despite a narrow age range of respondents, age was a factor in how individuals responded to this question, with older respondents judging performance less pessimistically. Similarly a survey of personnel managers revealed that those

over the age of 40 exhibited less negative attitudes towards older employees than their younger counterparts (IPM 1993).

As a whole, the attitudes displayed are similar to other surveys conducted among managers and employers. Lyon and Pollard studied the age-related attitudes of MBA students (all of whom had managerial experience), and concluded that their respondents held fairly negative views towards older employees and older managers. In line with our findings, their students felt that older managers did not want to be trained, and were strongly resistant to change. They also exhibited the same ambivalence to the loyalty, commitment and reliability of older workers (Lyon and Pollard 1997: 251–2). There was some indication, however, that our students were rather more positive in relation to certain aspects. For example, a majority of Lyon and Pollard's respondents were inclined to believe that older managers work less well in teams, whereas 40 per cent of our sample thought that older employees were better suited than their younger counterparts to team working. Moreover, a majority of our respondents expressed a preference for working with colleagues of a mixed age range – not a sign of inherent ageism. An interesting finding from the cluster analysis of the attitudinal data was that negative attitudes towards older employees appeared to increase with time spent at university. This may be due, in part at least, to a loosening of links with their parents or to their socialisation into a student youth culture.

#### *Intergenerational tensions*

The findings provide little evidence of any significant degree of resentment towards older people. There was a strong perception that working people are subsidising elderly people, but no great feeling that this level of support should be reduced. Nor was it felt in general that the older generation had an unfair share of society's resources, though there was some resistance expressed to increasing taxation to improve state pensions.

With regard to the labour market, early exit can be perceived both as working for and against the interests of younger people. It may be viewed as enhancing the employment prospects of younger people, but at the same time it has the potential to adversely affect dependency ratios. This latter view was not strongly displayed: only one in five agreed that it was in their best interests that older people secure employment. Moreover, most respondents disagreed with the LIFO principle, and a majority agreed that tackling youth unemployment should be accorded greater priority than for those over 50. Nevertheless,

few agreed that early retirement should be encouraged as a means of improving job prospects for younger people. In relation to many of the attitudinal measures, female students and those who had some employment experience were less negative towards older people. The broad sentiment is that older people should receive no special favours, but neither should they be discriminated against.

Overall, the results show a degree of ambivalence on the part of these respondents towards older people, both within the sphere of employment and in general society. On the one hand, there is evidence of ageist attitudes. On the other, the students appear to hold more altruistic attitudes compared to practising managers. It is thus difficult to discern whether their manifestation of age-related discrimination confirms inherent ageism, or whether it merely reflects prejudice based on mistaken beliefs.

Inevitably, these are somewhat speculative and tentative conclusions. There are limits due to the usual deficiencies associated with questionnaire surveys. Also it is difficult to generalise from the respondents in this survey: they were selected from a narrow age range, socio-economic background, and in the main had had limited employment experience. Nevertheless, these young people represent the managers of the future, and as such, canvassing their opinions and attitudes is important in anticipating policy responses to age discrimination in employment. Lyon and Pollard used this argument, maintaining that age discrimination by the next generation of managers was '...crucial to the whole thesis that attitudes, and hence discriminatory behaviour, is better changed by persuasion than legislation' (1997: 249).

### Conclusions and policy implications

The focus upon employment in policy relating to ageism in Britain during the 1990s has been associated with both a *narrowing* of the concept of ageism, with the issue largely subsumed in business imperatives, and a *broadening* of the concept in terms of who is perceived to be affected. With respect to the former, it is now commonly held that age discrimination by employers is mostly irrational and self-defeating, thereby denying the presence or importance of 'rational' discrimination, or implicitly excluding this aspect from definitions. Moreover the distinction between 'rational' and 'irrational' discrimination is itself problematic, as irrational prejudice can clearly be exploited for economic gain. On this basis it may be argued that present policy



preoccupations, aimed at persuading employers *voluntarily* to reform their attitudes and practices with respect to age matters, are insufficient and unlikely to be proved effective.

Our empirical focus was upon the broadening of concerns with ageism, since younger people's experiences and perceptions of age discrimination have rarely been the subject of systematic investigation. That a significant portion of our sample perceived themselves as having encountered age discrimination in employment, is supportive of an inclusive, broad-brush, approach to tackling ageism in employment. This seems sounder on social equity grounds, allowing scope to challenge age discrimination that is clearly experienced by younger as well as older employees, and the diverse patterns of age discrimination affecting women. Such an approach would additionally be in tune with current trends in equal opportunities policy, and could also help foster understanding of the pervasive nature of ageism as an ideology that affects us all, whether as perpetrators or victims, and regardless of our age.

However, recent government policy has maintained an association between age discrimination and older employees, invariably justified by the assertion that older employees are those most seriously affected. Thus the DfEE consultation document, while acknowledging that ageism can affect the whole spectrum of employment, refers to a 'wide range of research' that mostly confirms 'that people aged 50 and over experience more difficulties than their younger counterparts' (DfEE 1998: para. 2.2). The same emphasis has been apparent in a series of Private Members' Bills in recent years, that have mostly sought to eliminate upper age bars in recruitment. This is also consistent with practice abroad: legislation against age discrimination, with but a few exceptions, has generally been confined to assisting older employees only (Moore *et al.* 1994).

The advantage of this focus may be thought to be the greater practicability of such initiatives, and the priority it affords to those employees considered to be most adversely affected. The downside is not only the exclusion of some 'deserving' cases but also the possibility of policy initiatives being perceived as being at the *expense* of excluded groups. The Government seems aware of this risk, commenting in the consultation document that: 'there is a thin line between trying to help people who are most likely to experience age discrimination in employment so that they have the same opportunities as others, and positively discriminating in their favour at the expense of others' (DfEE 1998: para. 2.13). Our own evidence suggests such caution is well-founded, given these students' experience and conceptions of ageism,

and their majority view that any legislative solution should be applied irrespective of age.

In some respects our empirical work provides grounds for optimism: those about to embark on careers in industry and management appear to have more enlightened attitudes on age issues than present incumbents. Our findings differ to some degree with those of Lyon and Pollard relating to management students who had already secured some managerial experience, and whose attitudes were less positive. Attitudes may become more negative however as students age and, with experience, gain increased exposure to employment and the discriminatory cultures of organisations.

In line with other recent findings (Wilkinson and Mulgan 1995: 113), our work reveals little firm evidence of intergenerational tensions or resentment towards older age groups; but negative stereotypes regarding older workers were by no means uncommon among our sample. It is not inconceivable that these may be further fuelled if current policy approaches are perceived as unjustifiably geared to the interests of older employees. This may build resentment and foster rather than tackle ageist attitudes in the longer term.

Government concern over age matters in employment is chiefly a by-product of macro-economic and welfare concerns rather than concern over ageism *per se*. Post-war experience demonstrates that the policy priority accorded to specific age groups in the labour market can quickly and dramatically change with events. Political and public concern over age discrimination is most evident when wider concerns coincide with those of the age lobby. This seems too fragile an alliance to allow a sustained, broad-based attack on ageism in employment that is unconstrained by current labour market, commercial and welfare pre-occupations, nor confined to particular age categories. It is rarely argued that efforts to tackle other forms of oppression such as sexism or racism should be similarly constrained. An elaborate, inclusive, anti-ageist strategy that on occasions challenges commercial imperatives and government priorities will encounter formidable opposition, but to do otherwise may prove self-defeating.

### **Acknowledgements**

The authors would like to thank the Department of Business Studies for its assistance with this project. Especial thanks are due to Dr Jake Ansell, and of course to the undergraduates who participated in the survey. The authors also gratefully acknowledge the helpful comments provided by the editor and by two anonymous referees.

## NOTE

- 1 It was necessary to assume that the category of 'performance uninfluenced by age' follows naturally at the upper end of the age categories. In addition, as the distributions for non-manual employees were positively skewed, they were subjected to a logarithmic transformation to attain an approximately normal distribution – a necessary criterion for t-tests (and subsequently the ANOVA procedure).

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Accepted 17 January 2000

*Address for correspondence:*

Wendy Loretto, Department of Business Studies and the Management School, The University of Edinburgh, William Robertson Building, 50 George Square, Edinburgh EH8 9JY.

## **PAPER 3**



# Industrial relations codes of practice: the 1999 Age Discrimination Code in context

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W. Loretto, C. Duncan and P.J. White

*The Management School, The University of Edinburgh, Scotland*

Received December 1999  
Revised December 1999  
Accepted January 2000

**Keywords** *Industrial relations, Codes of practice, Age discrimination, United Kingdom*

**Abstract** *Considers a neglected aspect of UK industrial relations. The effectiveness of earlier codes of practice is assessed according to various criteria: a thorough creative process; a high degree of consensus; and supporting institutions. These criteria are then used to gauge the potential impact of the 1999 Code on Age Diversity. The code's non-statutory basis is considered to have drawbacks which outweigh the merits. In consequence, it is contended that the code's impact is likely to be small.*

## Introduction

Since the early 1970s, there has been a marked extension of the publication and dissemination of industrial relations codes of practice in the UK. The publication of the Labour Government's Code of Practice for Age Diversity in Employment (DfEE, 1999) has renewed interest in codes of practice and their role in employee relations. This paper considers various aspects of the codes that have been produced over the years: the topics covered; the codes' statuses and intended functions; the methods by which the codes came to be finalised and applied; their varying influences and impacts; and a consideration of Labour's latest code, which, compared to its predecessors, was an entirely different type of employment-related code. In the light of the experience with previous codes (considered by Kahn *et al.* (1983), Weekes *et al.* (1975), and Willman and Gospel (1983)), the likely effects of the 1999 initiative for the current employee relations scene will be discussed[1].

## The corpus of codes

Statutory codes of practice for industrial relations in this country were first provided for in the Conservatives' Industrial Relations Act of 1971: within a year, the Department of Employment had produced an industrial relations code of practice, seeking to give advice on "good industrial relations practice".

When it won at the polls in 1974, the incoming Labour Government repealed the 1971 Act, and enabled the newly-established Advisory Conciliation and Arbitration Service (ACAS) to prepare fresh codes. Thus empowered under the Employment Protection Act 1975, the service oversaw the production of three codes of practice in short order. These dealt with: "Disciplinary Practice and Procedures in Employment", 1977; "Disclosure of Information to Trade Unions for Collective Bargaining Purposes", 1977 and "Time off for Trade Union Duties and Activities", 1978. All three have since been revised.

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Other state-sponsored bodies (again established under the Labour Government of 1974-79) were similarly authorised to issue codes of practice in their relevant employment areas, including the Commission for Racial Equality (CRE), the Equal Opportunities Commission (EOC), and the Health and Safety Commission (HSC)[2]. When the Conservatives won the election of 1979, they proceeded very quickly to build on Labour's platform. Under section three of the Employment Act 1980, the Secretary of State for Employment was empowered to issue codes of practice: two emerged before the year's end, relating respectively to "Closed Shop Agreements and Arrangements", and "Picketing". In 1990, another code appeared: the topic was that of "Industrial Action Balloting". The originator again was the Secretary of State, as it was in the case of the 1995 code, "Industrial Action Ballots and Notice to Employers". A Labour minister was similarly responsible for the 1999 code of practice for "Age Diversity in Employment".

EU-wide developments in codes have also become increasingly evident. Thus, in 1991, the European Commission issued recommendations on the protection of the dignity of women and men at work. Incorporated into the recommendations was a "Code of Practice on Measures to Combat Sexual Harassment". Five years later saw another European Commission code, on the "Implementation of Equal Pay for Work of Equal Value for Men and Women".

### **The status and functions of codes**

Until the 1999 code on age discrimination, all industrial relations codes have had statutory origins, in the sense that they were provided for in Acts of Parliament. They are, therefore, to be contrasted with such non-statutory, self-regulatory instruments as the Advertising Standards Authority's various codes (including one on advertising itself), or the Press Complaints Commission's Code of Practice.

Just as with any code, those in the industrial relations sphere have been intended to serve a range of objectives, some readily apparent and publicised, with others more difficult to discern. In common with the remit of ACAS itself the codes – certainly those of the mid- to late-1970s – had an avowed aim of furthering an "improvement" in industrial relations, in the spirit of the Employment Protection Act of 1975, as subsequently amended. One means of effecting such an outcome could be afforded by the provision of practical guidance to employers, employees and the unions. That guidance would in turn have been informed by any consultation that had preceded a code's publication.

The codes are also designed to clarify the law, and to prepare the parties for its application. In this respect, therefore, the codes can be viewed as affording guidance, not simply to those who might resort to the law, but to those lawyers and the rest who have the task of interpreting it.

Yet, from a legal standpoint, the codes have had an ambiguous status from the outset. They were not intended to have legal force, nor could anyone be

sued or prosecuted for failing to observe the terms of a code. However, equally from the outset, they were admissible in proceedings before such bodies as employment tribunals[3].

No such ambiguity could be said to attend the 1999 code: it was avowedly non-statutory in status, though that had not always been the plan among Labour politicians. Various back-benchers' Bills have been introduced over the years to tackle relatively narrow aspects of "age discrimination". Extracts from *Hansard* for the House of Commons are illustrative. For instance, in 1996, and for the "sixth time in 12 years" (Mark Robinson, 9 February 1996, col. 601), a Private Member's Bill was moved by David Winnick. The aim was to make it illegal for employers to specify upper age limits in employment recruitment advertisements, but the Bill lacked Conservative Government support and, notwithstanding the enactment of the Disability Discrimination Act in the previous year, the Government made clear its preference for a voluntary approach to age-related discrimination (col. 612).

From the Opposition benches, a Labour spokesman signalled the clear intent that an incoming Labour Government would "introduce comprehensive legislation to make age discrimination in employment illegal" (col. 618). However, Labour's 1997 manifesto was more muted, proclaiming that older people "in work would not be discriminated against because of their age": Labour would "seek to end unjustifiable discrimination, wherever it exist(ed)" (Labour Party, 1997).

Accordingly, by the time that a Labour back-bencher (Linda Perham) unsuccessfully tabled a Bill on 6 February 1998 (col. 1396), on similar lines to that of David Winnick's two years previously, the Labour Government had ruled out legislation. Instead, the Minister (Andrew Smith) said that there was a case for drawing up a code of practice on age discrimination (col. 1417).

Based on the premiss that, "in ten years' time . . . more than a quarter of the workforce would be aged over 50" (DfEE, 1999, Foreword, 2), the 1999 code sought to ensure that employers were not discriminating on grounds of age. The "employment cycle" was covered, from recruitment, through selection, promotion, training and development, and redundancy, to retirement. Incidents of best practice were proposed for each of the six elements.

The relative brevity of the code itself was accentuated by a booklet of *Guidance and Case Studies*, including practical examples drawn from a range of enterprises in the UK. Its brevity is somewhat surprising, given that it was a long time in the preparation, even discounting the earlier consultative phase. Employment Minister Andrew Smith announced on 13 August 1998 that the code would be published in the autumn. In the event, publication was delayed, but without explanation, until June 1999. A further source of surprise at its brevity lies in the code's attempted coverage of the entire employment cycle. This contrasts sharply with – say – the relatively larger Code on "Disclosure of Information", embracing a much narrower range of employment issues. An



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even sharper contrast is evident in the Commission for Racial Equality (CRE) Code of Practice on Race Relations (CRE, 1996), wherein very detailed guidance is given to employers, employees and the unions.

### Impact of the codes

There is a lack of empirical evidence on the operation of the various codes. Nevertheless, some attempt can be made, based on the little that we have. In any assessment of the workings of the codes, a distinction must be made between shorter and longer time scales. Weekes *et al.* (1975) scrutinised the 1971 Act, and associated code, in the early days: their fieldwork was carried out but two years at most after the Act came into force. The authors observed a "limited" use of the code by employment tribunals and the (then) National Industrial Relations Court (NIRC). Indeed, NIRC "became increasingly concerned to point out to the tribunals that the code was not the law and that in some circumstances its provisions should be ignored" (Weekes *et al.*, 1975, p. 179). Weekes *et al.* also claimed that the court took a similarly dismissive attitude to recommendations in the code that disciplinary procedures should be agreed with employee representatives: that was considered by the NIRC to be "a mere detail" (Weekes *et al.*, 1975, p. 179).

However, these conclusions were not wholly borne out. While the NIRC might indeed have taken that approach, other spheres of the judiciary clearly referred to the code. Starting with Sir John Donaldson (*Earl v. Slater and Wheeler (Airlyne) Ltd*, 1972), followed by Viscount Dilhorne in *Davis (W) and Sons Ltd v. Atkins*, 1977, the Lords reaffirmed the code's significance in *West Midland Co-operative Society Ltd v. Tipton*, in 1986. During Tipton's internal appeal, post-dismissal facts emerged which the employer discounted. The House of Lords ruled that a failure to adhere to a procedure prescribed in the "disciplinary" code could of itself make unfair a dismissal that would otherwise have been considered to be fair (*Industrial Cases Reports*, 1986). In other words, the code was now having a direct effect.

The law can have a potency even beyond its terms alone. A graphic example of this can be seen in the "Picketing" code, especially paragraph 31. It stated that "pickets and their organisers should ensure that in general the number of pickets does not exceed six at any entrance to a workplace, though frequently *a smaller number* will be appropriate" (code, 1980, italics added). As Kahn and her colleagues pointed out, the suggestion that pickets should be limited to six persons "rapidly entered the folk memory" (Kahn *et al.*, 1983, p. 90). This belief came to be held by managers and workers alike, yet there was nothing in the 1980 Act to support that belief. The police (*IRLR*, 1985, No. 99) and the judiciary (*IRLR*, 1985, No. 11; *IRLR*, 1986, No. 357) also came to accept the figure of six as more than mere persuasive guidance.

There is other evidence, albeit slight, about the effects of the "Time Off" code. An Industrial Relations Services survey in 1994 revealed that, of the 56 organisations which replied, 42 said that they "followed" the ACAS code. Five said that they did not, and were identified by name. However, there was no

interpretation of the term “followed” (closely?, loosely?, all aspects?), while the reasons for non-adherence among the five were not given (Industrial Relations Services (IRS), 1994, pp. 5-10).

The impact of the EU-wide Codes has also been tangible. For example, in a 1993 decision, the Employment Appeal Tribunal (EAT) drew on the 1991 EC Code of Practice on measures to combat sexual harassment (*Wardman v. Carpenter Farrer Partnership*, 1993, *IRLR*, p. 374).

Another part of the early evidence was that smaller firms especially were in ignorance about the 1972 code: many had not seen it, a large number had not heard of it, while many, if not most, small firms who were aware of the code considered it to be “irrelevant to their own situation” (CIR, 1974, p. 12). That copies of the code had to be purchased, and a particular effort was required to obtain a copy, tended to compound its inaccessibility.

For a more systematic approach to an evaluation of the effectiveness of codes of practice, the criteria proposed by Willman and Gospel (1983) repay scrutiny. The authors suggested that three elements could be used for assessment purposes. The method of production has to be thorough and open to consultation and modification; there has to be a high degree of consensus over the subject-matter of the code itself and of its terms; and supporting institutions have also to exist to ensure full application of the code.

#### *Creation*

As for the creation of the codes, this has varied widely. In some instances (e.g. the ACAS codes), a wide range of consultation with all interested parties seems to have been conducted. This point is explicitly made in Labour’s 1999 documents. After publishing a report on its consultation about employment and age discrimination in 1998, the Government “began working with some key employer and employee representative groups and interested groups to develop a draft code. Subsequently, we issued the draft for wider consultation and comment. Copies of the draft went to businesses, trades unions, organisations representing older people and individuals” (DfEE, Foreword, 1999, p. 2). In contrast, the creation of the 1980s codes was partial, in the sense that the unions refused to have any input into their construction.

#### *Consensus*

Similarly, the potential for consensus has varied widely. The unfair dismissal legislation was initiated by the Conservatives in the early 1970s, and then wholly taken over by Labour in 1974. The dismissal-related code could, therefore, be said to have received widespread acceptance among employers, employees, the unions, and ACAS itself. According to Willman and Gospel, however, a similar fate did not befall the “Disclosure” code. The “real problem” with that document was the absence of consensus about disclosure itself: “It is not universally held that disclosure *does* contribute to improved industrial relations” (Willman and Gospel, 1983, p. 81, italics in original).

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A palpable lack of consensus also attended the first two codes produced by the Conservatives in 1980. These aimed at highly potent symbols of a trade union strength that, in the eyes of the Tories, had run out of control: the closed shop, and picketing.

Just as scope for consensus over the picketing code was problematic, so it could be said to be with the 1999 Code on Age Diversity. First, it might be allowed that the phenomenon of age discrimination is perceived as a problem by employers, employees, and the unions. Specifically, they probably share a perception of age discrimination practices (e.g. in recruitment, deployment and dismissal), but there might be more disagreement over the subjects: is discrimination encountered especially by older workers, younger workers, or all workers?

The second potential area for lack of consensus could be that of the acceptance of the code as being the most effective means of tackling discrimination in employment. In addition to Labour Ministers, and their Tory opponents, a non-intrusive code is also likely to have found support among employers. An employer's point of view was well-expressed by Judith Evans, director of personnel at Sainsbury's, and the Institute of Personnel Development's vice-president for equal opportunities. She said that a voluntary code gave employers "the opportunity to get to grips with the issues involved without binding them with the sort of bureaucracy that follows in the wake of even the best legislation" (*People Management*, 5 February 1998).

Among the groups and organisations that might be expected to manifest more ambivalence to a code on the subject, UK trade unions could be said to be a prominent example. In a survey of nearly 40 trade unions (reported in Duncan *et al.*, 2000), it was revealed that only a minority of respondents tended towards the legal route in tackling age discrimination[4]. By far the larger group of responding trade unions urged approaches which accorded with the "non-statutory", suasive, tenor of the 1999 code. These approaches included the negotiation, and monitoring, of equal opportunities policies, as well as the furnishing of advice and guidelines to union activists on how to identify and tackle age discrimination. This view was typified by the response of the Royal College of Midwives: "... dependence on the law is a last resort. . . Determined negotiation of arrangements to introduce and monitor equal opportunities is essential".

At the other end of the spectrum, there are those who would consider a code to be a poor substitute for legislation. In the words of Sally Greengross, of Age Concern: "We will continue to press the government for legislation to outlaw. . . widespread discrimination which consigns so many valuable workers to the scrap heap" (*People Management*, 5 February, 1998).

#### *Supporting institutions*

Willman and Gospel's third criterion posited that supporting institutions had to be in place to ensure a full application of any code. The authors maintained that the unfair dismissal law and the "Disciplinary" code promoted and utilised the

institutions of employment tribunals. In contrast, according to Willman and Gospel, the disclosure legislation and the code created new rights but no new institutions to use and develop them.

One potentially significant institutional facet is that of the law. However, the assessment of UK law in the mid-1980s (that the law's protection relating to age discrimination was "minimal" and "inadvertent" (Buck and Fitzpatrick, 1986)) continues to apply today in the light of the non-statutory code of 1999. Given the absence of law, it follows that such "institutions as employment tribunals are unlikely to have a role in applying the code, although it is probable that narrow areas, such as that of selection for redundancy on grounds of age, might fall foul of other, non-age based, legislation, rather than the code itself (IDS, 1999, Brief 640, p. 2).

A range of "institutions" *qua* organisations were cited in the code. These included governmental/statal agencies (ACAS, Benefits Agency); labour market organisations (CBI, TUC); and age-related interest groups (Age Concern, Employers Forum on Age). The justification for their inclusion in the code was that they were sources for further information and advice, although attempts to encourage the application of the code (albeit in a voluntary setting) were likely to follow as the code came to be disseminated more widely.

It has been shown in this paper how the various codes from the late 1970s through to the mid-1990s were firmly rooted in associated legislation. (Indeed, such Tory codes as that on "Trade Union Ballots and Industrial Action", or "Picketing", were labelled as statutory codes.) By comparison, the unique feature of the 1999 code was its non-statutory form[5]. The absence of any explicit link with the law meant that the Labour Government had to advance entirely different justifications for the code than the need for law to be adhered to. "Good business practice" was therefore extolled, although a close examination of the code reveals a relative absence of prescriptive guidance on age, compared to the detail to be found in many of the predecessors. The "disciplinary" code is a rich case in point. One of the few attempts in the 1999 code to offer age-specific guidance was the notion that interviewing panels for job applicants should consist of a mix of ages.

The code could be said to be similarly narrow in its treatment of the potential merits or benefits of discrimination against older employees. As has been argued elsewhere (Loretto *et al.*, 2000), employers may wish to discriminate against older people on good business grounds. For example, older employees may be more expensive to employ, where their pay is based on seniority criteria. Looked at from this perspective, such discrimination is entirely rational.

Inconsistency seems to be another flaw in the code, when compared with the preceding consultative document. The code itself refers to a "proper" age balance, though no attempt is made even to begin such a definition. It is clear both here and in the consultative document that the Government's suggested approach is a neutral one, and certainly not one espousing positive

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discrimination. By contrast, when the code suggests that different media might be deployed to attract recruits from different ages, there is at least a hint of positive action in favour of certain age groups.

### Discussion and conclusions

The 1999 Code of Practice on "Age Diversity" has several implications for employers, and employee relations practitioners. Although slight in scale, the package gives advice about "good practice" over the entire employment cycle. There are other ways, too, in which employers are likely to be reassured by the code and the supporting documents. The case studies would serve to demonstrate how other employers had successfully addressed the issue of age discrimination. Reassurance would also come from an awareness that Labour had shifted from a plan for law when in opposition to a voluntary approach after May 1997: for the foreseeable future, employers do not have to fear statutory intervention.

There is encouragement, too, for a contemporary development that has attracted the attention of many managers: that of diversity in employment. It is of great significance that the term is embodied in the title of the code itself. The Government is keen to foster the idea that in a "modern competitive market, organisations need to ensure that they find the best person for the job" (DfEE, 1999, Foreword, 2). This notion has a wider resonance than the sphere of ageism alone: it has also been applied to the areas of gender, race and disability (Dickens, 1998).

There is another sense in which the code seeks to encourage an idea whose time has come. The voluntary development of the Employers Forum on Age is a reflection of a concern among many employers that the pendulum has swung too far: employers *en masse* seem now to be easing out older workers as a matter of course, without apparent regard for the contribution which those workers could continue to make until at least the state pension age.

The style of the code may help to overcome the small firm/large firm dichotomy which was noted by the CIR in the early 1970s, and which served as a bone of contention between the Conservative Government and ACAS in the 1980s (White, 1989). Any concern which smaller firms might have had about the relevance of the Code to their situations might have been eased by the small firms' experiences which were recounted among the 11 case studies accompanying the code. ADC Secure Limited (25 core staff) was mentioned for its recruitment policies; the selection policies of HCR (165 employees) were extolled; and Synergy Components Limited (37 employees) was considered to pursue an especially structured approach towards training and development. Unlike the 1972 code, that for 1999 has not had to be purchased; it was also widely available on the Internet.

Whether intentionally or otherwise, the code's framers might have conveyed the impression that its terms are more legalistic than they truly are. Employers may feel under some obligation to comply where the language of the tribunals is used. One example concerns the practice of advertising. "To make sure that

*they are not discriminating unfairly on grounds of age*, employers should think carefully about the wording of advertisements” (DfEE, 1999, Guidance and Case Studies, 3, italics added).

It must be acknowledged that the potential is great for extreme complexity (and therefore unworkability) in any age-related legislation. Employees of any age, not simply those older workers who appear to be the targets of the code, could be said to be susceptible to discrimination; evidence of alleged discrimination might be especially difficult to adduce; and there are doubts, even among the unions in the UK, whether there is sufficient enthusiasm for the statutory route.

Nevertheless, a Government that has set its face, at least for the time being, against law over age discrimination, when it has legislated in other spheres (e.g. the National Minimum Wage), runs the risk of appearing to deprioritise an issue which, by the Government’s own admission, is of great contemporary significance. Other Labour Government measures, notably the Working Time Regulations, are bearing down on employers simply because they have the force of law. That will help further to reduce the perceived salience of age discrimination in the workplace. In the words of a solicitor: “A voluntary code will be thrown in the bin” (*The Observer*, 13 June 1999). The development of the law by osmosis can also be powerful, as the Picketing Code has demonstrated. The unique nature of the 1999 code could also be said to contain the seeds of its own destruction. Contrasting with earlier models, it is more akin to the ACAS advisory “Discipline at Work” of 1988, brought in because there appeared to be no consensus about a revised code (White, 1989).

The Willman and Gospel criteria (creation, consensus, and supporting institutions) can be seen to give rise to various ambiguities and uncertainties in relation to the latest code. When viewed from these various perspectives, the question is not whether, but when, the law will eventually come in to tackle age discrimination in the UK.

#### Notes

1. More recent, apparently relevant studies have thrown no light on the topic of codes. Taking, as an example, the case of the 1980 code on the closed shop, there was no attempt by Dunn and Wright (1993) or by Wright (1996) to study its role and impact.
2. An example of developments here is that of the EOC. Its first venture into the field was in 1986, bearing the title “Code of Practice for the Elimination of Discrimination on the Grounds of Sex and Marriage and the Promotion of Equality of Opportunity in Employment”. Twelve years elapsed before the EOC’s next attempt, in the “Code of Practice on Equal Pay”.
3. Although industrial tribunals were re-titled as “employment tribunals” only in recent times (1998), we use the latter term throughout.
4. It should be borne in mind that the focus of the questions to the unions was on their own approaches to age-related matters. Such references to law and age discrimination as there were in the replies received were often no more than allusive.

5. The innovation has since been developed by Labour. In August 1999, a "non-statutory" code of practice was mooted on combating discrimination in the workplace on the grounds of sexual orientation (IDS, 1999, p. 19).

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## **PAPER 4**



# Ageism, early exit, and British trade unions

Colin Duncan, Wendy Loretto and  
Phil White

*Union responses to ageism and the early exit phenomenon are here examined, based on documentation received from some 40 British unions. Our results show that though age discrimination is now accorded some prominence in union agendas, policies towards exit are only partially informed by current conceptions of ageism.*

During the 1990s interest in age discrimination or 'ageism' emerged as an employment issue of some prominence in Britain, deriving mostly from concern over the declining participation of older workers in employment. Both Conservative and Labour Governments have acted to discourage such discrimination. Though rejecting legislative solutions, the Conservatives set up an *Advisory Forum on Older Workers* in 1992 to encourage employers to abandon age discrimination practices, a body that included representatives of employers, trade unions, the Equal Opportunities Commission, Age Concern and the (then) Institute of Personnel Management. Labour for its part, when in opposition, promised comprehensive legislation to outlaw age discrimination, but then performed a U-turn. Instead, the results of a consultation exercise conducted during 1997-98 (DfEE, 1998) led to a non-statutory Code of Practice to tackle age discrimination. There have also been initiatives on the part of employers. An *Employers Forum on Age* was launched in 1996 in conjunction with Age Concern, both as a networking organisation on age-related HR issues, and to promote 'wider recognition of the value to business of a balanced age mix in the workforce' ([www.efa.org.uk](http://www.efa.org.uk)). By March 2000 membership of the Forum had grown to some 150 leading employers, employing over two million people. The emergence of age discrimination as an employment issue is further demonstrated by data from the 1998 Workplace Employment Relations Survey which reported that some 40 per cent of the 3,000 workplaces surveyed had a formal, written, equal opportunities policy that included reference to age (Cully et al., 1998: 13).

Despite their position as key players in employment issues, and with some influ-

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□ Colin Duncan is Lecturer in Employment Relations at the Department of Business Studies and the Management School, University of Edinburgh. Wendy Loretto is Lecturer in Organisation Studies and Employment Relations and Phil White is Senior Lecturer in Employment Relations in the same Department.

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ence upon policy formation, the role of trade unions with respect to age matters has received little systematic attention, and it is this area that is our chief focus. We begin by tracing the origins of the concept of ageism, and explain its emergence as an employment issue by reference to the 'early exit' phenomenon that became apparent in Britain from the mid-1970s. Trade union policies and practices towards age matters in employment in post-war Britain are then discussed, including analysis of responses received from some forty trade unions to our request for information and documentary evidence.

## Ageism and employment

### The concept of ageism

Recognition of age discrimination as a significant phenomenon is relatively recent in Britain and elsewhere, and is related to developments in theorising about the material and social conditions of older people, especially challenges to 'disengagement theory' and similar perspectives that dominated the work of gerontologists in the 1950s and 1960s. These perspectives considered physical, psychological and social decline to be normal features of growing old, thereby entailing an inevitable, mutual disengagement between the older person and society (eg. Cummings and Henry, 1961). Such views were later challenged from a number of academic perspectives, which sought instead to portray more positive images of ageing, and promoted the view that the poor social and material conditions of the old owed more to prejudice and discrimination than to biological decline. The concept of 'structured dependency' was especially influential in this respect, promoting the idea that the social conditions and economic liberty of older people have been deliberately or unconsciously constricted by state policies and capitalist production processes (Walker, 1980; Townsend, 1981; Phillipson, 1982).

The origin of the term 'ageism' is usually attributed to Butler (1969), who later defined the term as 'a process of systematic stereotyping and discrimination against people because they are old, just as racism and sexism accomplish this for skin colour and gender' (Butler, 1987: 22). Outside academic gerontology and the concerns of the age lobby, however, the concept made little impact in Britain during the 1970s and 1980s. Indeed in 1980 Bytheway (1980) felt the need to defend ageism as more than 'just a joke', and even by the start of the 1990s it was described as 'an alien concept' (Laczko and Phillipson, 1991: 33) and 'the unrecognised discrimination' (McEwen, 1990). Its emergence as a public policy issue in the 1990s owed much to growing worries about the 'early exit' phenomenon in employment.

### Ageism in employment

The early exit trend refers to the reducing proportion of older workers employed during the years preceding their eligibility for a state pension. The term is used in preference to 'retirement' because it entails a variety of routes out of employment, including early retirement, voluntary redundancy, compulsory redundancy, dismissal and retirement on grounds of ill health, so that not all affected will regard themselves as retired. Even 'voluntary' early retirement can result from constrained choices that may affect self-perceptions of status. Return rates from work for those affected are very low. Analysis of panel data from the British Household Survey over the period 1990-96 showed that just 14 per cent of men aged 45-64 and 21 per cent of women aged 45-59 who were not in employment at the beginning of the period had subsequently secured employment (Campbell, 1999: 42). Accordingly, early exit in most cases proves permanent.

In Britain, the trend began in the mid-1970s and continued during the 1980s and 1990s, accelerating during recessionary periods. The result is illustrated in Table 1, which compares employment rates and economic activity rates in 1979 and 1997,

Table 1: *Employment and economic activity rates, 1979 and 1997*

	Men All	Men Aged 55–65	Women All	Women Aged 55–59
<b>Employment rate</b>				
1979	90.8	79.4	60.2	50.9
1997	80.6	58.3	68.9	50.4
Difference	-10.2	-21.2	+8.6	-0.5
<b>Economic activity rate</b>				
1979	95.1	83.2	64.0	53.1
1997	86.7	62.9	72.8	52.6
Difference	-8.4	-20.3	+8.8	-0.5

Source: Adapted from Campbell, N. (1999), *The Decline of Employment Among Older People in Britain*, CASE Paper 19 (London: Centre for Analysis of Social Exclusion, London School of Economics), p. 2.

using Labour Force Survey data. Economic activity rates differ from employment rates in including unemployed persons seeking employment. For older men, the fall in both employment and activity rates is much greater than for all men. Campbell estimates that about one-sixth of adult men of working age are 55–65, but they accounted for more than one-third of the fall in male employment. For older women, early exit is masked by an infusion of women into the labour market, though the figures do show that older women have not shared in this increase. Elsewhere, cohort analysis has shown that early exit is occurring among women also (Ginn and Arber, 1996).

Similar trends have occurred in almost all Western economies, and explanations have focused on the relative contributions of 'pull' and 'push' factors, the former assuming that early exit reflects social policies which create attractive exit routes, while the latter assumes that exit is driven by the evolution of the labour market and assigns a dominant role to employers. Push explanations now seem most favoured, as the phenomenon has been shown to occur even in countries with restrictive public welfare regimes such as the United States (Kohli and Rein, 1991: 9–10). From this viewpoint, social policy may facilitate or inhibit exit trends but does not represent the main driving force, with governments reacting to ease the course of exit rather than instigating the process. Moreover, institutional contributions to early exit, including state or company early retirement schemes and occupational pension arrangements, may themselves be motivated by push factors.

The key role of employers in driving exit is usually explained by the need to reduce headcount in conditions of overmanning, industrial restructuring and periodic recession. Organisational restructuring and delayering required by competitive pressures and technical change have also contributed, with early exit found to be almost as common in expanding firms and industries (Jacobs et al., 1991; Campbell, 1999: 39). The role of other actors in the labour market has been represented as one of 'co-operative antagonism' (Kohli and Rein, 1991: 15), with governments and trade unions contributing to the process of exit but attempting to shift the burden of costs to another party. The collusion of governments has reflected the perceived value of early exit (and deferred entry) as means of aggregate labour market management in controlling measured unemployment, collusion reinforced in Britain by some consensus since the 1960s that youth unemployment justified job sacrifice by older workers.

However, in the late 1980s, a House of Commons Inquiry noticed a 'dramatic shift of emphasis' regarding how older workers should be treated, with interest abruptly switching during the course of the inquiry from schemes to ease older workers into early retirement, to discussion on how to stem early exit (House of Commons, 1989:

para. 1). This was in a context of somewhat alarmist warnings about how projected shortages of young workers, together with an ageing population, constituted a 'demographic time-bomb', with worrying consequences for the dependency ratio and intergenerational conflict (eg. Johnson et al., 1989), consequences perceived as exacerbated by early exit. Thereafter, the targeting of older employees in exit processes increasingly became viewed as denoting ageism, with perspectives of the age lobby and academic gerontology providing a ready framework for governments and others keen to curb early exit. A changing pattern of early exit may also have contributed. Until the late 1980s/early 1990s recession, early exit had mostly affected manual workers (Laczko and Phillipson, 1991: 56), but thereafter began to impact significantly upon previously secure professional occupations. Between 1990-96 one of the largest groups exiting was occupational pension holders in the top half of the pay distribution (Campbell, 1999: 38). In reflecting compulsion and pressure as well as voluntary exit, this added a powerful middle-class note of dissent that helped shift the perception of early exit from a socially acceptable means of coping with structural change and mass unemployment to a phenomenon deriving from age prejudice.

This new perspective generated a flurry of well-publicised research during the 1990s on employers' attitudes and practices towards older workers, uncovering evidence that employers often embrace negative and inaccurate stereotypes about the qualities of older workers, thereby helping to explain discrimination in recruitment, promotion, and training as well as exit (eg. Tillsley, 1990; Trinder et al., 1992; Taylor and Walker, 1993, 1995). Semi-campaigning in tone, this body of work sought to persuade employers that such beliefs are mistaken, invariably citing in support a large body of industrial gerontological research, gathered over many years, that suggests that age is a poor proxy for performance (eg. Doering et al., 1983; Grimley Evans et al., 1992). Not only has it been argued that discrimination against older workers is irrational but also that it can be damaging to business, with Taylor and Walker (1995) among others promoting a 'business case against ageism'. Adverse commercial consequences of ageism are argued to include: a restricted recruitment pool; a poor return on investment in human capital; loss of experience, skills and 'corporate memory'; sub-optimum balance between youth and maturity; and an inappropriate age balance at the customer interface, given the greying of the population. That employers have taken much of this thinking on board is suggested by the launch and growing membership of the Employers Forum on Age.

Others have questioned the extent to which early exit can be attributed to irrational prejudice on the part of employers, presenting the phenomenon instead as representing some *shift from* age-related criteria in determining exit, with functionality and cost considerations, rather than retirement age, determining who goes and who stays. Even if personal productivity is maintained as employees age, it has been pointed out that older employees generally receive higher pay and can also enjoy a range of other seniority prerogatives that can render them more costly, less flexible, and less amenable to management control, so that when job reductions are required it can be quite rational to focus upon them (Standing, 1986; Kohli and Rein, 1991: 15-17; Duncan, 2000). The notion of structured dependency has also been challenged, a concept upon which both conceptions of ageism and its presumed linked to early exit seem heavily dependent. Johnson (1989), for instance, challenges the conspiratorial assumptions of structured dependency perspectives, including the beliefs that independence can only be a function of employment, and that retirement is invariably imposed against the wishes and interests of individuals. Similarly, King and Stearns (1981) question the assumption often made by gerontologists that older people invariably prefer and are capable of continued work, attributing this partly to the fact that these authors are usually work enthusiasts themselves who find it difficult to imagine a satisfactory life divorced from employment.

One further feature of ageism in employment that requires comment is a loosening in recent years of the association of the term with older employees, as evidence mounts that age discrimination in the labour market can be experienced over a wide age range. For white-collar posts especially, upper age bars in recruitment are often

set as low as 30 (Tillsley, 1990: 9), and training and promotion opportunities tend to diminish rapidly after 40 (Trinder et al., 1992: 32). There is also a notion among employers of 'prime age labour' that is favoured relative to *both* older and younger employees, and self-reported experiences of age discrimination among young people are now emerging (Age Concern, 1998; Loretto et al., 2000). Moreover, case studies by Itzin and Phillipson (1993) among English local authorities revealed that women tend to experience age discrimination at almost every age, reflecting the 'double jeopardy' of age and gender; the impression was conveyed to them by line management that 'women are never the right age' (p. 45).

### Trade unions and age

From enforced dependency perspectives, British trade unions have acquired a reputation as having colluded in age discrimination. This derives from their role in negotiating a 'retirement condition' into the National Insurance pension in 1949; from their lacklustre response to efforts aimed at encouraging greater employment participation by older workers in the post-war years of labour shortages; and from their apparent collusion in early exit processes from the mid-1970s.

The retirement condition made the award of a pension conditional upon retirement from employment, and operated for some 40 years until October 1989, when the earnings rule and the condition were abolished. For Walker (1990: 61), it constituted 'the main wellspring for widespread discrimination of older people' by devaluing their economic role. Beveridge was initially opposed to a retirement condition, refusing to believe that older people leaving the labour market would create fresh jobs, but was pressured by the TUC General Council, 'the most vehement of the groups' who gave evidence on this point to the Beveridge Committee (Macnicol and Blaikie, 1989: 35). The TUC insisted that pensioners should make room for younger workers, and that retirement should be a time of genuine leisure on adequate pension as a reward for a lifetime's work. The conditions governing the pension did allow postponement of retirement and a higher pension to those who stayed at work, and Beveridge intended that this would encourage working beyond pensionable age. However, employees could not insist upon this, with control of retirement entirely in the hands of employers. Macnicol and Blaikie (1989: 37-38) detect a strategic dimension to 'the curious 'complicity' of the labour movement in demanding a measure that was to confirm the economic uselessness of old people':

TUC leaders were trapped within constraints not of their making. If they were both to preserve a measure of control over the wage structure in a capitalist economy and to win adequate state pensions for their members, then a retirement condition was inevitable. . . . Older workers were a highly vulnerable section of the work-force, and could offer little resistance to wage cuts. To protect its younger members the TUC had to sacrifice the economic freedom of working pensioners, while through Beveridge's rationalizing, the state retained a flexible reserve army of labour in the younger elderly.

Trade unions largely maintained this policy stance during the post-war period to the early 1960s, a period when considerable efforts by others were made to increase the participation of older workers. Apart from post-war labour shortages, such efforts reflected conditions remarkably similar to present ones, with worries over demographic imbalance, and the dependency ratio reaching a level judged to warrant government intervention. Earlier retirement combined with adequate pensions remained as key union objectives during this period, on grounds that the health of many manual workers had been destroyed by their employment, and that all workers had a right to a period of adequately financed leisure in later life. There remained also a fear of unemployment and the view that it could be prevented by early retirement. Unions were also concerned that retention of older workers could block promotion and thus the wage increments of the young. Accordingly, in 1957, TUC representatives on the Phillips Committee issued a minority report opposing the Committee's recommendation to *raise* the minimum pension age, and reaffirmed

support for the retirement condition for fear that employers would treat pensions as a subsidy for wages (Harper and Thane, 1989: 49).

Harper and Thane judge trade union influence upon government and employers during this period as 'highly significant' in undermining efforts to promote the employment of older workers, as does Laslett (1989: 25):

But the trade unions were never converted: they went on insisting that older workers had earned their right to retire as soon as possible, and that a job released by an older man was a job gained by a younger one, or at least it brought about higher wages for all because early retirement tightened the labour supply. There is no sign whatsoever that the ideology of ageism ... was touched at all by this campaign, which simply failed.

From such perspectives, union policies toward state retirement have not only embraced ageist assumptions but also have proved highly significant in fostering current ageism, given the presumption of economic inactivity as the chief source of prejudice. Against this is the view that unions had little option if the interests of the wider membership were to be protected. Moreover, the proposition that adequately funded retirement at the earliest date closely matched older workers' own aspirations and interests—a 'reward for work' and valued benefit rather than a form of economic marginalisation—cannot be lightly dismissed.

By the 1960s the concept of retirement had become firmly established, and this decade also saw abrupt cessation of official concern over the employment participation of older workers. This reflected new concerns over poor productivity and overmanning, together with entry into the labour market of post-war baby-boomers. Reinforced by rising levels of unemployment in the 1970s there was hardening of attitudes among trade unions and employers too that older workers should be encouraged to leave the labour force through facilitating measures. One result was the Redundancy Payments Act 1965 which provided lump sum payments to redundant workers based upon length of service. The Job Release Scheme that operated between 1977–88 also facilitated early retirement of specific categories of older workers on condition that jobs were filled by unemployed job seekers. Union evidence to a Commons Committee on retirement matters in 1982 (House of Commons, 1982) revealed that union thinking had changed little since the 1940s, at least at TUC level and among the predominantly manual unions that gave evidence. There was cautious endorsement of early retirement as a means of relieving youth unemployment, and a separate demand for a common retirement age of 60 coupled with a substantial increase in state pensions. The reduced life expectancy of manual workers arising from harsh working conditions was cited in support, with the (then) GMWU observing that among their thermal insulation engineers, the average age of death from occupational causes was 54. This was against a virtual consensus in other submissions, including from industry and the age lobby, for a flexible retirement system, possibly on a reduced pension.

Perhaps as a sign of the times, a later Commons Employment Committee Inquiry in 1989 into the employment patterns of older workers had no union input (House of Commons, 1989). However, during the 1990s the TUC maintained pressure for an earlier pension age by co-ordinating a vigorous campaign in favour of the equalisation of state pensions at 60.

Given these positions towards the state pension, trade unions were clearly predisposed to participation in early exit processes, though little information exists on the detail of that participation, either during the period of consensus over early exit in the 1970s and 1980s, or during the 1990s when the issue of ageism took root. At the level of the TUC, recent discussion on age matters has instead been dominated by concerns over the skewed age profile of union membership, and the implications for longer-term survival. In 1997 just 6 per cent of employees under the age of 20 belonged to a union, and 21 per cent between ages 20–29, compared with at least one third of those aged 30 or more (Cully and Woodland, 1998). Even more worrying for unions is evidence that higher density among older workers reflects different attitudes to trade unions across age-based cohorts, rather than a changing predis-

position to unionism as workers age (Disney et al., 1998). Accordingly, TUC policy has focused upon devising recruitment strategies that target young employees and developing policies that better cater for their needs through the New Unionism campaign, the TUC Organising Academy, the appointment in 1997 of a Youth Officer and other initiatives. Justifying such initiatives at the 1997 Congress, Tony Burke of the General Council spoke of 'a lost generation of union activists' and the perception of unions among the young as 'male, middle-aged and boring' (TUC Annual Report, 1997: 47).

There has, however, been some concern over ageism in the traditional sense at TUC level where unions representing non-manual workers have seemed most concerned. The first motion on age discrimination against older workers was carried at the 1994 Congress, moved by STE<sup>1</sup> and supported by NATFHE and the Banking Insurance and Finance Union (TUC Annual Report, 1994: 408–10). In 1995 the TUC published Guidance Notes on age discrimination as it affects older employees (TUC, 1995). A further composite motion on 'Rights at Work' at the 1996 Congress included a clause, inserted at the instigation of PTC, for 'the introduction of legislation prohibiting discrimination on grounds of age, particularly in recruitment, training, promotion and redundancy schemes, and a code of practice on ageism' (TUC Annual Report, 1996: 31).

Systematic evidence of individual union responses to age matters is however scarce and for Britain, seems confined to the work of Tillsley (1990: 18) who conducted a postal survey in 1990 of the twelve largest unions on their policies towards age discrimination. Just seven replied, and only two unions, EETPU and MSF, had taken any positive measures to counter age prejudice, leading to the conclusion that little serious attention had been devoted to this issue among unions. However this survey was undertaken prior to the issue of ageism achieving some prominence.

## Union Policy in the 1990s

### Methodology

During the first half of 1997, letters were sent to 92 trade unions whose addresses were listed in the *New Statesman* 1997 Trade Union Guide. During the year reminders were sent to non-respondents. Comment and copies of documentation were requested on two broad areas:

- (i) whether the union had discussed the topic of age, ageism and employment at any of its conferences since 1990. Copies of any resolutions proposed, debated or adopted were requested:
- (ii) whether the issue of early retirement among members had been discussed at conferences since 1990. Again copies of resolutions proposed and debated were requested.

Copies of any other literature produced on these topics (eg. in the form of leaflets, guidance to negotiators, investigatory bodies etc) were also requested.

Over 40 replies were received, with 39 usable responses, representing a usable response rate of 42 per cent, which accounted for some 80 per cent of total union membership in 1996. It cannot be assumed that failure to respond denoted a nil response: several unions sent holding letters indicating that these issues were of importance to the union, and promising more information at a later date, though little subsequently materialised; some others indicated that the material was too voluminous and costly to collate. Just four unions (EQUITY, LGU, NGSU, UDM) returned a nil response, indicating that neither ageism nor retirement questions were significant issues for the union. This was somewhat surprising in the case of the two finance unions, given recent exit trends in this sector.

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<sup>1</sup> See Appendix 1 for list of union acronyms used.

We decided to elicit our data by letter rather than questionnaire, partly because of the exploratory nature of the research, but also because the overall response rate to a questionnaire would probably have been lower. There were, however, some limitations to our approach. Though we received a massive amount of material from unions, as this was self-selected, it was difficult on occasions to judge where the union stood on certain key issues. Some unions, for instance, reported support for legislation to tackle age discrimination, while others failed to mention the union position on legislation. In other matters too there was great variation in the volume and detail of information sent. Accordingly, our attempt to discern broad patterns in, and to classify, responses entailed some element of judgement.

### **Salience and conceptions of ageism**

Scrutiny of the material sent revealed that for many unions, ageism or age discrimination (terms often used interchangeably in responses) had become recognised as a distinct employment issue requiring a union policy response. Several unions sent details of motions put to national conferences on the issue. Other material included discussion documents on ageism, and advice and guidelines to negotiators on how to identify and tackle the problem. The most common approach advocated was to combat ageism through the negotiation and monitoring of equal opportunities policies (EOPs). Though no specific question was asked regarding the role of legislation, nine unions indicated that they favoured a legislative solution (ATL; EMA; GMB; MSF; NACO; NATFE; PTC; STE; TGWU). Several unions had also made recent changes to their rule-books or 'Objects' to incorporate age discrimination as an additional prejudice to be challenged. Responses revealed varying priority accorded to ageism among those unions that recognised it as an employment issue meriting attention. Some unions had clearly devoted considerable thought to ageism and how it might be best tackled, while others were either at the early stages of formulating policies or were treating the issue as relevant but somewhat marginal, with policy sometimes confined simply to tagging on 'age' to the list of prejudices to be tackled via EOPs. Though responses were difficult to classify, we judged ageism to be of most salience to: ATL; AUT; CPSA; GMB; KFAT; MSF; MU; NACO; NATFHE; PTC; STE; UNIFI; and UNISON. The issue was of some, but lesser, significance to: BMA; EMA; GPMU; IUHS; NASUWT; RCM; SOR; TGWU; and WISA. In total, therefore, 22 trade unions, a little more than half of all responses received, recognised ageism as an employment issue requiring at least some response.

Among these 22 unions, concern was overwhelmingly with age discrimination as it affected older employees, though it was usually acknowledged that age discrimination sometimes affected younger groups. Two unions (NACO and PTC) seemed equally concerned with discrimination against both 'old' and 'young' employees, and a further two (GPMU and KFAT) focused exclusively on younger workers. The GPMU held its first ever Young Members Conference in 1996, from which a policy on ageism was requested as it affected young workers, on issues such as unfair work allocation. KFAT was concerned to end adult and age-related pay scales and grades, which were considered unjustified in terms of job content and performance, the apparent worry being that continuing discrimination in this area could discourage young people from entering and rejuvenating an industry in decline. The AUT was the only union that linked age and gender issues in a prominent fashion. It was suggested that women, as a more vulnerable section of the academic workforce, were likely to be put under greater pressure to retire early. Union documentation also cross-referenced age with issues such as stress and harassment.

For the remaining 17 unions returning usable replies (AMO; ASLEF; BDA; CWU; EIS; EQUITY; HCSA; LGU; NAHT; NGSU; NUT; NWSU; PAT; PFA; UDM; URTU; WGGB) the issue of ageism was reported as of little relevance to union activity and employment conditions. Some unions were, however, concerned about ways in which employment conditions impacted adversely upon particular age groups, though the sources of, and solutions to, such problems were not viewed primarily



from the perspective of age prejudice. For instance a survey of job conditions among professional lorry drivers, conducted by URTU in 1995, found that the average working week of drivers was 62 hours, 15 more than the average for all males in Britain. Indeed there were twice as many drivers working 80 hours than 40 hours per week. Accordingly, it was estimated that drivers will have worked as many hours by the time they reach age 45 as most people work between leaving school and retirement. Such conditions, along with mandatory health checks for LGV drivers after age 45, had contributed to an exodus of older drivers from the industry. Only two per cent of the survey sample were aged over 60, though there is no provision in the industry for early retirement. In addition, younger drivers under 25 have tended to be excluded from the bigger companies on grounds of greater insurance costs and lack of experience, and forced instead to gain experience (but of the 'wrong sort') with 'rogue' employers under inferior working conditions. Such age effects were attributed to cut-throat competition, law-breaking and absence of effective regulation in the industry, rather than to direct age prejudice.

### **Exit, retirement and occupational pensions**

British unions currently play little direct role in pension provision. At December 1998, just 12 unions operated superannuation schemes for their members, and in only four schemes were assets in excess of £250,000 (Certification Officer, 1999: 20). Rather, the main focus has been upon influencing the terms of occupational pensions provided by employers in the context of early retirement provision. The stakeholder pensions initiative may, however, promote greater direct involvement, and at least one union (AEEU) has recently launched a stakeholder scheme for members, in partnership with Friends Provident.

In contrast to union policy towards state pension age, there is no obvious advantage to unions or their members in having a low contractual retirement age, especially if independent of the terms of a company pension scheme. As members' preferences and circumstances will vary, unions have sought instead to retain some element of choice and flexibility in retirement matters. MSF, for instance, a union with a most diverse membership, indicated its preference for a flexible retirement age between 55 and 65, with access to a partial pension scheme in conjunction with the right to work part-time. There were, however, significant differences in emphasis in the documentation we received, with some unions more concerned with challenging various manifestations of early exit, while others were chiefly preoccupied with defending and improving early retirement deals or even promoting early retirement among older workers. This reflected the diverse circumstances and challenges facing unions in different sectors, and also the preferences of different occupational groups with respect to retirement.

Unions that seemed especially concerned to challenge manifestations of early exit included: AUT; EMA; CPSA; GMB MSF; MU; NACO; NATFHE; PTC; STE; UNiFI; and UNISON. It may be noted that this set of unions corresponds closely to those listed earlier for whom the issue of ageism had most salience. Among practices challenged were focus on older workers in redundancy situations, compulsory early retirement, pressure to retire early, and enforced retirement below state pension age. Union activity ranged from statements of intent or negotiating positions regarding protection of older workers, to more active intervention. For instance, both UNISON and MSF cited cases where the unions had successfully challenged redundancy and enforced early retirement as unfair dismissal. The civil service unions (CPSA, PTC) detailed their forceful (but largely unsuccessful) campaign of opposition to enforced retirement at 60, a policy introduced in the mid-1990s in a context of cuts in departmental and agency budgets and attempts to reduce overall civil service employment. The unions argued this could result in gross financial hardship for members who had made long-term plans on the basis of retiring at 65, and pointed out that enforced retirement at 60 contravened advice given by the Employment Services Agency to other employers on why they should employ older people. Higher and further

education unions (AUT, NATFHE) were concerned to monitor and resist any pressure on their members to retire early, in view of the standard letter often received by lecturers upon reaching 50, asking them to consider early retirement. In banking, UNIFI claimed some successes in preventing compulsory redundancies, and reported efforts to stem the flow of job losses and early retirements in negotiations with Barclays.

Approximately half of our respondents also referred to the union's role in negotiating or defending early retirement arrangements. Though this approach was less common for manual workers, where occupational pensions rarely provide sufficient income to retire early, there were some examples. For instance, a motion at the 1997 ASLEF Conference instructed the EC to seek full pension rights at age 55 for members in London Underground Ltd. Also featuring here were some of the unions mentioned above who were keenest to resist pressures to exclude older workers from the labour force, and on occasions these two strands of policy were perceived as possibly conflicting. As NATFHE pointed out in 1995:

Dealing with pressure for early retirement is a difficult issue for trade unions, because we would not want to discourage early retirement packages which some members may really welcome ... It is important to strike the right balance between setting good early retirement packages for those who want them while not allowing an atmosphere to develop where people are under pressure to take early retirement.

Such concerns were less apparent among some other unions, which seemed to consider early exit on good terms as the *preferred* option. This was especially apparent among unions representing schoolteachers; of the seven teacher unions that supplied information, only ATL and NUSUWT reported tentative initiatives against age discrimination affecting older employees. By contrast, the General Secretary of PAT observed that 'the real problems facing the profession are that the teaching force is ageing and there are not enough young teachers coming forward'.

Replies from teachers' unions chiefly detailed their virulent opposition to measures planned by the Conservatives to stem early exit from the profession. These included transferring a significant part of the costs of early retirement from the Teachers Pension Scheme (ie. the Treasury) to Local Education Authorities, schools and colleges. The DfEE had anticipated that shifting costs to employers would act to reduce early retirement to about 55 per cent of mid-1990s levels by 1999/2000. Criteria governing ill-health retirements were also to be made more stringent. The Government's motivation was partly cost-savings, partly a response to debt problems facing the pension scheme, but chiefly reflected worries about worsening teacher shortages. Over two-thirds of teachers were over 40 and these steps were argued as vital to reduce future loss through early retirement of the most experienced, high quality teachers.

In opposing the changes, unions marshalled a number of arguments. Difficulties regarding the funding of the pension scheme were attributed to Treasury mismanagement. Moreover, the exodus from the profession was attributed, not to the generosity of early retirement provisions, but to inadequate resources and mounting demands upon teachers, resulting in stress and 'burnout'. Restricting early retirement would also increase costs and reduce efficiency in the longer term: employers would no longer be able to ease budget pressures by releasing older teachers and employing younger staff on lower salaries, and would be left to manage an increasingly demotivated and inefficient workforce. There were also broader concerns about the implications for the age structure of the profession, which the early retirement arrangements, first introduced in 1977, were designed to address. As a NAHT campaign document argued:

There is an urgent need to recruit well-qualified young teachers in order to improve the age profile of the profession ... Young teachers cannot be recruited in significant numbers unless older teachers are allowed to retire. It is likely that the profession will be perceived as even less attractive when young entrants realise that they have reduced promotion prospects and are obliged to remain in teaching until age 60.

While such arguments could be construed as ageist, any such assessment needs tempered in the knowledge that early retirement seemed hugely popular and had become the norm in the profession by the 1990s: there was a flood of applications to try to beat the deadline for the changed regulations; and an extremely well-supported and co-ordinated campaign of resistance to the measures was mounted by the unions, including threats of industrial action and a lobby of Parliament in January 1997. In addition to sensitivity to the preferences of members, union action was also influenced by concern that employers would be forced to resort to compulsory redundancies to reduce labour costs and rid themselves of 'burnt-out' staff. However, union actions simply delayed implementation of the changes, which became effective from September 1997.

In Health, unions representing doctors and dentists have also been active in negotiating good early retirement deals for their members. In the case of salaried doctors there are a variety of circumstances under which enhanced pensions, redundancy payments and early pensions without actuarial reduction, become available after the age of 50, though mostly at the discretion of employers. Late retirement is also catered for. If doctors continue employment after 65 they can continue in the NHS pension scheme up to the age of 70, though contributions must cease after 45 years' service. Until 1995, rather generous pension conditions encouraged post-retirement working among GPs, who could avail themselves of '24-hour retirement'. By doing so, they were able to obtain a lump-sum, receive salary at the same level as before and become members once again of the pension scheme. Against union opposition the Government reduced post-retirement opportunities for GPs, by abolishing the 24-hour break, and requiring that GPs could only return to work at reduced workload and salary.

In contrast to teachers' unions, however, doctors' unions have not promoted early exit, but instead have shown some concern over recent trends. The HCSA argued that early retirement by consultants constituted a 'grave loss to the NHS', pointing out that though the standard contractual retirement age is 65, most consultants consider 60 as the norm. This was attributed to low morale and the stresses of the job: 'The strenuous on-call that was carried out in one's thirties and forties is not so easy to do when in your late fifties and sixties and still carry out your normal daytime routines'. This union proposed as a solution a system of seniority payments to those over 55, with increments to the age of 65, together with some form of 'biological contract' which reduces the commitments of those aged over 55.

The BDA reported a five-year pilot early retirement scheme for dentists over 55, introduced by the Government in 1990 as a 'sweetener' to a New Contract introduced in the General Dental Services. This allowed a quota of dentists to retire on rather generous terms. Pensions would be enhanced up to a maximum of ten years, but employment in the NHS thereafter could only be with another dentist, at lower pay than prior to retirement. The scheme became over-subscribed, with many more applicants than the Department of Employment was willing to accept. It was ended in 1996/97, and efforts by the BDA to have it reinstated were unsuccessful. An interesting feature of the BDA reply was their belief that because of the manual nature of the job, the dexterity and hence performance of dentists decline with age. The union produced in support age-earnings data which indicated a marked decline in income/performance after the age of 50.

## Conclusions

Trade union policy towards age matters has taken directions that have been construed as ageist. However, a rationality is displayed that clearly extends beyond age prejudice, and indeed that challenges in several respects current conceptions of ageism guided by enforced dependency perspectives.

Four elements have characterised union policy towards state pension age for much of the post-war period, at least with respect to manual workers. First, retirement seems conceived not so much as enforced dependency by the state, but rather a *release*

from dependence upon employment. Second, is the associated notion of retirement as a reward for work—a positive right to be fought for at the earliest age, given the perceived impact of work on health and life expectancy. Third is cautious endorsement of the view that early retirement can enhance job prospects and conditions for younger workers. Fourth has been an insistence until recently upon the retirement condition, based upon fears that employers may treat pensions as a subsidy for wages, thereby depressing wages generally and possibly even more so for workers nearing retirement. There may also be a strategic dimension to long-standing union efforts to reduce the state pension age. As Kohli and Rein (1991: 18) observed:

It is more advantageous for the workers to have it remain low, so that if the employers really need them, they have to make appropriate offers (in terms of income and attractive work places and working conditions). Where the limit is raised—the control shifts more to the employers; they can still shed their older workers—if they do not need them, but to the extent that they do need them, they have no difficulties (and no additional costs) in retaining them.

Our survey of individual union responses shows that these elements in union thinking persisted into the 1990s, though policy towards early exit was more variable, depending upon the particular circumstances and conditions facing members. The concept of ageism seems only to have been only partially endorsed by the trade union movement, with the issue of greatest salience in unions whose members have encountered pressures to exit early against their wishes, but less so among unions whose older members have clearly valued early retirement on secure financial terms. What is clear is that the role of individual preference in determining early exit should not be underrated: providing conditions permit, the desire to retire early is not confined to manual employees but is equally evident among professional occupations. Indeed, MSF conducted a survey among 420 workplace representatives in 1994, which found that 74 per cent of employees wanted to retire before age 60, and 20 per cent at age 60, with only 2 per cent wanting to retire at 65. Current depictions of employers as invariably the driving force behind early exit may therefore require qualification, at least as far as some public sector occupations are concerned, in view of our findings regarding teachers, doctors and dentists. Such findings also question the significance of age prejudice in driving early exit.

Another interesting feature of our findings is that several unions endorsed something close to a deficit model of ageing, in contrast to the large body of research purporting to show age as a poor proxy for performance. Again this was not confined to manual occupations, with frequent references made by unions representing teachers, doctors and dentists especially to stress, burnout, low morale and declining efficiency as characterising older employees. However, this need not necessarily demonstrate ageism nor inaccurate assessment on the part of unions. Much of the evidence depicting a weak link between age and performance has relied upon laboratory tests, or upon cross sectional analyses where the older workers examined may be unrepresentative 'survivors'. Some recent work has concluded that little is known about the impact of different occupational and work conditions over time on the health and productivity of older employees, on account of absence of longitudinal studies conducted over lengthy periods (Snel and Cremer, 1994); and the phenomenon of burnout would seem to be too widely recognised by individuals, employers and trade unions as to be dismissed as anecdotal.

While most unions with a policy on ageism perceived the problem as chiefly affecting older workers, it was invariably acknowledged that age discrimination could affect younger workers too. A few unions saw the problem as chiefly affecting younger workers and some other unions, chiefly in teaching, though displaying little concern for ageism *per se*, clearly viewed early exit as a desirable means of enhancing the job prospects of younger employees. At the level of the TUC, policy priority is, if anything, towards the young, reflecting longer term union survival concerns. Trade union policies on age therefore face the difficulty of reconciling the need to protect the interests of older members (perhaps the bulk of membership) with the need to attract and recruit the young. This difficulty may act to reinforce the trend already

noticed, towards treating ageism as *any* unwarranted response to age. Many EOPs already seem to endorse this formulation, simply including age discrimination in a list of prejudices to be challenged, though this approach could prove problematic in industrial relations terms. If ageism becomes treated as any unwarranted response to age, absence of a readily identifiable oppressed group could provide almost limitless scope for anyone, of any age, to argue that they have been treated unfairly relative to someone of a different age. It is perhaps in anticipation of such difficulties that the Government has been reluctant to legislate in this area.

Finally, we found little evidence that unions had secured a significant degree of control over exit processes. Early retirement arrangements, together with opportunities to defer retirement, were almost always at the discretion of employers; and alterations to retirement arrangements against the perceived interests of employees, as in teaching or the civil service, were strongly but unsuccessfully challenged. The degree of control that trade unions are able to exert will in part determine how the costs of exit are shared. How the costs of exit are handled is the focus of our ongoing research and would seem to be a matter of considerable import for trade unions, given that early exit is projected to continue and to affect even younger age groups (Campbell, 1999: 65). We do know that during the 1980s a very significant shift occurred in the costs of exit from government to employers (Casey, 1992: 317), and the issue of costs of exit is one that that may well come to take precedence over questions of age prejudice in union agendas.

Ageism is an evolving and somewhat ubiquitous concept, with different parties pursuing their own agenda. Though increasingly challenging ageism, trade union positions diverge in some respects, and with some legitimacy, from those of the age lobby. The greater tendency of the latter to link early exit to ageism reflects the opportunity afforded by recent labour market trends to publicise this hitherto neglected form of prejudice. Employers currently seem concerned over possible damaging commercial consequences arising from age prejudice, but on other grounds seem compelled to continue pursuing early exit strategies. Longer-term employment, budgetary and welfare concerns have motivated governments to act against age discrimination, but with some considerable caution. How this somewhat fragile alliance against ageism will impact upon industrial relations in the longer term remains most uncertain.

### **Appendix 1 Unions which supplied information**

#### *TUC affiliates:*

Amalgamated Engineering and Electrical Union (AEEU)  
Association of Magisterial Officers (AMO)  
Associated Society of Locomotive Engineers and Firemen (ASLEF)  
Association of University Teachers (AUT)  
British Actors Equity Association (EQUITY)  
Civil and Public Services Association (CPSA) (now merged with PTC)  
Communication Workers Union (CWU)  
Educational Institute of Scotland (EIS)  
Engineers and Managers Association (EMA)  
General Municipal and Boilermakers' Union (GMB)  
Graphical, Paper and Media Union (GPMU)  
Hospital Consultants and Specialists Association (HCSA)  
Manufacturing, Science, Finance (MSF)  
Musicians Union (MU)  
National Association of Co-operative Officials (NACO)  
National Association of Schoolmasters/Union of Women Teachers (NASUWT)  
National Association of Teachers in Further and Higher Education (NATFHE)  
National Union of Knitwear, Footwear and Apparel Trades (KFAT)  
National Union of Teachers (NUT);  
Professional Footballers' Association (PFA)

Public Services, Tax and Commerce Union (PTC)  
 Society of Radiographers (SOR)  
 Society of Telecom Executives (STE)  
 Transport and General Workers Union (TGWU)  
 UNISON  
 Union for Barclays Staff (UNiFI) (now incorporating BIFU and NatWest Staff Association)  
 United Road Transport Union (URTU)  
 Writers' Guild of Great Britain (WGGB).

*Non-TUC affiliates:*

Association of Teachers and Lecturers (ATL)  
 British Dental Association (BDA)  
 British Medical Association (BMA)  
 Independent Union of Halifax Staff (IUHS)  
 Lloyds Group Union (LGU)  
 National Association of Head Teachers (NAHT)  
 Nationwide Group Staff Association (NGSA)  
 NatWest Staff Association (NWSA)  
 Professional Association of Teachers (PAT)  
 Royal College of Midwives (RCM)  
 Union of Democratic Mineworkers (UDM)  
 Woolwich Independent Staff Association (WISA).

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## **PAPER 5**





## Assessing anti-ageism routes to older worker re-engagement

■ **Colin Duncan**

*University of Edinburgh, UK*

### **ABSTRACT**

Measures that challenge ageism in employment are among the most prominent policy approaches towards reversing the dramatic decline over the last two decades in the labour market participation of older workers in developed economies. In Britain, such measures have evolved through three related phases: the 'business case' approach; equality routes, incorporating equal opportunities and diversity policies; and progress towards anti-age discrimination legislation. Discriminatory attitudes displayed by employers have been overemphasized in explaining early exit from the labour market. Paradoxically, targeting such prejudice and ignorance through the business case approach has narrowed the scope for challenging more covert forms of ageism in employment. Nor is age easily incorporated into equal opportunities and diversity agendas in effective ways. Moreover, legislation will need to depart significantly from the principles underlying voluntary approaches if it is to be successful. The ambiguity and fluidity of the ageism concept also allow scope for opportunistic responses on the part of labour market actors that can be detrimental to the interests of older workers, and preoccupation with ageism may therefore act to impede progress towards more targeted, co-ordinated and effective policy responses.

### **KEY WORDS**

ageism / anti-discrimination law / early exit / equal opportunities / older workers

**T**he dramatic decline in economic activity among older men represents one of the most remarkable labour market transformations in modern times, an international trend that has affected most OECD countries over the last 20–30 years. For the UK, the trend is illustrated in Table 1. Declining activity

of older men seems to have begun in the early to mid 1970s, only levelling out in the last five years. The term 'early exit' rather than early retirement is used to denote this phenomenon, because the figures reflect a variety of routes out of employment besides retirement, including voluntary and compulsory redundancy, dismissal and ill-health exit.

The pattern differs for older women, who are as likely now to be working as 30 years ago. However, it has been shown that older women have not shared proportionately in the substantial increase in female employment since the 1970s (Campbell, 1999: 2). Moreover, analysis of employment participation of different age cohorts of women over time reveals a similar trend towards early exit, one masked by the general increase in female labour participation (Ginn and Arber, 1996).

For detached older workers, rates of re-entry to the labour market are low. Panel data from the British Household Survey for the period 1990–96 showed that just 14 percent of men aged 45–64 and 21 percent of women aged 45–59 who were not in employment at the beginning of the period had subsequently secured employment (Campbell, 1999: 42). Similarly, the Government's Performance and Innovation Unit (PIU) has estimated that just one in 10 of non-working over-50s are looking for work (PIU, 2000: 12). Accordingly, early exit invariably proves permanent.

Concern over early exit was rarely apparent prior to the 1990s. Only in the context of labour shortages in the immediate post-war period were there attempts to entice more older workers into employment. From the early 1960s, however, public policy priority was clearly upon tackling youth unemployment, including measures to encourage job sacrifice on the part of older workers such as the Job Release Scheme that operated between 1977–88. However, by the early 1990s, in a context of declining birth rates, increased life expectancy and an ageing population, worries had emerged over the costs of early exit and its projected impact upon welfare expenditure and the dependency ratio. Recent

**Table 1** Economic activity rates of older men and women, UK 1951–2000 (%)

	1951	1961	1971	1975	1981	1985	1990	1995	2000
<b>Men aged:</b>									
55–59	95.0	97.1	95.3	93.0	89.4	82.5	81.4	73.7	74.8
60–64	87.7	91.0	86.6	82.3	69.3	55.4	54.6	50.1	50.3
65+	31.1	25.0	23.5	19.2	10.3	8.5	8.8	8.2	7.9
<b>Women aged:</b>									
55–59	29.1	39.2	50.9	52.4	53.4	52.0	54.8	55.7	57.6
60–64	14.1	19.7	28.8	28.6	23.3	18.8	22.7	25.0	25.9
65+	4.1	4.6	6.3	4.9	3.7	3.0	3.4	3.2	3.4

Source: 1951–1981 Taylor and Walker (1995)  
1985–2000 OECD (2001)

Government estimates suggest that early exit costs the economy about £16 billion a year on lost GDP and around £3–5 billion per annum in extra benefits and lost taxes. Moreover, projected changes in population mean that if employment rates for over-50s remain as they are, there will be a further 800,000 over-50s out of work by 2020. By that time the working-age population will have shrunk, worsening the ratio of the number of people over pension age compared to the number of working age (PIU, 2000: 5, 30).

This article assesses the value of UK anti-ageism policies as means for tackling the labour market exclusion of older workers. The analysis begins by considering the grounds for linking early exit to ageism. Three related phases of policy are then identified and evaluated: the business case approach; equality routes, encompassing recent equal opportunities and diversity policies with respect to age; and the implications of forthcoming legislation required by the UK's adoption of the EC 'Equal Treatment' Directive. Policy implications that flow from the analysis are considered in the concluding section.

### Ageism and early exit

Explanations of early exit often focus upon the relative roles of 'pull' and 'push' factors (Kohli and Rein, 1991; Taylor et al., 2000). The former link early exit to social or institutional policies that create attractive exit routes for older workers, while the latter focus upon the recent evolution of the labour market in driving exit, assigning a dominant role to employers' policies and economic conditions. Hence, factors such as periodic recession, globalization, intensified competition and the attendant drive for increased productivity and efficiency have occasioned downsizing, delayering and organizational restructuring, adjustments that have impacted adversely upon older workers especially, both in contracting and expanding firms and industries. In analysing employment trends in seven countries, Kohli and Rein (1991) favoured 'push' factors as the main drivers. Other studies have found the relative influence of push and pull factors to vary by category of older worker, for example as between manual and salaried employees, with the former influenced chiefly by push factors and the latter often enticed to exit by more financially attractive retirement options (Campbell, 1999: 45–46; Maule et al., 1996). However, the relative influence of push and pull factors is not always easily distinguished. Social policies that facilitate exit, and generous early retirement schemes by companies, may themselves be motivated by push factors.

The view that falling demand for older workers chiefly depicted age prejudice found expression in early government attempts to reverse early exit. For instance, a *Campaign for Older Workers* was launched in 1993 that sought to dissuade employers from discriminating against older workers in recruitment, retention and retraining. This association originated elsewhere – in the age lobby and among academic gerontologists – who had been struggling for some time to promote recognition of age discrimination or 'ageism' as a legitimate

concept, given some predilection hitherto to treat the concept as 'just a joke' (Bytheway, 1980). Accordingly, the concept of ageism, as first developed with respect to the treatment of older people beyond state retirement age, provided a convenient framework for explaining and challenging the treatment of older workers in employment. Concepts and constructs used to explain and challenge the social and material conditions of those in old age (negative stereotyping, assumptions of homogeneity, under-valuation of ability and potential, denial of opportunities, structured dependency) began to influence the direction of research and policy towards older workers. In particular, evidence was sought (and found) for negative and inaccurate stereotypes in employer attitudes concerning the characteristics and qualities of older workers. Among the chief stereotypes are that older workers are less productive, have less relevant skills, are resistant to change and new technology, are less trainable and are more prone to absenteeism and ill health (Jones, 2000; Taylor and Walker, 1993, 1994, 1995; Tillsley, 1990; Trinder et al., 1992). These findings were used to explain discrimination in recruitment, promotion and training as well as exit trends.

Whether such findings sufficiently explain early exit is doubtful. One limitation is that negative stereotypes seem to be accorded greater significance than positive stereotypes that are also displayed in employer attitudes (e.g. that older workers are more reliable, committed, loyal, better communicators). Accordingly, it is difficult to judge if employer attitudes are in any general sense more negative than positive towards older workers; or whether, in comparison to attitudes towards other age categories, employer attitudes towards older workers are more negative to a degree that would explain their relative exclusion from the labour market. Indeed, Taylor et al. (2000, Book 1: 12) acknowledge that 'in many regards, employers are favourably disposed towards older workers – yet they often do not recruit and retain them.'

Further doubts over the value of attitudinal data are raised by Biggs (1993: 87), who reviews a series of studies that suggest that ageism displayed in attitudes may be more apparent than real. Methodology can determine whether ageism is found. For instance, Kogan (1979) found the incidence of ageism to be negligible when youth and age are rated separately. Only when the same subjects were asked to make comparisons between youth and age did apparent evidence of ageism emerge. Similarly, Schonfield's work (1982) suggests that attitudinal data on ageism are easily misinterpreted, with the salience of attitudes overrated in judging their influence on behaviour. For instance, findings may show that employers view declining performance as more evident among older than younger employees, but this need not mean they associate declining performance with all or even most older workers. Hence empirical work on employer attitudes may be searching for proof of ageism rather than testing for its extent or influence.

This tendency seems apparent in the somewhat selective focus of much of the research that has linked early exit to ageism. Semi-campaigning in tone, the investigative focus has almost exclusively been towards detecting instances of

mistaken beliefs or irrational prejudice on the part of employers. The possibility that negative postures towards older workers may not derive solely or chiefly from irrational prejudice has only recently been mooted (Duncan, 2001). Nor has much work been undertaken to test whether employer attitudes determine subsequent behaviour. Taylor and Walker's work (1998) represents one of the few empirical attempts to test the relationship between attitudes and practice towards older workers. The relationship was found to be highly complex. Some attitudes were reflected in employer practices and others not, though on balance it was concluded that employer perceptions about older workers did, to some degree, negatively influence their prospects for gaining employment, promotion and advancement.

Another consideration is that for sizeable numbers of employees, early retirement is both desired and voluntary. The size of this group is difficult to discern, as such retirement may be wholly voluntary or result from indirect pressures, constrained choices and loss of confidence arising from exposure to ageist attitudes. One recent estimate is that for around one-third of early retirees, retirement is fully voluntary (PIU, 2000: 22), though other work suggests that the role of individual preference in determining early exit may have been underrated (Duncan et al., 2000; Johnson, 1989). Finally, there is the possibility that causality lies chiefly in the *opposite* direction: exclusion and a developing culture of early retirement may have fostered or reinforced ageist assumptions concerning older workers' qualities and aptitudes.

Despite these reservations, evidence of negative stereotypes in employer attitudes towards older workers, along with evidence purporting to show such stereotypes to be mistaken, have been widely accepted as adequate grounds for linking early exit chiefly to irrational age prejudice. The legitimacy of the stereotypes has been challenged by reference to a large body of gerontological research that concludes, in general, that age is a poor proxy for productive performance (e.g. Doering et al., 1983; Grimley Evans et al., 1992). Moreover, negative stereotypes are considered as not only mistaken but commercially damaging when acted upon, in producing poor returns on investment in human capital, a narrowed recruitment pool, loss of skills, experience and corporate memory and a sub-optimum balance between youth and maturity (DfEE, 1999; Taylor and Walker, 1995). This is the basis upon which a 'business case' against ageism was formulated as a prominent policy approach to tackling early exit.

### **The business case route**

Articulation of a business case against older worker discrimination has constituted the centrepiece of voluntary approaches to tackling ageism and early exit during the 1990s. This has mirrored developments with respect to more traditional forms of discrimination, with the business case approach becoming elevated during the 1980s and 1990s to the 'dominant mobilizing vocabulary' of equal opportunities strategies, in a context of reluctance by market-

orientated governments to strengthen compliance levers for equality (Dickens, 1998). In contrast to gender, race and disability discrimination, however, the business case against ageism has had added policy prominence in operating in absence of supporting legislation.

Early presentations of the business case were made exclusively with respect to older workers (e.g. Taylor and Walker, 1995), a focus that governments and politicians have seemed keen to maintain. The same emphasis is sustained in recent DfEE and other government publications dealing with age and employment matters, and was also present in a recent House of Commons inquiry on age discrimination (House of Commons, 2001). It has also been apparent in a series of private member's bills in recent years that have mostly sought to eliminate upper age bars in recruitment. Though employers' organizations too have often linked the need to act on age to the early exit phenomenon, there has been less exclusive focus on older workers. The mission statement of an Employers' Forum on Age (EFA), launched in 1996, refers instead to the goal of achieving an 'age-balanced' or 'mixed-age' workforce with the business case promoted with respect to age discrimination in general.<sup>1</sup>

As a route to older worker re-engagement, the business case approach may be challenged on two counts. First, as discussed, data are not yet sufficiently robust to establish that employers' attitudes and beliefs have contributed significantly to early exit. Second, in the current business context, the assumption that negative attitudes and postures towards older workers are invariably mistaken, irrational and commercially damaging, may also be contested.

Most obviously, seniority-based payment systems mean that older employees often receive higher earnings and can also enjoy a range of other seniority prerogatives that can render them more costly. The cost to employers of salary-related pension schemes can increase dramatically as older workers approach formal retirement, when percentage increases in pay can mean a similar percentage increase in annual pension (Campbell, 1999: 49). In the absence of institutional practices that would allow reduction in the costs of older workers it can therefore be more profitable, when job reductions are required, to terminate older workers early, especially in a context of an ageing population and workforce which puts general upward pressure on wage costs. Growing flexibility of labour markets and changing technology have also increased the 'substitutability' of different age groups and enhanced prospects for cost reductions (Standing, 1986).

Moreover, the more intense business environment of recent years may have impacted adversely on the performance of older workers and hastened their exit. Evidence depicting a weak relationship between age and performance has rested upon laboratory tests, or upon cross-sectional analyses where the older workers examined may be unrepresentative 'survivors'. Absence of longitudinal studies means little is known about the impact over time of different occupational and work conditions on the health and productivity of older employees. However, according to the PIU (2000: 35, 68), an increasing focus on productivity and efficiency in recent years, including downsizing, has reduced

opportunities for older employees to change down a gear towards the end of working careers. Instead, it has left fewer people with more to do. Some evidence is cited of 'burn out' among longer-serving employees and that older workers may be more vulnerable to psychosocial stress. Several trade unions have also recently reported stress, burnout and declining efficiency as characterizing their older members (Duncan et al., 2000: 231).

Older workers are also less likely to respond positively to new management approaches that have accompanied a period of almost continuous reorganization and restructuring since the early 1980s. Reform processes have entailed de-collectivization of employment relationships together with shifts towards more unitary management styles aimed at securing greater commitment through attitudinal restructuring and culture change. However, the response of older employees will be influenced by their past treatment by management. Lyon et al. (1997) argue, for instance, that older workers are much less adaptable to the ideology of HRM. Especially if reared in a pluralist-collectivist tradition, older workers will generally be more wary, less malleable and more likely to greet such initiatives with a measure of cynicism and resistance. It may therefore be simpler and cheaper for employers to retire off older employees than seeking to alter ingrained attitudes and re-negotiate or buy out employment contracts.

Though apparent age discrimination in recruitment processes is a phenomenon that has long preceded the onset of early exit, these cost, productivity and commitment issues may have further increased the reluctance of employers to recruit displaced older workers. In any case, the disadvantages of drawing from a narrowed recruitment pool may be offset by other considerations. Upper age bars on recruitment can reflect the presence of internal labour markets with ports of entry restricted to younger groups for succession planning purposes. Recruitment of displaced older workers can sometimes undermine the position of younger senior personnel. Supply characteristics of older workers are also relevant, including lower job mobility and poorer skills. On average older workers are less well qualified, have lower skills or are educated in technologies that have become obsolete (PIU, 2000: 37).

There is also the point that in a context of required labour reductions, early retirement policies are more socially accepted than forced redundancies, and they minimize industrial relations problems and maintain organizational morale and productivity. Finally there are broader labour process and social control perspectives that assign a certain rationality to differential treatment of older workers. Their use as a contingent labour force or 'reserve army' to be drawn in and expelled from the labour force when conditions demand, secures some support from examinations of past trends (Laczko and Phillipson, 1991: 39–42; Tillsley, 1990: 4). These two examples most obviously reveal that commercial rationality need not preclude the presence of age prejudice. To some degree ageism in the wider society may also be considered to influence supply-side characteristics and other conditions that disadvantage older workers, including poorer access to education and training. However, in view of the narrow concept of age discrimination embraced in the business case – a residual

concept recognized only when commercial rationality is disproved – this approach can offer little remedy.

It is difficult to deny that in some circumstances business benefits may accrue from tackling discrimination. From a neo-classical perspective, adverse profit consequences can flow to employers who exclude categories of labour whose marginal product exceeds the wage that would have been paid, whether such discrimination reflects mistaken beliefs or willingness to pay a price to exercise prejudices. Especially in the retailing and catering sectors, firms have therefore secured significant benefits from employing greater proportions of experienced, often displaced, older workers. B&Q is a well-publicized example. As demonstrated earlier, however, there are also a growing number of circumstances when older workers may be profitably excluded, irrespective of whether or not this is construed as ageist. Herein lies the weakness of the business case, which is promoted as conferring universal, positive benefits. Paradoxically, the approach also tends to treat older workers as a homogenous group, a key symptom of ageism. In fighting stereotypes with stereotypes, the approach fails to acknowledge that the cost/benefit balance of older worker exclusion is likely to vary according to several factors including occupational category, industry and individual characteristics, as well as altering along with a changing business environment. In net terms, the proof of the pudding would seem to be in the eating. After a decade of advocacy, no progress has been made in reversing early exit. Indeed, encouraging employers to focus upon the business rationality of age decisions may even have reinforced the process.

### The equality route

Age discrimination has now acquired sufficient recognition as to merit inclusion in equality agendas, including as a legitimate equal opportunities issue. By 1998 around 40 percent of Workplace Employment Relations Survey (WERS) workplaces had a formal written equal opportunities policy that included reference to age (Cully et al., 1998: 13). However, the conventional equal opportunities (EO) model, as underpinned and shaped by existing anti-discrimination legislation, seems poorly suited to dealing with age inequalities in general, and as they affect older workers. Indeed, the very logic of equality would seem to preclude especial focus upon older workers. Moreover, age prejudice differs from other forms of discrimination in that there is no single, clearly defined, oppressed group. Everyone is of an age and can be subjected to age discrimination, and *several* age categories have been identified as especially prone including older workers, the young (Loretto et al., 2000a), and various female life-course categories including women returners (Itzin and Phillipson, 1993). By the same token, identification of a benchmark group from which to detect ageism and inform the design and focus of responses is highly problematic. The notion of 'prime age labour' is a possible candidate, though this concept seems too imprecise and varied to act as an operational benchmark. Age ranges considered



'prime', and less prone to discrimination, tend to vary by occupation, manual/non-manual divide, industry and gender. In a survey of IT employees a majority thought the term 'older worker' began to apply as young as age 35 (EFA, 2000); and though unsubstantiated empirically, the performance of women is widely perceived as declining before that of men, and manual employees before that of non-manual (Loretto et al., 2000a; 2000b).

The 'traditional' discriminations that have shaped EO approaches do not confront the same problems. Though the rationale of anti-discrimination laws covering gender, race and disability formally disregards social group membership, the policy of treating all individuals equally is clearly targeted at reducing differential treatment of defined, marginalized groups, where in practice the 'fit white male' has, for better or worse, acted as benchmark. Moreover, the group focus is most clearly exposed in the concept of indirect discrimination, which recognizes in principle that social group membership may be the source of disadvantage and exclusion. It is similarly apparent in more radical EO approaches which go beyond the law in promoting 'positive action' programmes designed to allow individuals from marginalized groups to compete on more equal terms, including such measures as child care, flexible working and single-sex training for women.

One consequence of the absence of an age benchmark is that there is almost limitless scope for anyone, of any age, to argue that they have been treated unfairly relative to someone of a different age. It would also seem to rule out the development of proactive programmes directed at just one age group. Provision of, say, special training arrangements geared to the needs of older workers, in a context of multi-group age disadvantage, could not be easily justified on EO grounds. The EO route also lessens the potency of business case arguments against discrimination. The message of EO appeals to ethics and social justice rather than employer self interest, and as promoting equality can go beyond tackling job discrimination, there are additional costs involved. Moreover, as Dickens (1998) argues, the business benefits of EO measures tend to be qualitative and longer term, and therefore less apparent and cost effective when viewed from the short-term budgetary perspective that predominates in Britain. The business case for equality is therefore less of an incentive to employers, and more usually presented in terms of a trade-off on how the costs of equality measures might be justified. In the case of age, where a range of costly equality measures might be required to sustain equal treatment, and where each measure may impact upon relatively small employment groups, the prospect of pay-back might seem slim, a point that has also been made, upon similar reasoning, with respect to the weakness of a business case against disability discrimination (Woodhams and Danieli, 2000). The absence of legislative support on age, as a compliance measure and guide to resolving what seem rather formidable operational difficulties, also makes it unlikely that the EO route, as presently constituted, has much to offer older workers.

The 'managing diversity' discourse offers an alternative 'equality' route to tackling age discrimination. American in origin, this approach was popularized

in the UK by Kandola and Fullerton (1994) just as ageism was emerging as a policy issue. The core idea is to encourage organizations to recognize and effectively manage differences. In several respects the approach reinforces business case arguments against discrimination. In a context of demographic change and potential skill shortages, the more effective use of diverse skills, including those traditionally undervalued, is presented as good business sense, thereby representing some shift in the rationale for equality from moral to strategic business considerations, and a shift in its 'ownership' from the state and pressure groups to employers. Linking diversity with business strategy chimes also with the individualized and strategic foci of HRM, and the diversity route is also considered more appropriate to deregulated, flexible market conditions than the bureaucratic EO approach. In contrast to the legal basis underpinning mainstream EO approaches, compliance is therefore voluntary, with greater emphasis placed upon changing attitudes rather than upon constraining behaviour. A further difference is that it is organizations rather than minority groups that change. Organizations need to adapt to differences rather than expecting employees to fit into pre-existing structures and cultures that invariably favour the skills and lifestyles of dominant groups, and preclude a full contribution from others.

Essentially, the managing diversity framework embraces and consolidates the main elements of existing anti-ageist policies – emphases upon the business case, attitudinal restructuring and voluntary compliance. Age is therefore more easily incorporated into a diversity than an EO framework. The difficult task of identifying a suitable benchmark group is avoided, as the direction of required change is reversed, with organizations adapting to individuals or social groups. Moreover, the emphasis switches from detecting and eliminating differential treatment against benchmarks, to embracing, celebrating and managing differences for mutual benefit. However, in common with EO frameworks, the approach would seem to preclude especial focus upon older workers.

How older workers fare under diversity frameworks may vary according to how the policy is interpreted. Two versions of managing diversity currently vie for dominance, labelled by Liff (1996, 1997) as *valuing differences*, and *dissolving differences*. The former acknowledges the significance of social group differences in perpetuating inequalities and implies inclusiveness policies geared towards age-differentiated groups, including older workers, though no special priority need be accorded to this group. As noted earlier, however, addressing multi-group age disadvantage can be costly when different measures are needed for relatively small employment groups, diminishing the business case for addressing age inequalities. The dissolving differences approach, on the other hand, holds that differences are best managed at the level of the individual, because each individual is considered unique and different from others in many more ways than can be inferred from social group membership. This implies a policy that tends towards age neutrality, where age is mostly disregarded in policy and decision-making – treated as just one of the host of personal characteristics to be considered at an individual level in inclusion strategies. Accordingly, there seems even less scope in this version for addressing the

specific sources of labour market disadvantage affecting older workers. Whatever version is favoured, however, the diversity route offers employers much greater scope to alter policy and practice than under EO restrictions, a freedom which may be exercised either positively or negatively with respect to older workers, in line with perceived business benefits.

Despite its name, the Government's voluntary Code of Practice on Age Diversity in Employment (DfEE, 1999) does not clearly endorse the diversity route. The Code's foreword recommends incorporating age into equal opportunities policies, and elsewhere the terms 'diversity' and 'equal opportunity' seem to be used interchangeably. Moreover, there is no discussion on the concept of diversity, nor on which version is being endorsed and how it might diverge in practical terms from the conventional equal opportunities route. Instead, the simple message promoted is that age neutrality in decision-making can confer business benefits – closer to a dissolving than valuing differences perspective. However, the growing importance of older workers as a labour source in a context of demographic change is also emphasized. Employers are also urged to achieve a 'proper' or 'age-balanced' workforce', though no definitions of these terms are given, nor of how age neutrality might be reconciled with such goals. Indeed, the EFA considered that the Code was too focused on older workers (EFA, 2001). Recent assessments of its impact have been decidedly downbeat, with low awareness found of its existence and content among employers, and with minimal changes having occurred or being contemplated in company policies as a result of the Code (EFA, 2001; Jones, 2000). A common explanation has been that the non-statutory basis of the Code has served as a signal to employers that age issues need not be prioritized. Ambiguity and over-simplicity of message may also have played a part, along with likely employer misgivings over the strength of the business case.

Tensions between the valuing and dissolving differences routes seem to be represented in the schism detected between the preferred approaches of the state and employer organizations with respect to age discrimination. Employers seem keener to endorse age neutral policies while the state has sought to prioritize older workers via an (albeit selective) valuing differences approach. Interestingly, this latter focus does not extend to broader labour market strategy, where priority has clearly been accorded to younger groups. For instance, of the £3.5 billion originally devoted to Welfare to Work in 1998, some £3.15 billion was earmarked solely to fund the flagship New Deal programme for the young unemployed (aged 18–24) (Michel, 1999). The '50plus' programme introduced some two years later was by comparison far less ambitious. Unless policy incoherence is here assumed, this suggests some opportunism in state postures towards age discrimination. The main goal may be more to do with reducing costs than with eliminating ageism: if employers can be persuaded on diversity or business case grounds to engage or retain older workers when it is not cost-effective to do so, then the costs of dealing with early exit pass from the state to employers. This would be consistent with other Government initiatives such as stakeholder pensions that have sought to shift the costs of exit

from the state to employers and individuals. Similar opportunism and cost considerations may be deduced from employer postures. A business-friendly concept of ageism that applies across the age spectrum allows broader scope for manoeuvre. Indeed, from such a standpoint, early exit can plausibly be justified as an anti-ageist strategy, in representing some shift from age-related criteria in determining exit, with functionality and cost considerations, rather than retirement age, determining who goes and who stays.

This thinking is evident in some of the output of the EFA, which has argued on diversity grounds for dispensing with both the concept of retirement and occupational pension provision (EFA, 1997). Though 'bearing a huge load in the balance between the state, the employer and the individual in providing retirement income' (p. 29), occupational pensions were felt to provide few benefits for employers, who no longer value long-term labour retention in a climate of sub-contracting and short-term contracts. It was also pointed out that it is not just older workers who experience periods of exit from employment in today's more flexible and uncertain conditions, and systems need to cater for income requirements during all periods of inactivity throughout the life-course. Employers should therefore consider dispensing with pensions, putting funds saved into individual pay or other systems that allow employees to draw income to cover all periods of inactivity. The sub-text here is that financing early exit from occupational pensions is becoming increasingly costly for employers. Moreover, there was no presumption on the part of the EFA that early exit would be reversed, nor any consideration of the consequences of diluting early exit retirement funding for the older individuals concerned.

Ageism, therefore, may be something of a red herring. The fluidity of the concept allows broad scope to sustain quite contrary positions with respect to the employment position of older workers, postures that may chiefly be influenced by sectional interests. This interpretation is also consistent with observed trade union positions towards age discrimination, which are variable and opportunistic and chiefly determined by cost and control issues (Duncan et al., 2000).

### **The legislative route**

In October 2000 the Government adopted the EC General Framework for Equal Treatment in Employment and Occupation Directive (Council Directive, 2000/78/EC) which outlaws workplace discrimination on grounds of age, religion, disability and sexual orientation. This requires the UK to have age discrimination legislation in place by December 2006. The Directive prohibits both direct and indirect discrimination and applies to age generally rather than just to discrimination against older workers. It also effectively outlaws compulsory retirement by employers unless there are circumstances that provide an objective justification. However, being a framework directive, governments are allowed considerable latitude, when framing national legislation, to decide

when age discrimination can be justified. Article 6 of the Directive specifies that different treatment will not constitute discrimination if it can be 'objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives, and if the means of achieving that aim are appropriate and necessary.' Examples listed of such exceptions include one that allows positive discrimination in favour of specific groups such as younger or older workers or those with caring responsibilities 'in order to promote their vocational integration or ensure their protection.' Another permits 'the fixing of a maximum age for recruitment which is based on the training requirements of the post in question or the need for a reasonable period of employment before retirement', thus allowing employers to recoup training or recruitment costs. One view is that Article 6 is so broad as to allow governments 'to tolerate most forms of age discrimination indefinitely' (GMB, 2001).

Given this latitude, and the long consultative phase that will precede the national legislation, it is only possible to provide a most tentative assessment of the implications for older worker re-engagement. Issues relating to older workers yet to be clarified by legislation and subsequent case law include: whether job applicants may be rejected as 'overqualified'; whether employees operating age or experience-related salary scales can reject older workers as too costly; whether on cost grounds an employer can select older workers first for redundancy; and if early retirement can be 'encouraged' by various means, including financial incentives (EOR, 2001). Nor is it certain at this stage whether the legislation will in some circumstances permit age to be treated as a proxy for performance.

Bearing in mind these uncertainties, there are nevertheless grounds for doubting the effectiveness of the forthcoming legislation, especially if current views as to its preferred format are acted upon. First, reviews of the operation of age discrimination legislation abroad are inconclusive (Moore et al., 1994; Taylor et al., 2000). In most countries with legislation, older worker activity rates have continued to fall, though it is not known whether they would have fallen further without legislation. As much of this legislation is too new to allow adequate assessment, most attention has focused on the impact of the US Age Discrimination in Employment Act (ADEA) introduced in 1967. Some recent assessments have been reasonably positive. While failing to have much impact initially, the Act was strengthened in the mid 1980s to proscribe mandatory retirement. Since then the decline in post-retirement age employment rates has been sharply reversed and the fall for 50–65s has levelled off and very recently started to rise (PIU, 2000: 58). Neumark (2001) estimates that ADEA has increased employment rates of workers under 60 by 0.8 of a percentage point, but boosted employment rates of those over 60 by six percentage points. The legislation had no effect on hiring probabilities and may have *reduced* the probability that an older worker is retained, but reduction in retirement produced a significant net increase in employment. It should be noted however, that ADEA specifically targets older workers, in contrast to the Directive.

Second, there are indications that the Government wants to make the legislation as non-prescriptive and business-friendly as possible. Sensitivity to business concerns and ambivalence towards age legislation were indicated by the choice of a voluntary Code despite an earlier pre-election promise by the Labour Party to introduce comprehensive legislation. Continuing ambivalence may be inferred by the Government's negotiation of a three-year extension to the original date on which the age provisions of the Directive were to apply. Early Government thoughts on the desired nature of the legislation were displayed by Employment Minister Margaret Hodge in evidence to the Education and Employment Select Committee in February 2001 (House of Commons, 2001). She stressed the importance of achieving legislation that was consistent with business competitiveness (Q2), and that endorsed and speeded up adoption of the business case philosophy of the Code. Accordingly, the Code will continue to be promoted vigorously in the hope that the legislation, when enacted, 'would reflect practice rather than be distant from practice' (Q23). This coincides with the EFA position which places emphasis upon promoting the business case as the chief instrument of change, arguing that legislation will achieve little if employers remain unconvinced (EFA, 2001). Given the narrow concept of discrimination embraced in the business case, there seems considerable support for a similar narrow legal definition, one subservient to business imperatives and operating within a framework allowing maximum derogations and employer latitude.

Among employers' organizations, the Confederation of British Industry has been most vociferous in canvassing for such an approach, arguing that 'unfair' discrimination needs to be narrowly defined and limited to practices unjustified by 'legitimate business practices'. This is argued on the ground that age, unlike gender or race, is not 'impact neutral' in a business sense. Elements of a (rarely acknowledged) business case *against* older workers are cited in support, including the possibility of higher insurance and health and safety costs arising from greater physical risk factors, and the possibility of performance declining with age. The difficulty arising from absence of benchmarks was also pinpointed, particularly with respect to indirect discrimination, and it was feared this could lead to an escalation of costly and spurious litigation (CBI, 2001). How the Government will deal with the thorny issue of benchmarks is awaited with interest.

Even if the final legislation enacted were to significantly restrict employer options in areas such as recruitment or retirement, there is no guarantee that older employees will benefit. Banning upper age bars on recruitment can lead to more covert forms of discrimination in selection processes, including at the interview phase. Moreover there is some USA evidence that suggests that banning mandatory retirement has led to increased dismissals of older workers on performance grounds (Issacharoff and Worth Harris, 1997). The more evidently favoured approach at present – that of a highly permissive legislative framework geared to reinforcing business case and diversity philosophies –

would seem to constitute as ineffective a means of older worker re-engagement as current voluntary approaches.

### Conclusions and policy implications

Though representing a key component of policies towards reversing early exit, the analysis reveals that voluntary anti-age discrimination strategies are defective in several respects. First, the extent to which early exit derives from irrational prejudices and mistaken beliefs on the part of employers may be less than commonly supposed. Paradoxically, targeting such prejudice and ignorance by means of the business case has promoted an over-narrow concept of ageism, one where only overt discrimination inimical to business performance is recognized. This has narrowed the scope for challenging more covert and indirect forms of age discrimination that affect the employment prospects of older workers. In addition, the distinct nature of age discrimination makes it difficult to be accommodated within traditional equal opportunities agendas in ways that benefit older workers, and while more easily accommodated within diversity frameworks, this route offers employers broader policy scope that need not be exercised in favour of older workers. Forthcoming legislation does not render these observations irrelevant. Voluntary routes will remain the only means of redress until 2006, and current indications are that the business case approach is dominating thinking on the format of the legislation. Moreover, in common with treatment of other forms of discrimination, equal opportunities and diversity policies, and business case thinking, will continue to run alongside age legislation and influence outcomes.

If anti-age discrimination legislation is to challenge early exit it will need to meet at least two pre-conditions that represent a break from current voluntary approaches. First, it needs to be framed in ways that allow some especial focus upon older workers. At present, Article 6 of the Directive *permits* focus upon specific age groups, but does not require it. The positions of the Government and employers' bodies have diverged on this issue, though there is some indication that fears over the comparator issue may be leading employers to endorse a legislative approach built upon clearly specified age-groups. Second, legislation needs to allow challenges to the labour market treatment of older workers in ways that on occasions override commercial imperatives. One limitation of business case thinking is that the possibility seems denied that age prejudice may be exploited for economic gain. Nor does it recognize that the supply characteristics of older employees may themselves be a product of age prejudice by employers, or in the wider society. Moreover, differential treatment on grounds of falling productivity or burn-out may still denote elements of age prejudice. The health, productivity and motivation of older workers may be as much a product of their past or current treatment as a consequence of age, and it can be argued on equal opportunities grounds that employers should be compelled to ensure conditions suited to maintaining the productivity of their older

employees. There are other factors associated with the exclusion of older workers, such as the higher costs of age-related salaries, that are less obviously linked to ageism, but which may conceivably be dealt with under the banner of indirect discrimination.

The analysis also pinpoints opportunism and financial motives in some postures towards older workers and early exit, and under voluntary routes the fluidity of the ageism concept has allowed considerable scope for different parties to pursue conflicting objectives with respect to the financing and forestalling of early exit. That cost and control issues, rather than matters of principle, underlie the different stances on age discrimination is further suggested by some shifts in employer postures in the context of forthcoming legislation. While the EFA have argued that the very concept of retirement may need to be dispensed with, a more cautious stance was later adopted over the prospect of outlawing compulsory retirement (EFA, 2001). Similarly, while employers have seemed keen that the voluntary Code applies to *all* ages, the CBI strongly opposes legislation because of this very feature, which allows potential for escalation of claims on account of absence of clear comparators.

These observations suggest that combating early exit through policies that more directly target and alter the costs of exit for labour market actors may prove most effective. Some foreign experience is illustrative. It has been observed, for instance, that banning mandatory retirement in the US has proved the most effective component of age legislation with respect to older workers, a measure which may be viewed as compelling employers to absorb any additional costs associated with retaining older workers. Unless significantly weakened by derogations, this option would therefore seem to constitute a rather potent weapon for the UK Government in influencing exit trends. Combined with the current trend from final salary to defined contribution pension schemes, which places greater onus on employees to build up retirement income, proscribing mandatory retirement could have a major impact in increasing the costs of early exit for employees while promoting their mandatory right to continue working.

The recent experience of New Zealand also illustrates the potential of such approaches. Here, the Government raised the state superannuation age from 60 to 65 over a relatively short period from 1992–2001, and at the same time introduced a legal ban on compulsory retirement. This constrained employers from reaping possible cost benefits from early exit, and increased the cost of early exit for employees. The net effect was rather dramatic. Between 1990 and 2000 the proportion of those aged 60–64 who were employed increased from 24 percent to 45 percent, while the proportion of those employed aged 55–59 increased from 63 percent to 71 percent.<sup>2</sup> However, it seems preferable that the social and business costs of such an approach be carefully weighed in open political discussion against the benefits of reversing early exit, rather than such strategies being pursued covertly in the guise of anti-ageism measures.

Indeed, pre-occupation with ageist attitudes on the part of employers has served as something of a distraction from the task of developing co-ordinated



policy combinations that match the complexities of the early exit phenomenon, an approach that in Britain is only now beginning to emerge. Recognition that a remarkable 90 percent of non-working over-50s are not actively seeking work has focused attention on reforming welfare regulations and other measures such as New Deal 50plus as means of combating the discouraged worker syndrome. How occupational pension regulations might be altered to discourage their use as an exit route has been another recent focus, along with encouragement of better training and development, more flexible working arrangements and improvements to occupational health. While most countries have experienced the early exit trend, there are significant international differences in the degree of older worker exclusion, suggesting some scope for such economic and social policy reforms to make a difference. In France, just 41 percent of men aged 55–64 were in employment in 1998, as compared with 63 percent in the UK and 76 percent in Norway (Taylor et al., 2000, Book 1: 3), though the authors' international review of practices concludes that much more research is still needed to determine which mix of policies is likely to prove most effective.

In the longer term there are contrasting scenarios. Free marketeers place faith upon a 'Gaia' effect kicking in, questioning the need for legislation because demographic change will make it progressively more difficult to be ageist (IOD, 2001). Against this are signs that a more permanent transformation may be taking place. Cohort analysis reveals that each successive generation of older men has lower employment rates than the preceding generation (Campbell, 1999: 21–24), suggesting that longer-term economic and social processes are at work. Quite novel policy responses may therefore be required that transcend the confines and foci of anti-ageist or active labour market strategies. This thinking is manifested in the Carnegie Third Age Programme and similar initiatives that treat early exit as a component of a new third age stage to the life course that is emerging, and focus upon how this group should be integrated into society through new social roles that do not necessarily contain a work element.

## Notes

- 1 See [www.efa.org](http://www.efa.org)
- 2 See [www.stats.govt.nz](http://www.stats.govt.nz)

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### Colin Duncan

**Colin Duncan** lectures in Employment Relations at the University of Edinburgh School of Management. He has published books and articles in the fields of pay determination, public sector employment and age discrimination. He is currently investigating employee experiences of ageism, including gender dimensions, as a means for evaluating the efficacy of legal remedies.

Address: School of Management, The University of Edinburgh, William Robertson Building, 50 George Square, Edinburgh EH8 9JY, UK.

E-mail: Colin.Duncan@ed.ac.uk

**Date accepted June 2002**

## **PAPER 6**

# Never the Right Age? Gender and Age-Based Discrimination in Employment

Colin Duncan\* and Wendy Loretto

Although UK legislation against age discrimination is required by December 2006, little is yet known about how ageism affects different age categories of employees, and the gender dimensions of ageism have also been neglected. Both issues were investigated by questionnaire survey, producing responses from over 1000 employees of a major UK financial services enterprise. The extent and manifestations of ageism were found to vary across age categories and by sex, and evidence of gendered ageism emerged. Reported examples of ageism were highest among younger and older age categories, but all age groups were affected to some degree. Across all ages, women were more likely than men to experience ageist attitudes concerning appearance or sexuality. To be effective, legislation will need to cater for the complex nature and patterns of age discrimination revealed, though the comparator problem and other complexities are such that important aspects of age prejudice, including gender dimensions, risk being overlooked.

*Keywords:* age discrimination, gendered ageism, age legislation, employment

## Introduction

During the 1990s ageism emerged as an issue of some prominence in public policy in the UK, when it became associated with the trend towards 'early exit', that is both voluntary withdrawal and involuntary displacement from employment before state retirement age. By the early 1990s, in a context of declining birth-rates, increased life expectancy and proportionate increases in the older population, worries had emerged over the costs of early exit and its projected effect upon welfare expenditure and the

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Address for correspondence: \*Colin Duncan, School of Management, University of Edinburgh, William Robertson Building, 50 George Square, Edinburgh EH8 9JY, e-mail: Colin.Duncan@ed.ac.uk

dependency ratio. One recent estimate is that early exit costs the economy about £16 billion a year on lost GDP and £3 to 5 billion per annum on extra benefits and lost taxes (Performance and Innovation Unit, 2000: 30). That both early exit and poor re-entry rates denoted age discrimination is a view that secured some support from a series of studies that located negative and inaccurate stereotypes in employer attitudes towards older employees (Taylor and Walker, 1993, 1994, 1995; Tillsley, 1990; Trinder *et al.*, 1992). Not only were such stereotypes held to be mistaken and irrational, but also commercially damaging when acted upon, in producing: poor returns on investment in human capital; a narrowed recruitment pool; loss of skills, experience and corporate memory; and a sub-optimum balance between youth and maturity (Taylor and Walker, 1995). On this basis a 'business case' against ageism was promoted by governments throughout the 1990s in a bid to convince employers that ageism and early exit were not in their interests.

More recently, however, the term has become less associated with older employees, and is now increasingly used to refer to age discrimination *per se*, whatever the ages of those affected. There were several contributory factors. First, it had become apparent that perceptions of what constituted an 'older worker' covered a broad age range. In a survey of IT employees, for instance, a majority thought the term 'older worker' began to apply as young as 35 (Employers' Forum on Age, 2000). Secondly, there was a growing body of research that showed that young employees, too, could be affected by age discrimination (Age Concern, 1998; Department for Education and Employment, 2001; Loretto *et al.*, 2000). Thirdly, ageism had secured some prominence as an equal opportunities issue. By 1998 around 40% of *Workplace Employee Relations Survey* workplaces had a formal written equal opportunities policy that included references to age (Cully *et al.*, 1998, p. 13), and by definition, an exclusive focus on older workers is difficult to justify on equal opportunities grounds. Finally, with respect to the Government's non-statutory Code on Age Diversity (Department for Education and Employment, 1999), employers' organizations canvassed hard for an age-neutral definition of ageism, especially an Employers' Forum on Age that was launched in 1996. One explanation is that employers remained unconvinced of the business case against older worker discrimination. A definition of ageism embracing the business case but applied across the age spectrum, as finally endorsed in the Government's Code, was preferred by employers in allowing broader scope for manoeuvre (Duncan, 2003). This broader conception of ageism has also been endorsed in the EC General Framework for Equal Treatment and Occupation Directive (Council Directive 2000/78/EC) which was adopted by the Government in October 2000. The Directive outlaws workplace discrimination on grounds of age, religion, disability and sexual orientation, and requires the UK to have age discrimination legislation in place by December 2006.

The evolution of the concept in this direction is perceived as reducing parallels between ageism and other forms of discrimination. As everyone is of an age and therefore prone to age discrimination, it is difficult to distinguish oppressor from oppressed. Individuals may be both victims and perpetrators of ageism, or can be discriminated against by those of a similar age. Existing statutory approaches to tackling discrimination, built upon assumptions of clearly defined oppressed groups, may therefore be inappropriate. Such considerations led Oswick and Rosenthal (2001) to posit a diminished and contingent concept of ageism in employment, one symptomatic of the 'age-typing' of jobs rather than of general age prejudice equivalent to forms of oppression affecting women, racial minorities and the disabled. Their empirical work lent some support to this view. Employers did not discriminate consistently or arbitrarily on age grounds, but instead appeared to hold illegitimate notions of appropriate ages suited to particular jobs.

However, in two main respects our current knowledge of ageism remains deficient as a means of informing the format of effective legislation. First, very little is known about the extent and manifestations of ageism as it affects different age categories of employees. The preoccupation of governments and academics has largely been confined to ageism as it affects older employees, where the discovery of negative employer attitudes has been treated as evidence of ageism. There would seem to be formidable difficulties in extending this approach across the age range. Employers may have firm views regarding loosely defined categories such as older or younger workers, but distinct attitudes to specific ages are unlikely to be discerned in a measurable way. Measuring *employee* perceptions of age discrimination may better capture how age prejudice varies by age, though such studies are as yet rare and have similarly been confined to one age group. For instance, a DfEE study in 2000 reported that 26% of a sample of 500 older people (50–69) said that they had experienced discrimination in relation to an actual or possible job because of their age, a figure dropping to 20% in a follow-up survey (Jones, 2000). By comparison, a similar survey of 500 undergraduate students showed that of those who had experienced working (410), some 35% claimed to have experienced age-related discrimination (Loretto *et al.*, 2000). Such cross-survey comparisons are of limited value given differences in response rates, survey design and dates and other factors. It would be more useful to compare responses by age group from the same population.

Secondly, little is known about how age interacts with gender in producing employment disadvantage. Indeed, recent public policy has assumed ageism to be a gender-neutral phenomenon — in the government's Code of Practice, no distinction was made between age discrimination as it affects men and women. Nor has this been a focus of recent academic research in the UK which, according to one recent assessment, has displayed a white male bias (Taylor *et al.*, 2000, p. 6).



This paper addresses each of these deficiencies. The section which follows explores the concept of gendered ageism and the reasons for the neglect of this issue in recent policy and research. We then present our empirical findings from a survey of some 1,000 financial service sector employees, that investigated differences in employee experiences of ageism by both gender and age group. The final section considers the implications of our findings for forthcoming legislation.

### **Gender dimensions of ageism**

In Britain, theoretical formulations of ageism (Bytheway, 1995; Bytheway and Johnson, 1990) initially sought to distance the concept from other 'isms', including gender discrimination. This reflected a perceived need to establish the credentials of ageism as a distinct form of oppression in its own right. Indeed Bytheway (1980) had earlier felt the need to defend the concept from ridicule as 'just a joke', and there had also been attempts to dilute or undermine the concept by treating it simply as a sub-component of more traditional oppressions. For instance, some feminists had argued that it is sexism that older women suffer and have always suffered from rather than ageism (e.g. Sontag, 1978), a view rejected by Bytheway and Johnson (1990) as based upon the 'absurd premise' that people cannot belong to more than one oppressed group. Moreover, the authors refer to evidence of ageism within the women's movement (e.g. Macdonald and Rich, 1984, p. 75), commenting that 'there are people who are fully versed in the acceptable vocabulary of anti-racist feminism who will tell 'jokes' about 'wrinklies', who will then deny that they are offensive' (1984, p. 19).

However, others have argued that ageism should not be insulated in this way from other forms of oppression. For instance, Itzin (1995) observed that most examples of ageism cited by Bytheway (1995) concerned women and that there was under-theorizing in his work of the bisection of age and gender. The term 'double jeopardy' is sometimes used in relating age inequalities to those based on gender (Itzin and Phillipson, 1993, 1995) though the nature of this relationship has been poorly explored, according to Biggs (1993, p. 86), on account of competition between the champions of oppressed groups to establish the relative primacy of one oppression over another. It is unclear, for instance, whether the dual effect of age and gender discrimination is simply additive or in some ways mutually reinforcing. The latter view is supported by some strands of feminist thought that hold that the origins and manifestations of ageism among older women are quite distinct from those affecting older men.

One focus in this vein has been upon the patriarchal concept that, it is argued, underpins organizational life. This incorporates an exclusive, male-

based and male-biased chronology of career development that values continuous employment and penalizes discontinuity arising from childbearing and domestic responsibilities. Another viewpoint relates to the sexualizing of women's value in youth. Arber and Ginn (1991) have argued that older women tend to be socially invisible or are often portrayed in popular culture in a demeaning way ('old hags' in fairy tales, or the insult in calling someone an 'old maid'). This has arisen because women are valued according to sexual attractiveness, availability and usefulness to men. A similar perspective draws parallels between ageism and sexism via the theme of control over the body. Using the work of Grosz (1993, 1994) on sexed knowledge and the body, Harper (1997) argues that men have more control over their bodies than do women, as they do not menstruate or give birth. As the ageing process is both associated with, and stigmatized with respect to, loss of control over the body and its functions, both ageism and sexism have common roots in being defined by male experience.

By contrast, mainstream analyses of the origins and manifestations of ageism, and public policy responses, have mostly been confined to consideration of employment status. These have drawn upon theories of 'structured dependency', where enforced marginality from wealth production is viewed as the chief source of oppression of older people (Phillipson, 1982; Townsend, 1981; Walker, 1980, 1990). For instance, Walker (1990, p. 61) argues that imposition of a 'retirement condition' into the National Insurance pension in 1949 constituted 'the main wellspring for widespread discrimination against older people' by devaluing their economic role, and the same perspective clearly underlies the more recent association between ageism and early exit. However, while policies to tackle early exit are invariably presented as gender-neutral, it has nevertheless been argued that linking ageism to the early exit phenomenon has given rise to gender bias. According to Ginn and Arber (1996a) there has been over-emphasis upon men's early exit, while the exclusion of older women from the labour market is regarded as uninteresting and unproblematic.

Two factors underlie such bias. First, the more intermittent nature of women's employment, including prolonged periods of economic inactivity at different stages in the life-course on account of child rearing and other domestic commitments, is sometimes assumed to devalue the significance of both retirement and pre-retirement exit for women relative to men. This assumption is challenged by Ginn and Arber (1996a) who contrast high levels of labour force participation among women in their 40s relative to that in later years, and whose research points to age discrimination rather than personal choice as the source of subsequent declining activity. Table 1 below confirms this steep decline in activity from the mid-40s onwards, which is more marked for women than men, though women's earlier state pension age (60) may be viewed as distorting such comparisons. Also of interest is that almost 26% of women aged 60–64 remain in employment after state pension age,

Table 1: Economic activity of older men and women, 2000 (%)

Age	Men	Women
45-54(a)	88.1	75.9
55-59(b)	74.8	57.6
Difference: (b - a)	-13.3	-18.3
60-64	50.3	25.9
Difference: (c - b)	-24.5	-31.7
65+	7.9	3.4

Source: OECD (2001).

Table 2: Trends in economic activity rates of older men and women, UK 1951-2000 (%)

	1951	1961	1971	1975	1981	1985	1990	1995	2000
<b>Men aged:</b>									
55-59	95.0	97.1	95.3	93.0	89.4	82.5	81.4	73.7	74.8
60-64	87.7	91.0	86.6	82.3	69.3	55.4	54.6	50.1	50.3
65+	31.1	25.0	23.5	19.2	10.3	8.5	8.8	8.2	7.9
<b>Women aged:</b>									
55-59	29.1	39.2	50.9	52.4	53.4	52.0	54.8	55.7	57.6
60-64	14.1	19.7	28.8	28.6	23.3	18.8	22.7	25.0	25.9
65+	4.1	4.6	6.3	4.9	3.7	3.0	3.4	3.2	3.4

Source: 1951-1981 Taylor and Walker (1995).  
1985-2000 OECD (2001).

against just 8% of men who work beyond age 65, a difference most likely to reflect differential access to pension income.

A second reason why the current association between early exit and ageism has tended to downplay the impact of ageism upon women relates to the way the early exit phenomenon is usually portrayed statistically, where gender comparisons are invariably of *trends* over time rather than relative degrees of exclusion. As shown in Table 2, such data reveal that the trend towards early exit is apparent only in the case of men, though the downward trend in male activity seems to have levelled off over the last five years. Through age-cohort analysis, Ginn and Arber (1996a) demonstrate a similar trend towards exit among older women too, but one masked by the growing participation of women generally in the labour market, though a similar analysis by

Campbell (1999, p. 26) provides less evidence for this, suggesting that the longer-run trend may apply only to men. With respect to detecting the relative incidence of ageism, however, trend data are scarcely relevant. The focus on such data suggests that public policy is less concerned with ageism *per se* than with the longer term costs and affordability of early exit.

Nor can the neglect of women's early exit be justified in terms of milder consequences. On the contrary, it has been argued that early exit has more negative consequences for women than men, given gender differences in career chronology, state and occupational pension entitlement and longevity. Old age may be considered a predominantly female experience, with 60% of those aged over 65 and 75% of those aged over 85 being women (Falkingham and Rake, 1999). Since pension eligibility is related to time spent working, women are penalized for time spent caring for others. Many women therefore work fewer years than required for a full state pension, and occupational pensions are adversely affected by shorter service, lower pay and part-time working. It has, therefore, been argued that there is a greater need for women than men to have a longer time later in their working lives to develop careers and build up pension entitlement. Indeed there is some evidence that more women than men would like to work beyond retirement age (Itzin and Phillipson, 1993, p. 41), a finding also consistent with the post-retirement activity figures in Table 1. The raising of women's state pension age from 60 to 65, phased between 2010 and 2020, will increase the need for older women to work to lessen the risk of poverty in later life. However, there is some evidence that in conditions of slack labour demand, an inadequate pension cover has contributed to an *increase* in involuntary early exit among women relative to men. Broken patterns of pension fund contributions can make it financially prohibitive for women to take early retirement, or for employers to design sufficiently attractive early retirement schemes for women. In the early 1990s, redundancy therefore became a more significant exit pathway for women, but less significant for men, who enjoyed greater access to voluntary early retirement schemes (Trinder *et al.*, 1992, p. 37).

Previous empirical work on the gender dimensions of ageism has mostly focused upon inequalities faced by older women with respect to pension provision (Ginn and Arber, 1993, 1994, 1996b), or the adverse employment consequences of treating women in accordance with male career patterns and employment chronology (Itzin and Phillipson, 1993, 1995). Among Itzin and Phillipson's findings, based on local authority case studies, was the fact that women were perceived as being older than men. The assumption among managers was that women reached the highest point in their careers aged 35, compared to some ten years later for men. There was reference to a 'golden decade' of appointment of top managers between the ages of 30 and 40, which, argued the authors, is 'almost certainly a form of indirect sex discrimination' against women (1995, p. 82). Other manifestations included managers who were more likely to consider 'women's work', such as caring

and cleaning tasks, as being most suitable for older workers. Nor was this age-sex stereotyping necessarily restricted to older women: one manager admitted that age is always linked to male perceptions of women and elucidated the various age-related sex stereotypes. These ranged from being considered a 'flighty young piece', or 'hearing wedding bells', or 'raising a family and not really committed to her work' to 'it's that age — the change' (1995, p. 85). This suggests that women may experience greater age discrimination over all ages than do men, and that 'double jeopardy', as it applies to women, may be reinforcing rather than simply additive. This picture was reinforced by the data collected from women aged 35–50. As the authors observed: 'from the perspective of women's experience there seemed to be a great deal of truth in the observation that women are never the right age' (1995, p. 85). It was also found that the women had internalized these barriers and tried to overcome some of the disadvantages of age stereotyping by looking as young as possible.

Notwithstanding such work, many of the key controversies concerning the legitimacy of the concept of gendered ageism remain untested. Existing empirical work has focused upon older women only, in seeking to provide some corrective to perceived bias in research and public policy in favour of older men. However, there is little evidence that directly compares the extent and manifestations of ageism experienced by both male and female employees, and across different age categories; information that would seem germane to the design of effective age legislation. These considerations informed the design of our empirical work.

## Methodology

During 2000, questionnaires were distributed to 2000 randomly selected employees of Finserv,<sup>1</sup> a major UK financial services enterprise employing 9000 staff. Our focus upon financial intermediation was influenced by the somewhat ageist reputation acquired by this sector, especially in the context of job shedding among older employees during the 1990s (Storey, 1995, p. 24). Moreover, Finserv was keen to co-operate in the research and to facilitate access to large numbers of its employees. The company seemed concerned about age-related issues: the workforce was becoming younger and there were worries about job turnover rates.

We received 1128 responses, a response rate of 56%. To meet Finserv's wishes, no follow-up letters were issued, and no records of who had been included in the sample were made available. We therefore had no way of knowing if those who chose not to participate differed in any way from those who completed and returned questionnaires. Nevertheless, a comparison of the profile of the respondents to Finserv's employee profile reveals that our sample closely matched it in terms of gender and basis of employment. Full

Table 3: Details of sample

		Sample		Finserv (%)	
		n	%		
Gender	Male	513	46	45	
	Female	613	54	55	
Employment status	Full-time	1,029	91	90.2	
	Part-time*	98	9	9.8	
Age	Males n	Females n	Males %	Females %	
16-24	66	121	13	20	Not available
25-34	249	276	49	45	"
35-44	114	153	22	25	"
45+	82	59	16	10	"

NB. Numbers add to less than 1128 because of missing values.  
 \* The vast majority (95%) of part-time employees are female.

details of these breakdowns are given in Table 3, together with the age profile of our sample. A feature of note is the relative youth of our sample. Although Finserv figures were not made available, anecdotal evidence from management confirms that this is a young workforce. The age profile for males was significantly older ( $\chi^2 = 18.58$ ; d.f. = 3;  $p < 0.001$ ) than that of the females. These differences are taken account of in the analyses which follow.

The main objective of the research was to explore in more depth the nature of ageism, in particular to establish if the extent and manifestations of age discrimination, as indicated by employee experiences and perceptions, varied across age categories and by gender. A questionnaire was used in order to collect opinions from a representative sample of the company's employees. Open response questions facilitated the collection of employee experiences and perceptions.

## Results

### *Experiences of ageism by age category and gender*

Two hundred respondents (18%) indicated they had received less favourable treatment because of their ages. Almost the same proportions of men (17.7%;

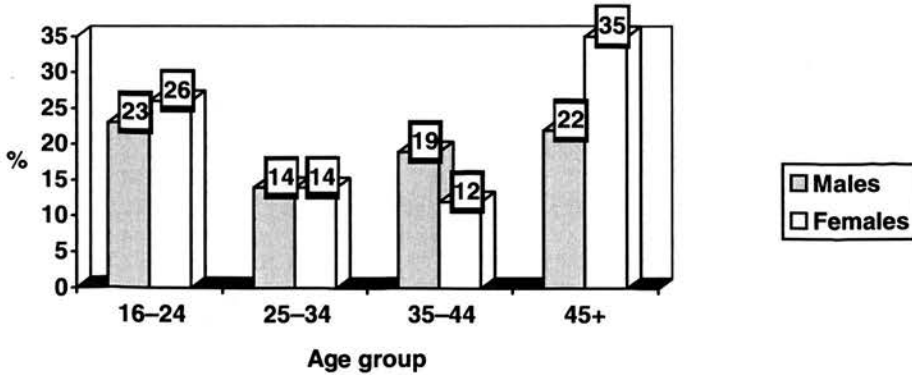


Figure 1: Experience of age-related negative discrimination

n = 90) and women (18%; n = 110) reported negative experiences. However, there were significant variations across the age bands (men  $\chi^2 = 8.46$ ; d.f. = 3;  $p < 0.05$ ) women ( $\chi^2 = 22.22$ ; d.f. = 3;  $p < 0.001$ ). These patterns are illustrated by Figure 1.

Figure 1 shows a bipolar distribution of age discrimination, indicating that those at the younger end of the workforce and those at the older end were the groups most likely to have received negative treatment because of their ages.

Most (90%; n = 180) of the respondents who had experienced age-related discrimination provided details of their experiences. The qualitative nature of these responses allowed for categorization by the authors. Two broad categories of experiences emerged: negative treatment because of younger age, and negative treatment because of older age. Unsurprisingly, the reports provided were generally related to the respondents' ages, e.g., most of the negative treatment because of younger age was reported by respondents themselves under the age of 40. The themes to emerge under the two headings are detailed in Table 4, and will be explored in turn. It is worth noting that although all the accounts reported stem from negative (ageist) attitudes, to provide greater insight into the manifestations of ageism it was decided to classify according to outcome. Where this was not possible, the reports were described as 'negative attitudes'. Analysis of responses by age and gender facilitated the exploration of the nature of discrimination experienced.

### *Negative treatment because of younger age*

A pertinent area of discrimination for the under 40s centred around unequal treatment in terms of pay and benefits. The main concerns were that starting

Table 4: Types of negative treatment reported

	n	% of those providing comments	Males n	Females n
Negative treatment because of younger age:				
• Pay and/or benefits	38	21	26	12
• Negative attitudes	32	18	12	20
• Too young for promotion	28	16	11	17
• Job deployment restricted	21	12	13	8
• Youthful appearance	7	4	1	6
Sub-total	126	70		
Negative treatment because of older age:				
• Too old for promotion	27	15	10	17
• Reduced training opportunities	13	7	6	7
• Negative attitudes	12	7	3	9
• Redundancy	2	1	2	0
Sub-total	54	30		
Overall total	180	100	84	96

salary and pay rises at Finserv are based on age rather than experience or qualifications, and that Finserv also increased holiday entitlement according to age.

Another prominent theme, particularly experienced by women aged under 30, was related to negative attitudes from older colleagues.

Working straight from school, people assume you are less intelligent/capable in terms of doing more challenging work or being trusted with things. (Female, 18)

A closely linked theme concerned restrictions in job deployment, resulting from unfavourable comparisons with older colleagues.

[The] general perception seems to be that older people are more reliable and more responsible and are often given extra tasks because of this rather than ability or experience. (Female, 25)

Two other types of experiences related were being refused a promotion because of (young) age, and receiving less favourable treatment because of their youthful appearance.

Overlooked for promotion due to age, told I was too young. (Male, 26)



Was turned down for a promotion and when asked why was told, 'that would have made me the youngest person to hold that position'. (Female, 29)

I'm considered too young to be in my position. [My] opinions/ideas are given less credence due to my youthful appearance. (Female, 29)

### *Negative treatment because of older age*

The issue of promotion was also of concern to respondents aged 40 and over. The most common theme was that they considered that they had been denied opportunities to be promoted because of their age.

Eight years ago, I was told during a major reorganization that there was a need to bring on younger people and I shouldn't expect any further progress — which has happened. (Male, 51)

Another common type of negative treatment because of older age was in relation to opportunities for training. Several responses mentioned the advent of 'new technology' in strengthening negative stereotypes against older employees, the result of which was to deny them job opportunities.

I work in information systems where older managers such as myself are restricted to work on old mainframe systems, and not trained so that we are excluded from work on new technology projects (e.g. E-Commerce). (Male, 47)

General negative attitudes also appeared to be a source of concern to the over-40s.

I am sick and tired of people's ageist comments which make me feel uncomfortable and unhappy. I can take a joke but refuse to be belittled by people senior to me. Especially when their power does not enable us to react. (Female, 44)

Finally, two respondents, both men in their 50s, maintained that they had been (unfairly) selected for redundancy from previous jobs based on their age.

### *Gender dimensions of ageism*

Amongst younger staff (aged up to 40), men were more likely to report negative treatment related to pay, benefits or job deployment. On the other hand, women were more likely to report barriers to promotion or receiving less favourable treatment and more negative attitudes because of their (perceived) youth. Similarly, among the over-40s, women were more likely than men to provide accounts of unequal access to promotion. Both older men

and women reported negative barriers to training. However, in terms of another common theme, that of negative attitudes, it was clear that, as with younger employees, the brunt of negative attitudes continued to fall more heavily on women than on men.

In addition to these differences highlighted in Table 4, one overarching difference was that many of the accounts of ageism provided by women contained a sexualized element.

As an IFA, an agent would not deal with me as he considered me too young and female (not sure which bothered him most — my age or my sex!) (Female, 32)

One senior team member sent an e-mail when I forgot to sign a form. . . . 'Tell the dried up old maid to get her teeth in'. On another occasion a team leader called us a bunch of 'old fuckers'. . . a coach asked us which was greater, our team's combined ages or [Finserv's] bank balance . . . to name but a few incidents. (Female, 35)

Promotion lessens as you get older, especially having had two periods of maternity leave and working part-time. (Female, 37)

Promotion opportunities not as available to people like me (i.e. older, female). (Female, 36)

These quotes also illustrate that women in their 30s were discriminated against on three grounds: because of their gender, because they were considered too old *and* because they were too young. Twenty-seven men in their 30s reported ageist experiences: all but two of these were related to negative treatment because of younger age (with issues of pay and benefits predominating). In contrast, of the 25 women aged 30–39 who reported negative treatment, 13 believed this to be because of their relative youth and 12 because of older age.

Some of these differences relate to the notion proposed by Itzin and Phillipson, (1993, 1995) that women are perceived as being older earlier than are men. Related to this is the idea that women will reach the peak of their careers earlier than will men. Other questions in our study aimed to investigate these notions further.

The first question concerned one of the principal recurring debates in the ageism literature, that of performance declining with age. The respondents were asked to indicate at what age they considered employee performance to decline. The response categories were split into males and females employed in manual jobs and non-manual occupations respectively. The answers obtained are profiled in Figure 2.

Overall, 83% of respondents believed that there is an age-related decline in performance of manual employees, while only 48% thought this of non-manual employees ( $\chi^2 = 42.84$ ; d.f. = 1;  $p < 0.001$ ). In the case of manual

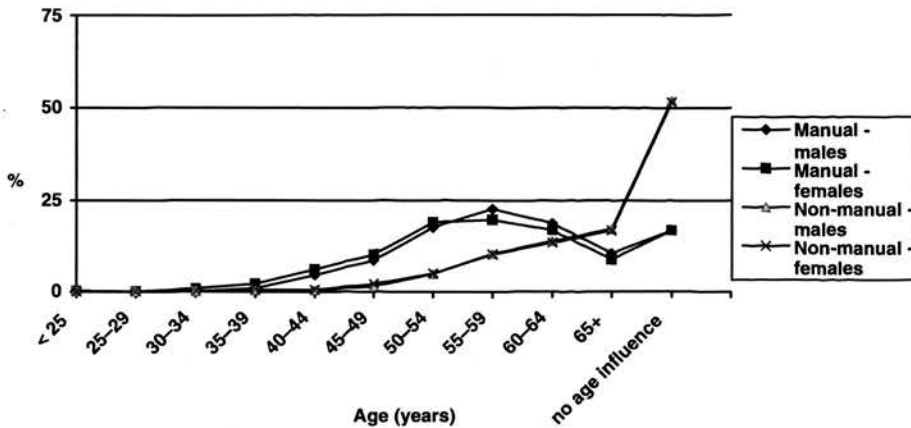


Figure 2: Age at which job performance is thought to begin to decline

employees, most considered that this decline starts around the ages of 45–59; whereas for non-manual employees the decline was thought to begin at 55 or later ages. The Wilcoxon test revealed that respondents perceived performance amongst females to begin to decline at a younger age than for their male counterparts (non-manual employees  $Z = -4.98$ ;  $p < 0.001$ ; manual workers  $Z = -10.11$ ;  $p < 0.001$ ).<sup>2</sup> Differences in perceptions held by male and female respondents and across the various age groups were examined using the Mann-Whitney U test. Results showed no significant differences between respondents of different ages. However, the gender of the respondent did affect the pattern of responses — in relation to manual employees only. Men were more likely than women to consider that performance declined at an earlier age for both sexes (males  $Z = -3.15$ ;  $p < 0.01$ ; females  $Z = -2.96$ ;  $p < 0.01$ ) engaged in manual employment.

A subsequent question used peak earnings as a proxy for career peak. As only 88 respondents considered that their earnings had already peaked, the remainder were asked to speculate when they would reach peak earnings. Both distributions were very similar, with ages varying between 24 and 65, and means of 41 years (achieved peak) and 42 years (expected peak). Analysis of variance was conducted on both distributions to determine if and how these means varied by age, gender and whether or not the respondent had experienced ageism. The age effect was as expected, that is, older respondents tended to report higher ages. However, an interaction between gender and experience of ageism revealed that, controlling for the age effect, the lowest means were reported by women who had experienced age discrimination (achieved peak  $F = 14.77$  (86);  $p < 0.001$ , expected peak  $F = 4.97$  (489);  $p < 0.001$ ). For example, in the oldest age group (age 45 and over), men reported, on average, that they had reached their highest earnings at age 51. There was no difference between men who had experience of age

discrimination and those who did not. In contrast women in this age group who had experienced ageism reported a mean of 43 years old; this compared to a mean of age 50 for women who had not experienced such discrimination.

The findings to these supplementary questions also point to gendered ageism, with the onset of decline in job performance thought to begin earlier for women in manual employment. This, too, is consistent with the perceptions of managers, as detected by Itzin and Phillipson (1993), who considered women as older than men and their careers peaking at an earlier age. Interestingly, although women judged manual employees less severely than did men, and were therefore less ageist in this respect, they too were likely to be harsher on their own sex than on men, providing an indication that they had internalized these negative gender-related assumptions.

## Conclusions and policy implications

Inevitably, any conclusions based on these data must be somewhat speculative and tentative. There are limits due to the usual deficiencies associated with questionnaire surveys and with collecting attitudinal data. The extent to which generalizations may be drawn from the survey may also be questioned: respondents were selected from one organization in one employment sector, and the age profile of the Finserv sample was considerably lower than that of the general British workforce. Our focus on employees also precluded the detection of ageism and gendered ageism affecting potential employees or suffered by those who had exited. For instance, we were unable to measure the gendered ageism in recruitment processes that is thought especially to affect younger women of child-bearing age. Similarly, it is not known to what extent the older employees surveyed were unrepresentative survivors of ageist exit policies. Moreover, there are limitations in using employee perceptions as a measure of age discrimination. Predilection to perceive or report discrimination is likely to be influenced by several factors including motivation, work orientations and the extent to which personal goals and expectations are realized. Employees may therefore perceive they are being discriminated against when they are not; or they may be unaware that they are being discriminated against. Bearing these limitations in mind, our survey nevertheless represents one of the few attempts to capture employee as opposed to managerial attitudes, and to explore the extent and manifestations of ageism across age categories and by gender.

Our findings show that older employees (over 45) and younger employees (under 25) were most prone to negative age discrimination, at least as indicated by employee perceptions, a profile that was more extreme for women than men. This profile lends some support to the notion of a 'prime age' labour category that is often assumed to exist — an age range regarded as neither too old nor too young and therefore least prone to age

discrimination. However, a significant proportion of those reporting negative discrimination did fall within the 25–44 age bands, diluting somewhat evidence for the concept of prime age. Issues felt to constitute discrimination obviously varied to some extent by age group. For instance, poorer pay and benefits were more often cited by younger employees while reduced opportunities for training were more often experienced by older employees. However, among the younger age groups in particular, it was interesting to find that negative treatment was not confined to pay and conditions, which, it may be argued, could reflect labour market position rather than irrational prejudice. Several individuals aged 16–29 also reported experiences of negative *behaviour* towards them.

There were both similarities and differences in the ways ageism impacted upon men and women. In line with Bytheway and Johnson (1990) we conclude that there seems to be sufficient grounds for treating ageism as a distinct form of oppression in its own right. As many men as women reported age discrimination and most of the work issues underlying such perceptions were cited alike by men and women, if to differing degrees. Nevertheless important gender differences were also detected in sources and manifestations of ageism. The disadvantage incurred in being 'too young' or 'too old' was found to impact more upon women than men, suggesting that in these age ranges at least, being female acted to intensify age prejudice and that 'double jeopardy' was reinforcing rather than simply additive.

On the other hand, higher proportions of men than women in the 25–44 age range experienced age discrimination, and in general the experience of males across the age spectrum was less variable than for women. Accordingly, it might be argued that the slogan 'never the right age' is more appropriately applied to men than women. However, against this view may be cited the evidence of significant gender differences in issues perceived as discriminatory. Across the age groups, women were more likely than men to provide examples of age discrimination involving negative attitudes, and these were frequently associated with women's appearance or their sexuality, and it is in this sense that 'never the right age' may chiefly apply to women. Examples of negative discrimination provided by men were less likely to be connected to issues of gender, being more related to perceived discrimination with respect to pay, benefits and job deployment. Notions of power and patriarchy were also mentioned explicitly in several accounts from women.

From the experiences recounted by females in their 30s, there was also some evidence that women are considered older earlier than their male colleagues. Only women in this group had been considered too old for promotion. This is consistent with perceptions that the job performance of manual women declines earlier than for men. Finally there was evidence that ageist experiences were associated with earlier earnings peaks (actual or expected), and that this effect was greater for women than for men.

Such findings suggest that forthcoming legislation will prove defective if framed in line with policy emphases thus far in dealing with ageism, that is formal gender-neutrality but preoccupation with its impact upon older men. However, the long consultative phase prior to national legislation in 2006 provides an opportunity to canvass for recognition within the legislation of the distinctive sources and manifestations of ageism affecting women and other age groups. Our findings represent an initial contribution in this direction and may also be of value in informing the content and training requirements of equal opportunities policies with respect to age.

Presently there seems great uncertainty as to the form the legislation should take, reflected in the Government's decision to negotiate a three-year extension to the date on which the age provisions of the European Directive were to apply. Current indications, however, are that the Government favours a model based upon existing discrimination laws (Department for Trade and Industry, 2002a, p. 24). The Directive itself provides only the loosest of guidance. Both direct and indirect discrimination are prohibited and all ages are covered rather than just older workers. However, being a framework directive, governments are allowed considerable latitude when framing national legislation to decide when age discrimination can be justified. Article 6 of the Directive specifies that different treatment need not constitute discrimination if it can be 'objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives, and if the means of achieving that aim are appropriate and necessary'. Such exceptions need not necessarily weaken protection. One example listed in Article 6 allows positive discrimination in favour of specific groups such as younger or older workers or those with caring responsibilities 'in order to promote their vocational integration or ensure their protection'. Nevertheless, a trade union view is that Article 6 is so broad as to allow governments 'to tolerate most forms of age discrimination indefinitely' (GMB, 2001). Alternatively, the permissive nature of the Directive and long consultative phase may be viewed positively as allowing the Government flexibility to respond appropriately to research findings and representations from interest groups.

The distinctive character of age prejudice raises a number of thorny issues that require decisions to be made prior to the legislation coming on stream. Absence of a single, clearly defined, oppressed group, it may be argued, provides almost limitless scope for anyone, of any age, to claim unfair treatment in some respect relative to someone of a different age. On this ground employers' representatives have warned of an escalation of costly and spurious litigation (Confederation of British Industry, 2001). Similarly, identification of a benchmark group free from ageism, from which to detect ageism elsewhere and inform the design and focus of responses, is highly problematic. The notion of prime age labour is a possible candidate, but our findings show that this concept is too imprecise and varied to act as an operational

benchmark. Age ranges considered prime and less prone to age discrimination vary by manual/non-manual divide and by gender, at least as indicated by perceptions of the onset of performance decline; and there was evidence that women are perceived as ageing before men. Moreover, as noted above, reported instances of age discrimination were by no means confined to older and younger workers. Existing anti-discrimination laws covering disability, race and gender do not confront the same problems, as defined marginalized groups are targeted and the 'fit white male' has, for better or worse, acted as the benchmark. Nevertheless, the considerable evidence found of negative age attitudes towards individuals, especially displayed towards women, cautions against resolving this issue by restricting the scope of age legislation to challenging 'job age-typing', as embraced in Oswick and Rosenthal's (2001) contingent concept of ageism.

Another suggestion on how to deal with difficulties posed by the absence of a suitable benchmark, and the associated risk of spurious litigation, is to restrict the coverage of legislation to carefully defined age groups or 'pools' (Employer's Forum on Age, 2001, p. 13; Institute of Directors, 2001, p. 7), particularly with respect to indirect discrimination, a concept that really only makes sense if disadvantage and exclusion are assumed to be on the basis of membership of a specific social group. However, criteria governing the selection and definition of these groups will need careful scrutinizing to ensure that women are appropriately represented. The Institute of Directors' suggestion is that the Government provides clear legal definitions of what constitutes an older worker, younger worker and middle-aged worker. This approach would seem to endorse a gender-neutral concept of ageism and, as with the notion of prime age, fails to address the difficulty of gender, inter-occupational and inter-industry variations in how such terms are applied.

It is uncertain at this stage whether compulsory retirement ages in employment contracts will become illegal once the Directive has been implemented. This has been judged likely except where firms can provide an objective justification (*Equal Opportunities Review*, 2001, p. 33). Ending compulsory retirement would be especially beneficial to women, given their greater identified need and desire to work beyond retirement.

There seems little recognition as yet of the gender components of ageism, with public policy discussion on age discrimination legislation persisting to treat the concept as gender neutral. This may change in the context of the Government's 'New Equality Agenda', with consultations now underway on the wisdom of creating a Single Equality Commission. This would incorporate existing commissions on race, equal opportunities and disability, along with the additional equality strands from the European Employment and Race Directives, including that of age (Department for Trade and Industry, 2002b). Our findings are supportive of a merged body of this sort, which is likely to prove more policy-sensitive than separate commissions to gender dimensions of ageism, as well as to ways in which age may interact

with race and disability discrimination; further themes that remain under-researched.

## Acknowledgements

The authors would like to thank the staff of Finserv for their assistance with this project. Especial thanks are due to Aileen Deas and Fiona Lawson. The assistance provided by Jake Ansell, Andy Adams, Lorarine Edgar, Penny Earle, Laura Lannon and Sandra Scott is also gratefully acknowledged.

## Notes

1. This pseudonym has been used throughout to meet the company's wish for anonymity.
2. The test statistic reflects the relative ranking, by each respondent, of perceptions of decline in male and female performance and also takes into account the magnitude of the differences in ranking.

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## PAPER 7

# **AGEISM IN THE WORKPLACE: IMPLICATIONS FOR UK ANTI-AGE DISCRIMINATION LAW**

**BY**

**Colin Duncan**

**Wendy Loretto**

**&**

**P J White**

Invited paper given at conference: *Age, Work and Employment: Thinking About The Future* , University of Stirling, Stirling Management Centre, 20 June 2003.

Updated in 2005 for publication in special edition of *Personnel Review*. Added to public domain via *VOCED* data base, Document no. TD/TNC 81.21. Accessed at:

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# AGEISM IN THE WORKPLACE: IMPLICATIONS OF UK ANTI- AGE DISCRIMINATION LAW

## Abstract

**Purpose** – To investigate the contours of ageism in the workplace, thereby providing insight into the likely effects of impending anti-age discrimination law in the UK.

**Methodology/approach** - Employees' attitudes to age and their experiences of ageism were investigated by means of a questionnaire survey completed by over 2,000 employees of a large financial services enterprise.

**Findings** – A bi-polar pattern of ageism was detected, with younger and older employees most affected. Employees were not just victims but also engaged in age stereotyping. Pressures towards involuntary early retirement were evident, though the bulk of employees preferred to retire early. Attitudes towards compulsory retirement were evenly divided.

**Research limitations/implications** – The case study firm was mostly populated by non-manual employees and had a young age profile. The approach could therefore usefully be extended to firms in other sectors with differing age profiles and occupational composition.

**Practical implications** - Under the new law, employers may face more challenges than has hitherto been anticipated from younger employees; and in some circumstances the law will act against the interests of older employees.

**Originality/value** - The study is among the first to investigate systematically the contours of workplace ageism from the perspective of employees, thereby providing useful new indicators of the likely impact of age law.

**Keywords** – Ageism, Anti-age discrimination law, Older workers, Younger workers, Retirement

**Paper type**- Research paper

Although legislation to combat age discrimination in employment is due in the UK by October 2006, great uncertainty still exists regarding its likely impact. As we write, some 12 months prior to the legislation coming on-stream, consultation is still taking place over important legislative details. There are also major gaps in our knowledge of the extent and pattern of ageism in employment. This paper addresses this latter source of uncertainty, with a view to providing some useful insights into the likely effects of age law.

We begin by tracing the evolution and objectives of anti-age discrimination policies in the UK, and outline what details are known about the format of the impending legislation. Next, we establish the logic of our focus and outline our methodology. The remainder of the paper presents and analyses some key results from a study

conducted in a major UK financial services enterprise. This investigated the attitudes of employees to age and retirement, and their perceptions and experiences of ageism. Some inferences are then drawn concerning the likely influence of the new law.

### **The road to anti-age discrimination law**

Current concern over age discrimination has complex roots. The field of social gerontology and activities of the age lobby have been influential, and indeed the term 'ageism' is often reported as having been first coined in 1969 by an American gerontologist, Robert Butler, with respect to the virulent opposition he observed to the siting of public housing for older people in Maryland. He defined ageism exclusively as prejudice affecting older people (Butler and Lewis, 1973), its source originating in people's fears and rejection of the ageing process, decrepitude and mortality. In the UK, the term remained an 'alien concept' until the early 1990s (Laczko and Phillipson, 1991, p. 33), after which analyses began to appear of manifestations of ageism in health and social services, the media and day-to-day attitudes (McEwen, 1990; Bytheway, 1995). Older workers too sometimes featured in such analyses, facing in employment a similar if implicitly milder version of the same prejudice encountered chiefly by the 'elderly'.

However, some commentators have detected a distinction between the concept of 'ageism', as a pernicious ideology affecting social relations and attitudes towards older people, and that of 'age discrimination' in employment. Though the two concepts are often intertwined, the latter, according to Macnicol (2002, p. 6) has a much longer pedigree in the UK and elsewhere:

The history of retirement in the twentieth century is littered with accusations of growing age discrimination against older workers who have often been judged industrially obsolete or 'surplus to requirements', particularly in times of recession or economic restructuring.

Indeed, laws protecting older workers from age discrimination have been passed by several US state governments since at least 1903 (Macnicol, 2003, p. 14).

The current phase of concern in the UK over age discrimination in employment also emerged in the early 1990s, and is attributed by Macnicol (2002, 2003) chiefly to

utilitarian concerns: the falling economic activity rates of older men since the 1970s; an ageing population and attendant rising state welfare and pensions expenditure; and persistent skill shortages in key areas of the economy. In addition, emphasis by governments upon supply-side labour policies since the early 1990s meant that early retirees became viewed as a source of cheap labour. Thus, the emergence of ageism as a concept in social gerontology complemented but did not determine the revived policy focus upon older workers.

In the face of government and employer antipathy towards legislation, policies towards older workers throughout the 1990s relied upon successive government campaigns of persuasion and exhortation directed at employers, and the unfolding of a 'business case' against age discrimination. Borrowing heavily from gerontological research, this placed emphasis upon debunking negative stereotypes concerning the qualities and contribution of older workers. Though 'New Labour', when in opposition, promised age legislation, the Blair Government chose instead to continue this voluntary approach, encoding business case arguments in a non-statutory Code of Practice issued to employers in 1999 (DfEE, 1999). Yet there were worries during this voluntary phase that concern had been diluted over ageism as a broader social justice issue – a prejudice that in its most pernicious form chiefly affected people *beyond* retirement (Bytheway, 1995, p. 105). Such concerns were prophetic, given that age legislation will be confined to employment and training, a decision justified on the contestable ground that 'ageism in the workplace is widely regarded as the most significant and damaging aspect of age discrimination.' [1]

More accurately, however, recent events represent not so much a jettisoning of the 'social justice' element of age discrimination but its displacement from a locus in gerontology to reformulation in employment as part of the equal opportunities agenda. This shift was most obviously evidenced by endorsement towards the tail end of the voluntary phase that age discrimination should refer to age prejudice encountered by *anyone* in employment, irrespective of age. This reflected a natural tendency to incorporate ageism in employment into existing equal opportunities frameworks: by 1998, around 40 per cent of WERS workplaces had formal written equal opportunities policies that included reference to age (Cully *et al.*, 1998, p. 13). Such policies, by their very logic, precluded exclusive focus upon older workers.

This tendency was reinforced by a growing body of research revealing that young employees too could be affected by age discrimination (Age Concern, 1998; DfEE, 2001; Loretto *et al.*, 2000). Several influential employers' organisations, including an *Employers' Forum on Age* (EFA), also canvassed for an age-neutral definition of ageism to be incorporated into Labour's voluntary Code. The motive here was rather less to do with equality than with maintaining employer autonomy and flexibility in dealing with age issues - the concept of age neutrality reduced pressures on employers to treat any particular age group more favourably (Duncan, 2003, pp. 111-112).

Nor is age equality the chief motive driving government policy. While endorsing the concept of age neutrality in the voluntary Code and forthcoming legislation, the Blair Government has nevertheless seemed keen to re-focus discussion in recent times towards older workers. Indeed, the EFA considered that the initial age Code was over-focused upon older employees (EFA, 2001), and this emphasis seems unmistakable too in subsequent guidance to business (DWP, 2002). While the Government's *Age Positive* Campaign launched in 1999 has been careful to emphasise age diversity and neutrality, perusal of its website conveys a similar emphasis. The publication of the Turner Report in October 2004 (Pensions Commission, 2004) incorporating dire warnings about an impending pensions crisis and the need for people to work longer, and a consultative phase towards legislation that has been dominated by the issue of mandatory retirement, has reinforced impressions that older workers are the chief target of the legislation. Recent government policy documents certainly view the legislation as a crucial element in promoting their participation rates, as part of a programme to achieve a 'world-beating' 80% employment rate by 2050, including a million more older workers (DWP, 2005).

### *Legislation*

The EU framework Equal Treatment Directive (Council Directive 2000/78/EC) which outlaws workplace discrimination on grounds of age, religion, disability and sexual orientation, requires the Government to have age legislation in place by December 2006. The Directive prohibits direct and indirect discrimination in



employment and applies to age generally rather than just to discrimination against older workers. Areas covered include recruitment, vocational training, employment and working conditions, including pay, and dismissal (Article 3). Prevention from harassment is also covered as a form of direct discrimination (Article 2 (3)). Opinions still vary regarding the precise implications of the Directive for compulsory retirement. However, being a framework directive, considerable latitude is allowed, when framing national legislation, to determine when age discrimination can be justified. Hence, Article 6 specifies that different treatment will not constitute discrimination if it can be 'objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives, and if the means of achieving that aim are appropriate and necessary.' As we write, the number and detail of such exemptions remain undecided.

What *is* known is that the age strand will closely follow the format of existing discrimination laws, with co-ordination under a new single equality commission, the Commission for Equality and Human Rights. The Government has also clarified its position on mandatory retirement, after prolonged consultation with employers, who mostly resisted abolition. A 'national default retirement age' of 65 will operate, allowing employers to retire their employees compulsorily at that age without having to justify their decision. Employers who wish to set a retirement age below 65 will have to provide an objective justification. There will also be a right for employees who want to continue to work beyond the default age, or their employers' own retirement age if above 65, to 'request' the right to work longer, though employers will have the final say. Five years after the legislation comes into force there will be a formal review to decide whether to abolish mandatory retirement outright. However, some commentators feel that this national default retirement age may not comply with the Directive (Rubenstein, 2005).

### **Objectives and methodology**

The legacy described above has meant that rather little attention has been devoted to employees' views on age matters and their workplace experiences of ageism, which is unfortunate given that the new legislation will be complaints-based. Instead, the research focus has been overwhelmingly upon employers, especially during the voluntary phase of persuasion and exhortation during the 1990s, when much

academic and government-sponsored research was preoccupied with employers' attitudes towards older workers, and with formulation of a business case to dissuade employers from discriminating against them (e.g. Taylor and Walker, 1993, 1995). Apart from their confined focus upon older workers only, many such studies were also semi-campaigning in tone rather than wholly investigative, seeking to establish proof of ageism rather than testing for its extent or pattern. Moreover, employer views and attitudes on age matters need not correspond to employee experiences. Indeed, the relationship between employer attitudes and their behaviour towards older workers has been found to be highly complex, with some attitudes reflected in practices and others not (Taylor and Walker, 1998).

Absence of precision is a further limitation when treating employer attitudes as a proxy for workplace ageism. Employers may have firm views regarding loosely defined categories such as older or younger workers, but distinct attitudes to specific ages are unlikely to be discerned in a measurable way. Measuring employee perceptions and experiences of age discrimination at workplace level may better capture the contours of age discrimination across the age range. One further shortcoming is the presumption embraced in much employer-based research and policy of employee as victim and employer as perpetrator of ageism. Knowledge of ageist attitudes on the part of employees too, would seem of importance in displaying the scope of the phenomenon that legislation will seek to address, and the challenges employers face in seeking to shift ageist attitudes, as well as having operational implications in the areas of harassment and vicarious liability. It may be noted in this context that Government programmes of persuasion embraced in the non-statutory Code, the *Age Positive* campaign and similar measures seem almost exclusively targeted at employers as the sole agents and perpetrators of ageism.

We therefore chose to focus employees' age attitudes and experiences. Such analyses still seem relatively rare in the age literature, one of the few exceptions being that by Snape and Redmond (2003), whose pioneering investigation of perceived age discrimination among employees in a local authority produced some rather revealing insights, including that the incidence of workplace age discrimination on grounds of being considered too old and too young may be roughly of similar magnitude.

### *Case Study*

Our chosen firm was a major UK financial services enterprise employing some 9,000 employees. Selection of financial intermediation was influenced by the somewhat ageist reputation acquired by this sector, especially in the context of job shedding among older employees during the 1990s (Storey, 1995, p. 24). Moreover, the company was keen to co-operate in the research, as the workforce was becoming younger and there were worries about job turnover rates.

During 2000, questionnaires were distributed to 2,000 randomly selected employees. These sought employees' views on a wide range of age-related issues. As our research was largely exploratory, and this field hitherto under-researched, we had no firm pre-conceptions of what would be revealed nor firm hypotheses to be tested. Questions were therefore selected and framed with the goal of clarifying the chief dimensions of workplace ageism that will confront any policy response, including legal remedies. To this end, we sought a broader range of employee views than that gathered by Snape and Redmond (2003). Three main areas were investigated: the extent and pattern of ageist attitudes held by employees; the pattern of employee perceptions and experiences of ageism; and employee attitudes and experiences relating to retirement. Some relevant subsidiary matters were also investigated, including what employees understood by the term 'ageism', and attitudes to legal remedy. A combination of closed-response and open questions was used. The former allowed us to draw upon questions employed in previous research to enhance reliability and content validity, while the open questions facilitated more comprehensive answers which were viewed as necessary given the exploratory nature of our study.

We received 1,128 responses, a response rate of 56%. To meet the company's wishes, no follow-up letters were issued, and no records of who had been included in the sample were made available. Therefore, we had no way of knowing if those who chose not to participate differed in any way from those who completed and returned questionnaires. Nevertheless, a comparison of the profile of the respondents to the full workforce revealed that our sample closely matched it in terms of gender and basis of employment. A feature of note is the relative youth of our sample. Anecdotal evidence from management confirmed that this was a young workforce.

Most respondents were employed on a permanent, full-time basis and represented a broad range of functions across the organisation. We distinguished managerial groups from non-managerial on the basis of seniority and line management responsibilities. Typical managerial job-titles included actuarial manager, project leader and analyst. The non-managerial, group was comprised of clerks, administrators, team leaders, team members, programmers, (sales) representatives and financial planning consultants. Twenty-one per cent of respondents were classified as managers on this basis. Full details of the sample are included in Table 1.

**Table I: Details of sample**

		<b>Sample</b>	
		<b>n</b>	<b>%</b>
<b>Gender</b>	Male	513	46
	Female	613	54
<b>Employment status</b>	Full-time	1029	91
	Part-time*	98	9
<b>Grade</b>	Managerial	211	21
	Non-managerial	801	79

<b>Age</b>	<b>Males</b>		<b>Females</b>	
	<b>n</b>	<b>%</b>	<b>n</b>	<b>%</b>
16-24	66	13	121	20
25-34	249	49	276	45
35-44	114	22	153	25
45+	82	16	59	10

NB. Numbers in each category may add to less than 1128 because of missing responses.

\* The vast majority (95%) of part-time employees were female.

Men were significantly more likely than women ( $\chi^2=48.67$ ; d.f.=1;  $p<0.001$ ) to occupy managerial grades. Moreover, the age profile for males was significantly older ( $\chi^2=18.58$ ; d.f.=3;  $p<0.001$ ) than that of the females. In the analyses which

follow, we account for these gender and age biases by using appropriate multivariate techniques.

## **Findings and discussion**

### *The meaning of ageism*

We first investigated what employees understood by the term ageism, with a view to establishing whether the origin of the term in social gerontology, and government emphasis on the problems of older workers, continued to influence perceptions in this direction.

Two thirds of respondents (n=751) understood ageism to mean *any* form of age-based discrimination, irrespective of age. The remaining third felt that ageism was related to discrimination against *older* workers. Only three individuals thought ageism referred to *younger* employees only. Removing these three, a binary logistic regression model [2] was constructed to assess the relationships between gender, age and grade of respondents and their understanding of ageism (Table II, Model 1). This showed there

was a small, but statistically significant ( $p < 0.001$ ) age effect: the older the respondent, the more likely they were to consider ageism as affecting older employees only (OR=0.91;  $p < 0.0001$ ). Irrespective of age, women were more likely than men to consider ageism to affect all employees. Vestiges of the earlier version of ageism were still therefore quite apparent among a substantial minority of employees, especially older workers.

### *Ageist attitudes*

To obtain some indication of the presence of ageist attitudes, respondents were presented with a list of statements concerning older workers. This list, which was adapted from one utilised by Lyon and Pollard (1997) to measure attitudes of potential managers, contained both positive and negative items, and the respondents were asked to indicate whether they agreed or disagreed with each. If they did not have an opinion, then there was an opt out category of 'not sure'. This approach was chosen to facilitate comparison with a batch of similar studies on managerial attitudes towards older workers. Though older workers were the focus, inferences may be drawn from such data on stereotypes regarding younger workers too. The full

Table II: Logistic regression analyses

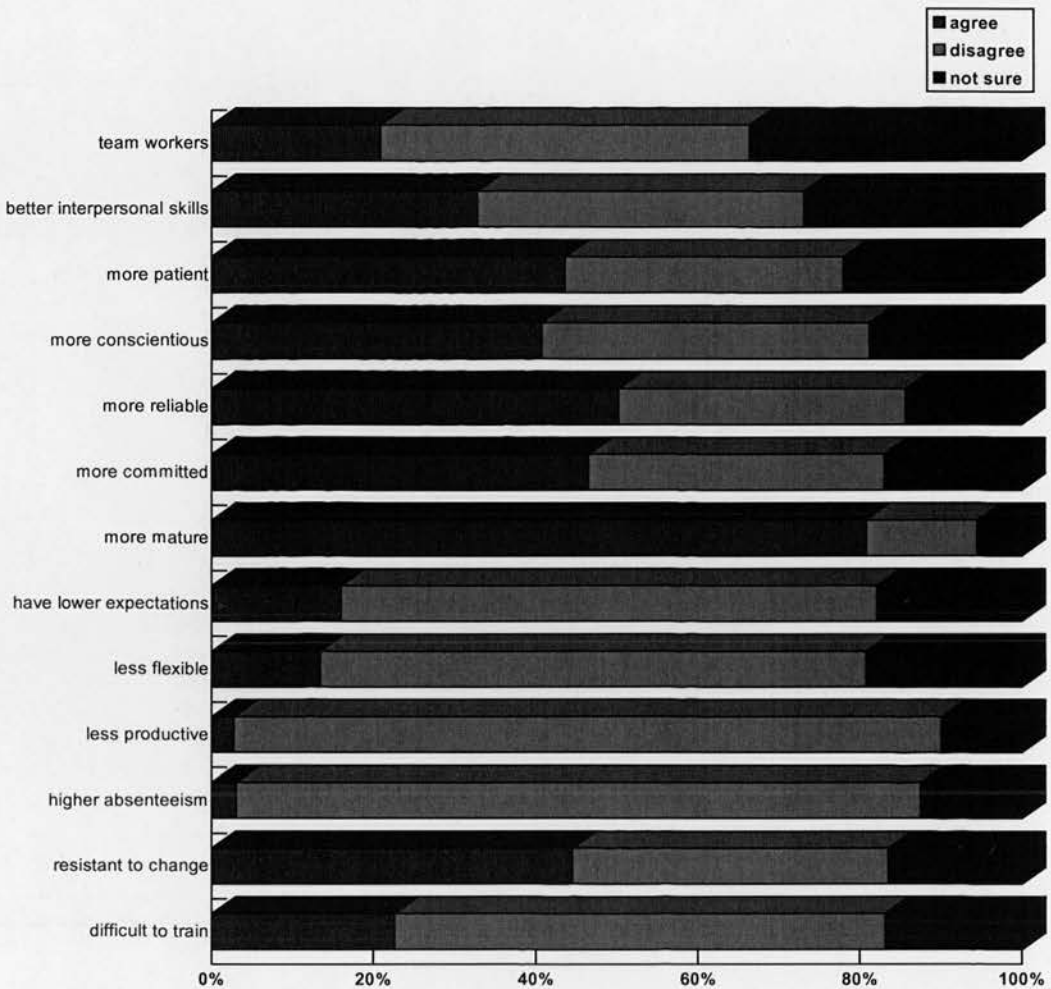
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
	Meaning of ageism: all workers vs. older only	Ageist attitudes: ambivalent vs. sympathetic group	Experience of ageism: experience vs none.	Age legislation: in favour vs. not in favour	Plans for retirement: late vs. early	Abolition of compulsory retirement: in favour vs. not in favour
<b>Explanatory Factor</b>	<b>Odds Ratio (95% CI)</b>	<b>Odds Ratio (95% CI)</b>	<b>Odds Ratio (95% CI)</b>	<b>Odds Ratio (95% CI)</b>	<b>Odds Ratio (95% CI)</b>	<b>Odds Ratio (95% CI)</b>
Age (continuous)	0.91 (0.89-0.92)***	1.28 (1.26-1.30)***	1.30 <sup>1</sup> (1.16-1.45)***	0.99 (0.97-1.02)	1.06 (1.04-1.08)***	0.99 (0.97-1.01)
<b>Gender</b>						
Male	1.00	1.00	1.00	1.00	1.00	1.00
Female	1.79 (1.32-2.42)***	1.16 (0.87-1.53)	0.89 (0.63-1.25)	2.50 (2.25-2.65)***	0.63 (0.45-0.88)**	1.01 (0.77-1.30)
<b>Grade</b>						
Non-managerial	1.00	1.00	1.00	1.00	1.00	1.00
Managerial	0.83 (0.58-1.19)	0.80 (0.56-1.14)	0.81 (0.52-1.26)	0.30 (0.05-0.54)***	1.12 (0.75-1.64)	0.55 (0.39-0.77)***
Variance explained (-2 log-likelihood)	1065.86***	1191.13***	915.01***	569.48***	853.77***	1352.69***
N in model	984	939	996	989	724 <sup>2</sup>	995

\* p<0.05      \*\* p<0.01      \*\*\*p<0.001

Notes to table:

1. Age-squared was used to assess any age effect of this model because of the nature of the bivariate relationship between age and experience of ageism.

distribution of responses is contained in Figure I.



**Figure I: Employee attitudes towards older workers**

The data show that attitudes to employment-related attributes of older workers were varied and not wholly or even mainly negative. For instance, only 30 respondents thought that older employees were prone to higher absenteeism, and a similar number felt older employees were less productive. Opinions were more divided on possible advantages of older employees: for example, equal numbers of respondents agreed and disagreed that older employees are more conscientious. However, over

40% of respondents considered older workers to be resistant to change. Such findings are not dissimilar to those that have been obtained from management respondents (e.g. Lyon and Pollard, 1997; McGoldrick and Arrowsmith, 2001; Warr and Pennington, 1993). Such studies have all located several positive, stereotypical views held by managers about older workers. The consistent negative attribute that has emerged from these and similar management studies is the poorer adaptability/change orientation of older workers, a finding of our own study too and that of Roberts and Stoney (2005) which also tested employee views towards older workers in a case study of Tesco.

A common finding from the literature on management attitudes is that operational or line management views towards older workers can often be more negative than those of their senior colleagues or personnel professionals, and therefore can undermine formal company age policies (Itzen and Phillipson, 1993). This was of interest in respect to our case study, as senior management had informed us of their receptiveness to recruiting older employees in view of concerns over the current age structure and difficulties in attracting suitable candidates with sufficient financial expertise.

In order to investigate this matter, and whether there were other underlying patterns to responses, we undertook a hierarchical cluster analysis (Hair *et al.*, 1995). This revealed that the respondents could be split into two groupings regarding their attitudes towards older workers. Cluster 1, with 455 respondents, tended to be more opinionated, and more sympathetic to older workers, while the 601 in Cluster 2 tended either to be less supportive of older employees or, especially in relation to the more negative items, to choose the 'not sure' option. For example, members of Cluster 1 were more than five times more likely than those in Cluster 2 to agree that older workers are more conscientious, more patient, more committed, more reliable and have better interpersonal skills. In relation to more negative items, members of Cluster 2 were twice as likely as those in Cluster 1 to be undecided over whether older workers were prone to higher absenteeism, or were less productive. The only exception to this pattern was related to the issue of whether older workers are less flexible – here it was those in Cluster 1 who were more likely to agree.



Binary logistic regression was conducted on the two clusters with respect to age, gender, and grade (Table II, Model 2). The only variable significantly to differentiate ( $p < 0.001$ ) between the two groups was age: older respondents were more likely to be in Cluster 2, the ambivalent and less sympathetic group. Older employees were therefore less likely to endorse positive stereotypes, and more likely to take a neutral stance than to overtly disagree about the negative stereotypes.

Thus operational and line managers seemed no more likely to display negative attitudes towards older workers than other employees did. What is of interest, however, is the apparent greater potential for older employees to be discriminated against by members of their own age group. This might indicate that older employees have internalised ageist stereotypes and therefore are more prone to discrimination meted out by their fellow older workers than by managers or younger colleagues.

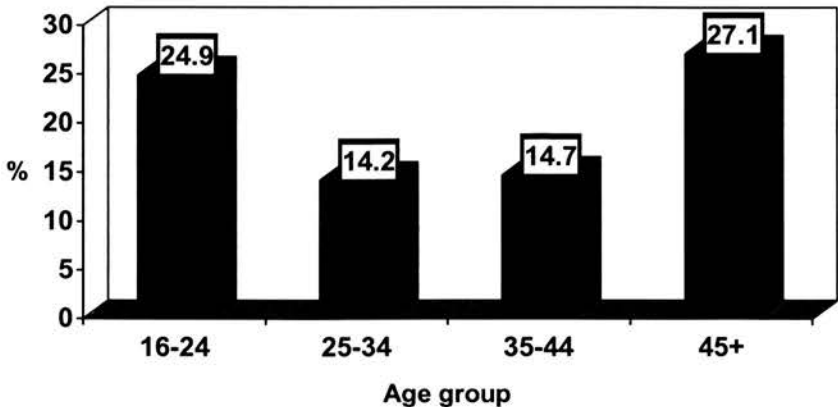
While providing some evidence of negative attitudes towards older employees, our findings can also be viewed 'in reverse' as indicating possibly more pronounced ageist attitudes towards the young, in that they are considered less imbued with qualities of maturity, commitment, patience, reliability and conscientiousness. The method used, however, is too crude a means of signifying patterns of discrimination by age group. The balance of positive and negative attributes for any age group will depend upon what attributes are considered, and the list in Figure I is by no means definitive. What the data do show, however, is that age stereotypes of various sorts are widely held by employees too, and are thus likely on occasions to fall foul of an age-neutral statutory framework. A more precise indication of the incidence and pattern of ageism may be obtained by eliciting the perceptions and experiences of employees.

#### *Perceptions and experiences of ageism*

Respondents were asked if they had ever experienced less (or more) favourable treatment in this employment on account of their age, and were invited to give details. Forty-four individuals (4%) reported that they had experienced *more* favourable treatment because of their age, while 200 (18%) had experience of *less* favourable treatment. In Figure II below, those who perceived themselves as having experienced negative discrimination are plotted by age group. This shows a bipolar

distribution of negative age discrimination. Because of this bipolar relationship between age and experience of age discrimination, age-squared was used in constructing the regression model. This model showed that the age effect remained, even when taking gender and grade into account (Table II, Model 3).

With respect to the younger and older age categories, these findings are not inconsistent with those of Snape and Redmond (2003) where age discrimination among younger and older employees in their local authority was of a similar magnitude, though differences in methodology caution against such comparisons. Lesser perceptions of discrimination among employees in the mid-age categories suggest some support for the concept of ‘prime-age labour’, that is the view that an age range exists that is chiefly preferred in employment and thus less prone to discrimination. However, significant proportions of employees in these mid-range categories also claimed to have experienced age discrimination. Examination of their accounts showed that they did not perceive themselves to be discriminated against because of their possession of specific middle-age attributes, but because they had been considered either too old or too young, or indeed both - persons of identical ages variously reported being considered either too old or too young.



**Figure II: Proportions of age groups reporting age-related negative discrimination**

The concept of prime-age labour therefore seems too fluid to act as a benchmark, a view reinforced by evidence that age ranges considered prime and less prone to discrimination tend to vary by occupation, manual/non-manual divide, industry, occupation and gender (Duncan, 2003, p. 109). Accordingly, it is unlikely that this construct will play any role in the operation of forthcoming legislation akin to the restraining influence of the ‘fit white male’ benchmarks in sex, race and disability discrimination law. Government consultation documents have not yet provided firm definitions of direct and indirect discrimination on age grounds, but with respect to direct discrimination, the EU Directive (Article 2 (a)) simply refers to differential treatment (on age grounds) between one person and *another*. Case law from the Republic of Ireland, which has operated age legislation since 1998, suggests that comparative age differences may not need to be large for a claim to succeed, probably in excess of three years but no more than eight (McEwan, 2004). If British case law follows a similar pattern, then given the sort of distribution displayed in Figure II, and assuming it is not in any general sense atypical, the scope for making age discrimination claims would seem rather enormous.

Qualitative analysis was undertaken of types of negative treatment reported in written comments. Of the 200 individuals who claimed to have experienced negative age discrimination, 180 provided written details. From these, we were able to deduce that in numerical terms it was overwhelmingly younger workers who felt themselves to be disadvantaged by age. Of the 180 individuals, 126 (70%) felt themselves to have been discriminated against because of their younger age, and just 54 persons (30%) because of older age. Unsurprisingly, negative treatment because of younger age was most often experienced by those under 40, whereas negative treatment because of older age was mostly experienced by those aged 40 and above. Among younger employees the key issues of contention included poorer pay and/or benefits, poorer promotion prospects and job deployment issues; while for older employees promotion figured highly along with poorer training opportunities. Both groups, but more so younger employees, also reported significant levels of general age prejudice directed towards them, that went beyond employment-related issues. This is in contrast to the findings of Oswick and Rosenthal (2003) in their survey of managers.

There was little evidence of generalised age prejudice against specific age groups – managers’ age preferences were instead contingent and largely confined to job ‘age-typing’. We also found some key variations by gender in qualitative responses that we report elsewhere (Duncan and Loretto, 2004).

Notwithstanding the young age profile of the case company, our evidence points to the conclusion that in accommodating to age legislation companies will encounter greater challenges than hitherto anticipated from younger members of their labour forces. There are, of course, several qualifications that need to be borne in mind, quite apart from the representativeness of our findings. There are limitations in relying upon perceptions as indicators of the presence of ageism. Employees may perceive they are being discriminated against when they are not, or conversely may be unaware of prejudicial decisions and actions that affect them. Nor do our data measure differences in degrees of prejudice or injury visited upon different age groups. Moreover, our findings thus far are confined to the internal market and have not considered recruitment and exit matters where discrimination, especially against older workers, is thought to be most rife. Indeed it is in the financial sector (where our case company is located) that selection processes with respect to older workers have been found to be most ageist (McGoldrick and Arrowsmith, 2001). Similarly, mandatory retirement, observes Rubenstein (2005), ‘is age discrimination personified’. Yet we had no way of knowing to what extent the older employees surveyed were unrepresentative survivors of ageist exit policies. To address some of these shortcomings, the next section presents responses to questions relating to retirement and age law.

#### *Age law and retirement*

Respondents were first asked if they were in favour of introducing legislation to tackle age discrimination in employment and were prompted to give reasons for their answer. An overwhelming 90% (n=1008) answered in the affirmative, with only 101 individuals disagreeing. Logistic regression analysis revealed that age did not have a bearing on responses (Table II, Model 4). However, managers were significantly less likely (OR = 0.3;  $p < 0.001$ ) than their more junior colleagues to advocate legislation. There was also much greater support for legislation amongst women as compared to men (OR=2.5;  $p < 0.001$ ).

Most respondents provided reasons to support their viewpoints. The full responses are detailed in Table III. The most frequently mentioned reasons in favour of legislation embraced sentiments alluding to fairness and social justice, but such responses were invariably qualified by firm endorsement of the view that capability rather than age should be the chief criterion upon which employment decisions are made, clearly mirroring in this respect the mantra in Government age awareness campaigns. The overwhelming majority of this group stated their preference that any age discrimination law should cover all age groups.

**Table III**

**Reasons for supporting and opposing legislation**

---

	%
<b><u>Supporting</u></b>	
On fairness/equality grounds	41
Capability more relevant than age	37
To benefit specific age groups	12
Need law as stimulus/regulator	5
Other reasons	5
<b><u>Opposing:</u></b>	
Adverse consequences:	
(bureaucracy, inflexibility, complexity of law)	63
Ageism not a problem	34
Other	3

---

Amongst those who did not favour legislation, 62% supported their position by referring to adverse consequences of law, most commonly that law will lead to bureaucracy, inflexibility and complexity. A further third considered that law was not needed, as ageism was not a problem.

With regard to retirement, our research was carried out in close collaboration with the company's business change team, who made allusions on several occasions to the organisation 'weeding out' older employees. Nevertheless it was maintained that no

formal policy of compulsory redundancy or voluntary early retirement existed. The company did, however, provide a good, non-contributory occupational pension scheme, of which the vast majority of our respondents (90%; n=1010) were members. The company's normal retirement age (NRA) was 60.

We first asked respondents about preferences regarding retirement ages. One quarter of the sample (n=281) claimed that this was too far in the future for them to have given any thought to the matter, while 43% (n=468) stated that they wished to retire 'as early as materially convenient'. Of those who stated specific retirement ages, the most commonly cited ages were 50 (n=73), 55 (n=139) and 60 (n=77). Only 31 individuals wanted to retire 'as late as possible' and a mere 12 people indicated that they wanted to retire beyond the age of 60, the company's NRA. We excluded those who had not thought about retirement and coded the remainder into two categories: 'early', i.e. 55 or under; and 'later' 56 and above. As expected, in the logistic regression (Table II, Model 5), age was a significant ( $p < 0.001$ ) covariate: older respondents were slightly more likely to want to retire later. The analysis also showed that, irrespective of age, women were more likely than men to want to retire before the age of 55 (OR=0.63;  $p < 0.01$ ).

Despite a predominant wish to retire early, nearly 100 respondents questioned the voluntariness of early retirement policies, though not prompted to do so. Unsolicited accounts of pressures towards early retirement also surfaced in responses to other questions, suggesting this was a salient issue and that such pressures were applied with some frequency:

Anyone over 30 tends to be moved from my department to another department doing less skilled work. This department has become known as the 'departure lounge' and the 'retirement home' (Female, 28).

[There are] Many references to 'old brigade' and 'dinosaurs'. Between five and ten resignations commonly thought to be counselled out during the past five years of older members. Other colleagues referred to as lacking the aggression and energy required and as being insufficiently dynamic (Male, 40).

Views were much more ambivalent concerning the potential abolition of compulsory retirement. Overall, a small majority (53%; n=625) were in favour of this. Supporting reasons were again chiefly variants around the theme that capability (including health) rather than age should determine retirement decisions, although over 100 respondents felt that individuals should be wholly unconstrained over when they choose to retire, a view often supported by reference to the centrality of work to people's lives.

Logistic regression analysis showed that employment grade was the only variable significantly to affect opinion: managers were only half as likely as lower-grade employees (OR=0.55;  $p<0.001$ ) to be in favour of abolishing compulsory retirement (Table II, Model 6). Those who wanted to retain compulsory retirement justified their positions too chiefly on grounds of capability, but emphasising the need to dispense with the services of under-performing individuals. Unsurprisingly, such views were often underpinned by ageist assumptions concerning the value of older workers:

An employer is in business to make a profit, and if his business could suffer by continuing to employ elderly staff, then he must have the right to retire them (Female, 52).

The older a person gets, the less productive they are, especially over 65 years old (Female, 32).

Capability was thus cited as a criterion both in support of, and against, compulsion, no doubt reflecting different perceptions on the value and fairness of treating retirement as a proxy for capability. Another common ground cited in favour of compulsory retirement related to 'job blocking' - the need to allow for progression of younger staff.

The picture that emerges is of a company deeply entrenched in a culture of early retirement, a phenomenon that the Government clearly hopes will be lessened by legislation. What is especially striking is the apparent desire by the bulk of employees to retire early, even accepting that this was weaker among older employees, and notwithstanding anecdotal evidence uncovered that many older

employees are pressured to retire earlier than they would want. It is not known what role the company's pension scheme played in influencing retirement intentions in this direction or in helping management ease out older workers. However, such findings are not inconsistent with recent strike threats by public sector workers against plans to alter pension arrangements, including increasing the age at which employees can draw pensions from 60 to 65. The desire to retire early when conditions permit should not therefore be underrated in influencing exit from employment; nor is it a phenomenon largely confined to manual occupations, as was once thought. Also striking was the overwhelming support for anti-age discrimination legislation (from which can be inferred a strong demand on the part of employees for protection; and likely high usage) but qualified by capability considerations and by an almost even split in support for ending compulsory retirement.

Assessing how legislation in its expected configuration will impinge upon a firm such as this is not straightforward. As far as the employment prospects for older workers are concerned, several other factors will interject, including the current trend towards abandoning or downgrading occupational pension schemes on affordability grounds, and Government plans to increase the earliest age from which a non-State Pension can be taken from 50 to 55 by 2010. Such influences, along with the operation of a default retirement age of 65, may result in an increase in the participation rates of older employees. Moreover, a more liberal age climate could act to reduce the susceptibility of older workers to the sorts of pressures we have detected towards involuntary early retirement, and also act to reduce the apparently widespread desire we have located to retire early: as Snape and Redman's findings (2003, p. 87) suggest, age discrimination may be a significant 'push factor' in the propensity to seek early retirement.

On the other hand, the tendency detected for older workers to internalise negative age stereotypes may impede this process. Furthermore, as our findings confirm, the capability criterion embraced in business case promotion of age legislation is widely endorsed by employees and employers alike as determining the parameters of ageism, including among those who both support and oppose mandatory retirement. For some commentators, such as Fredman (2001), the predominance of this criterion



leads to an inadequate concept of age equality, and in practical terms there are concerns that its use in deciding matters such as retirement may not act in the best interests of older workers. For instance, evidence gathered from employers' organisations suggests that companies keen to jettison older workers on performance or other grounds will resort to 'convoluted' performance appraisal methods in dismissing long-serving and loyal employees who would otherwise have been celebrating their retirement, or who would have been enticed out by generous early retirement deals. Such practices were felt likely to increase if the default retirement age were subsequently to be abolished. The prospect of ending compulsory retirement age has also given rise to employer fears that they will face claims of indirect discrimination from younger employees whose training or development opportunities are frustrated by job blocking (DTI, 2003, p. 10).

### **Conclusions**

Ageism was found to be very much a live issue in our case study firm. If typical of conditions elsewhere, there would seem to be considerable potential for challenging age practices, given evidence of widespread age stereotyping and perceptions of prejudice across the age range. Moreover, as the use of age benchmarks seems unlikely as a means of restraining claims, and in view of near unanimous support found for the principle of anti-age discrimination law among our employees, the indications are that managers could be confronted with an enormous number of challenges. Companies also face the prospect of more numerous challenges than has generally been foreseen from younger employees. Indeed our findings show that perceptions of discrimination among younger and older employees are of a similar magnitude. Challenges from the former are therefore likely to predominate in numerical terms in many workplaces which have age profiles similar to that of our case firm. Nor will challenges from 'prime age' employees necessarily be rare. There are few grounds, therefore, for supposing that the legislation will disproportionately assist that one quarter of the labour force aged over 50 who seem to be the key concern of the Government ( Performance and Innovation Unit, 2000).

Indeed, the net effect that the law will have on participation rates and exit patterns for older workers is presently indeterminate. In combination with other changes and reforms taking place, especially in the pensions sphere, it will encourage or compel

greater participation in some cases. However, this may not always be on terms to their liking, as financial compulsion comes to frustrate the preference held by what may be prove to be a surprisingly high proportion of older employees to retire early. On the other hand, the legislation is unlikely to impede significantly employers who are bent upon displacing their older employees. There seems near unanimous support among both managers and employees that capability or merit should trump age protection in employment decisions, and ‘objective justification’ on this basis will be commonly sought and will make the terms of departure for many older workers more humiliating and less lucrative. The common assumption that older workers will benefit most from the legislation is therefore not clearly borne out by our data.

As legislation comes on stream and enters the realm of case law it will develop a dynamic of its own, one largely outside the control and pre-occupations of those protagonists currently seeking to shape the law, and leading to firmer focus upon employee grievances and equal opportunities matters. This reinforces the case for ongoing employee-based research, and there is merit in our view for extending our approach to firms in other sectors with different age profiles and occupational composition, and including manual occupations that were largely missing from our sample.

**End notes:**

1. [www.agepositive.gov.uk/template2.cfm?sectionid=55](http://www.agepositive.gov.uk/template2.cfm?sectionid=55) (Age Positive FAQs)

2. Models 1-6 in Table II make use of odds ratios (OR), which represent the ratio of the probability of an event occurring versus it not occurring, for instance, the probability of defining ageism as discriminating against all ages versus the probability of defining ageism as discriminating against older employees only (i.e. not all employees). An OR of greater than one means the relative likelihood of an event happening is increased; a lower relative likelihood is represented by an OR of less than one.

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## **PAPER 8**

## The dangers and limitations of equality agendas as means for tackling old-age prejudice

COLIN DUNCAN\*

### **ABSTRACT**

This paper presents a critique of both the concept of age equality and of the limited scope it offers as a means for challenging old-age prejudice. The equality constructs that feature in anti-ageism initiatives and in current discourses on intergenerational equity have proved susceptible to political and ideological manipulation, which has led to the illegitimate dissociation of ageism from older age and promoted damaging notions of age equivalence. The consequence has been that old-age prejudice has been de-prioritised, and older people have been de-legitimised socially and as a welfare constituency. The corrective is best sought outside the confines of age equality frameworks, although legal remedies may play a useful role if human dignity is incorporated as an equality criterion. This paper also assesses other approaches to tackling old-age prejudice that avoid the constraints of equality constructs and engage more firmly with its roots. The notion of the 'third age' with new social roles merits reconsideration as an affordable alternative to current policies of work obligation and pension retrenchment. Radical interventions in the labour market in favour of older people may also be needed. Age activism and advocacy will increasingly influence policy on prejudice and well-being in older age, but changed emphases are needed, as from defensive strategies and the ideologies of generational interdependence and solidarity, towards the promotion of organisational, financial and social autonomy in older age.

**KEY WORDS** – ageism, agelessness, equality, intergenerational solidarity, old age, third age, fourth age.

### **Introduction**

The European Union (EU) framework *Equal Treatment Directive* has recently led to the introduction of anti-age discrimination laws across the member states (Council Directive 2000/78/EC). This development has coincided with concerns over the affordability of older people and of

\* University of Edinburgh Business School, Scotland.



intergenerational equity in the light of demographic ageing. The concept of 'age equality' has therefore acquired some prominence both as a public policy objective and in the agendas of advocacy groups. The main argument of this paper is that age equality, both as a theoretical construct and in policy application, is highly problematic, especially for confronting the age discrimination that affects older people, who are widely regarded as most prone to this form of prejudice. Accordingly, the current thinking and policies that embrace age-equality constructs may be contributing to, rather than confronting, the marginalisation of older people.

The discussion has four main sections. The first describes how the version of anti-ageism that has been incorporated into United Kingdom and European law and into recent voluntary initiatives is a departure from its original association with older age, and how this has adversely affected the legal scope for challenging *old-age* prejudice. The concepts and constructs embraced in current age equality and anti-ageism thinking in employment and other areas are next considered. It will be argued that they are defective in several respects, not least as a means for advancing well-being in older age, and instead de-legitimise older people socially and as a welfare constituency. An assessment follows of the more direct threat to older people posed by current discourses on the affordability of older people and generational equity.

The second section argues from various perspectives that age prejudice against older people is best regarded as an analytically or ontologically distinct phenomenon that differs significantly in origin, scale and dimensions from that which affects younger adults. As such, it can never be challenged adequately by its crude subsumption as one of many age equality issues. On this basis, the paper's third section explores other avenues of challenging old-age prejudice that will both avoid the dangers and limitations of current equality constructs and engage more firmly with the roots of the prejudice, including the important role that older people might play through 'age activism'. The concluding section synthesises the key features of the analysis and offers some broad pointers as to appropriate policy priorities. The discussion focuses chiefly but not exclusively upon the experience of the United Kingdom (UK).

### **Age equality and the marginalisation of older people**

The UK legislation of October 2006 to combat age discrimination in employment and vocational training has several implications for older people and all retirees. Forced retirement is now outlawed prior to a 'default retirement age' of 65 years, and employees have a right to request

that they continue to be employed beyond this age. Moreover, the UK government plans to review the default age in 2011, with a view to an outright ban on compulsory retirement (Department of Trade and Industry (DTI) 2005: 61). By extending working lives and thereby prolonging earned income and increasing pension contributions, and by challenging outmoded age stereotypes, such measures might be thought to advance financial and social wellbeing in older age. The legislation also outlaws age discrimination in recruitment, promotion and harassment, as well as unfair dismissal and other workplace practices in which older workers are said to be especially disadvantaged. Moreover, the government has not ruled out extending the legislation to the provision of goods, facilities and services (DTI 2005: 18). Nonetheless, the new law does not specifically protect older people, because the anti-ageism that it embraces has departed from its original association with old age.

*The evolution of the ageism concept*

Three phases in the evolution of the ageism concept are apparent. The first formulations in both Britain and the United States (US) were coined chiefly with respect to retirees and others of advanced age. Indeed, coinage of the term 'ageism' is usually attributed to Robert Butler, an American geriatrician, who in 1969 applied it to the prejudice by middle-class white residents against proposals for housing projects for elderly black people. His oft-quoted definition applied exclusively to older people, and specified ageism as: 'a process of systematic stereotyping of and discrimination against people because they are old, just as racism and sexism accomplish this for skin color and gender' (Butler 1995: 22–3). In the United Kingdom, ageism was recognised somewhat later as a form of prejudice, but the initial ascriptions had the same focus. A volume published by Age Concern England in 1990 was among the first to challenge this 'unrecognised discrimination'; the exposition was wholly confined to the discriminatory treatment of older people in health care, social and voluntary services, retailing, consumer services and employment (McEwen 1990).

A second phase in the British usage of ageism came during the 1990s, when it came to be associated mostly with the treatment of older *employees* (especially men). This was a new label for a far from new policy focus. Age discrimination against older workers has been a long-standing if inconsistently asserted policy concern in the UK and elsewhere. Indeed, Macnicol (2003: 14) noted examples of US state laws to protect older workers more than a century ago. The renewed assertion in the UK during the 1990s reflected concerns about the future affordability of

pensions and welfare, given the joint effects of rapidly declining employment participation among older men and the ageing of the population. This 'hijacking' of the concept for welfare funding and labour-market management objectives deflected attention from the broader phenomenon. Influential 'structured dependency' perspectives in sociology reinforced this process, by treating poverty, social exclusion and other possible manifestations of prejudice in older age chiefly as by-products of employment discrimination, which forced older people out of work and into dependency (Phillipson 1982; Townsend 1981; Walker 1980, 1990). As exemplification, for Walker (1990: 61) compulsory retirement constituted 'the wellspring' of age discrimination.

A third phase in ageism's usage in the UK was evident from the late 1990s, when its reference extended to employees of any age, a version embraced in a voluntary *Age Code of Practice* issued by the government (Department for Education and Employment (DfEE) 1999), and that was later endorsed in an EU Directive that provided the template for the UK legislation. US age-employment legislation is different, in that it applies only to employees aged 40 or more years. Among factors influencing this development was growing evidence that age prejudice also affected younger people and even 'prime age' employees – those regarded as neither too old nor too young to have peak physical or intellectual vigour (Age Concern England 1998; DfEE 2001; Loretto, Duncan and White 2000). Age had also become incorporated into equal opportunities agendas by the late 1990s (Cully *et al.* 1998: 13). Moreover, the logic of equal opportunities discouraged an exclusive reference to older employees in British and European law.

#### *Age legislation and older people*

The UK legislation not only marks the end of earlier associations of ageism with older age, but specifically excludes older people outside employment and vocational training, on the contestable ground that 'ageism in the workplace is widely regarded as the most significant and damaging aspect of age discrimination' (Age Positive 2006). Irrespective of future intentions, the symbolic priority accorded to younger employed people over those beyond state retirement age seems unmistakable. It might be argued, nevertheless, that the uniform application of age legislation to all employees need not lessen relative benefits for older workers; if older employees are disproportionately affected by age discrimination then they should benefit to a greater degree. The empirical evidence tends to suggest a bi-polar incidence of age discrimination in employment, with older and younger workers most affected and the middle-aged less so (Duncan and Loretto

2004; Snape and Redman 2003), but two features of the law may prevent this pattern being translated into a beneficial impact for older people.

First, 'objective justification' for discriminatory treatment, as provided for in UK law and age legislation elsewhere, can more easily be demonstrated in the case of older workers. Indeed, commercial justifications for discriminating against older workers are more numerous than are often recognised (Duncan 2001). These include: the tendency, however exaggerated, for performance to decline and 'burn-out' to increase with age; for older workers to have depreciated or obsolete skills; that many older workers' higher salaries and other benefits of long service may not be matched by higher productivity; older workers' lower job mobility; and succession planning issues. Moreover, some investigations have found that 'pure' discrimination, embracing mistaken beliefs or simple prejudice, is relatively rare and not the major cause of labour-market exclusion (Campbell 1999; McKay and Middleton 1998). Certainly, the US *Age Discrimination in Employment Act 1967*, that applies exclusively to older workers, has not prevented a sharp fall in economic-activity rates among older men as have occurred in most developed economies (Macnicol 2006: 82). Age laws tempered by commercial criteria may therefore do less than anticipated to protect older employees.

It need hardly be said that 'rational' or 'objective' discrimination is as damaging to the affected employees as that based upon simple prejudice, although in contrast to the mandates of disability discrimination legislation, there is no requirement to accommodate older workers through 'reasonable adjustments'. Moreover, even if the law to some extent inhibits employers' interpretation of 'rational' discrimination, as by restrictions on compulsory retirement (a measure which many employers fiercely resisted on business grounds), the alternative of being ejected from the workplace following a humiliating performance appraisal is hardly an advance. Indeed, some employers' associations have warned that their members might resort to 'convoluted' appraisal methods to dismiss older employees, who would otherwise have celebrated their retirement or have accepted generous early-retirement deals. Individual appraisal is likely to increase if the default retirement age is abolished (DTI 2003: 10).

Secondly, the concept of age-neutrality, as implicit in the application of the law to all ages, will motivate employers to examine critically the rationality of all age-related employment practices, including any that hitherto *favoured* older workers. To do otherwise could enhance an employer's vulnerability to discrimination claims from younger employees. Indeed, the UK legislation specifically restricts service-related benefits to five years or less, unless a longer period can be objectively justified, a change unfavourable to long-service employees. There are also fears that

the legislation will reduce redundancy benefits for older workers, and that to achieve age parity they will be levelled down not up.

#### *Anti-ageism concepts and constructs*

Embraced in anti-ageism thinking are several concepts and constructs that influence how old age is perceived and treated. Of particular significance is the notion of 'agelessness', which has at least two forms. One is the concept of *age neutrality*, which asserts that age has little relevance in decision-making so that, for instance, application forms should no longer require candidates for employment to specify their ages. The other focuses on older people and holds that the *active adulthood stage of life* extends (or should extend) beyond the customary working ages. During the 1990s, champions of older workers embraced this thinking in seeking to combat age discrimination and early exit from employment, and were particularly active in debunking negative age stereotypes, in particular that personal capability or productivity significantly decline with older age (Taylor and Walker 1993, 1995; Tillsley 1990; Trinder, Hulme and McCarthy 1992). Such thinking is now also widely endorsed outside employment, as with the preoccupation with 'positive' or 'active' ageing in medicine and gerontology. Commercial interests too have exploited and reinforced ageless or age-blind sentiments, including, most directly, the providers of cosmetics and cosmetic-surgery, which profit from the fashionable emphasis upon keeping old age at bay. The 'retirement industry' and general consumer marketing trends increasingly target older people through images of positive ageing and an active lifestyle in old age (Featherstone and Hepworth 1995; Sawchuck 1995).

Notions of agelessness have extended in some accounts to challenging 'old age' itself as a legitimate construct, with terms such as 'old' or 'the elderly' being deemed essentially meaningless and ageist and serving only to fuel age prejudice (Bytheway 1995: chapter 9). The agelessness construct, however, is a double-edged sword. Not only can age-neutrality dilute and downgrade special protection for older people, the positive ageing version can embrace *anti-ageing* as well as anti-ageist sentiments, and thereby on occasion promote and perpetuate old-age discrimination (Andrews 1999, 2000; Gibson 2000). Negative connotations of old age are reinforced as something to be avoided, and at a personal level older people are required to deny who they are, which is 'ultimately disempowering', while the dignity of the self is replaced by self-loathing as signs of bodily age encroach, thereby leading to a 'socially induced schizophrenia' (Andrews 1999: 307–8). The marketing strategies of American 'active adult' retirement communities, as described by McHugh (2003), illustrate

the superficiality and self-deception that agelessness can embrace. The strategies focus on healthy, upper middle-class retirees, who are also family-oriented so that adult children will care for them outside the communities when they get too old and sick and return home to die. Staff guides are also instructed to avoid cemeteries in tours of facilities. Self-deception among 'the ageless' is thereby maintained by their spatial segregation from both the young and 'not ageless' old: 'a most alluring mask, the ageless self-located in idyllic settings outside time and change' (2003:169).

The agelessness construct has also played an important ideological role in supporting welfare and labour-market reforms. This is a prominent theme in the work of Macnicol (2003, 2006). He has argued that UK government policy on age discrimination has been subsumed in broader macroeconomic objectives. The ascendancy of supply-side competitive strategies for increasing the labour supply, lowering wages and boosting profits, has led to workfare-type measures for dormant labour categories, including older people, and a pro-active welfare model that emphasises work obligation and investment in human capital over economic maintenance. The *Welfare to Work Programme* with the *New Deal 50-plus* programme for older workers is a case in point, as is the advocacy to raise state pension and public-sector occupational pension ages. In this context, the ideology of agelessness confers legitimacy upon unpopular reforms: 'the controversial ideal of an "ageless" society has as its obverse the implication that the protective walls that have hitherto shielded older people ... should be torn down' (Macnicol 2003: 32). As has been pointed out, however, UK age legislation may do little to protect older employees from being discarded involuntarily from employment on productivity or capability criteria, and in combination with new welfare models, older people could therefore become 'victims of a different and equally ruthless kind of discrimination' (Macnicol 2006: 47). Moreover, some argue from historical evidence that the spread of men's early exit from employment is a long-run and possibly irreversible phenomenon, brought about mainly by the demise of formerly dominant employment sectors such as mining and heavy industry (Beatty and Fothergill 2004; Macnicol 2006: 84–5). From this perspective, the efficacy of supply-side initiatives is questionable, unless the intention is forcibly to enlist displaced or retired men into expanding service occupations at the bottom of the labour market, which for Macnicol (2006: 266) would constitute 'the ultimate form of ageism'.

Indeed, the protection of the concept of retirement as an adequately-financed 'reward for work' and a hard-won labour right seldom features in the agendas of anti-ageism activists who, from both active ageing and

structured dependency perspectives, have focused upon forced retirement and job exclusion as the chief manifestations of old-age prejudice. Yet the vehement opposition by employees and trades unions in Britain, France and Germany to recent proposals to raise public-sector and state pension ages, mounted under 'work-till-you-drop' slogans, bears testimony to the importance that employees attach to retirement rights. In the UK, these are perceived as threatened rather than protected by age equality reforms. One rough attempt to quantify the erosion of retirement benefits since the introduction of the United States age legislation estimated that older Americans had experienced a 30 per cent decline in pension income between 1970 and 2003, and reasoned that because life expectancy increased over the same period by only 16 per cent, older Americans had on average lost 14 per cent of 'old age leisure', and so had to work longer (Ghilarducci 2004: 6).

#### *Affordability and intergenerational equity*

Running parallel with the elaboration of anti-ageism policies has been a quite separate discourse on age equality, which by questioning older people's future 'affordability' and their share of public resources relative to younger age groups, directly challenges their wellbeing. Concerns over the solvency of pension schemes for the 1960s baby-boom generation have revived such thinking in the UK, as exemplified by Bosanquet and Gibbs's (2005) call for the reallocation of resources to the 'IPOD generation'. While the themes of non-affordability and generational inequity are often presented as related consequences of demographic trends, they are actually discrete issues. The former is more easily challenged, not least by reference to historical precedents. Concerns about the growing burden of 'the elderly' were prominent in the UK during the 1930s, and again in the late 1940s and early 1950s (Macnicol 2006: 152), yet no social security crisis subsequently ensued. For Mullan (2002) and his associates (Tomorrow's Company 2005), the 'myth' of a ticking demographic time bomb derives mostly from inadequate measures of dependency, which usually rely upon the crudely fashioned 'old-age support ratio' – those aged 65 or more years relative to the number in working age (16 or 18 to 64 years). A more accurate measure is the 'total economic support ratio', which compares those in work against those who are not, including children. This was 0.48 in 2003 and is projected to decline to only 0.45 by 2041, almost the same as in 1961. Moreover, if productivity grows at 1.75 per cent a year (lower than recent trends), workers will produce twice as much in 2045 as now, making any plausible changes in total economic dependency manageable (Tomorrow's Company 2005: 6).

Intergenerational inequity is more difficult to substantiate or refute. It is a highly complex syndrome and prone to facile understandings, especially if comparisons at one point in time are made. More relevant, according to some commentators, is the achievement of 'processional justice', that is justice over time between age groups and generations (Laslett 1996: 233; Laslett and Fishkin 1992). Different age groups have different needs, and unequal treatment need not violate justice if each cohort benefits equally over a lifetime. In this respect, age inequality differs fundamentally from gender, race and other forms of discrimination, but this has been inadequately recognised in British law, which instead has extended a pre-existing, time-static, discrimination framework to age equity.

There is also the issue of whether present allocations are appropriate to different age needs. If too much is spent on the old relative to the young, or vice versa, a form of injustice might be said to exist even if everyone experiences that injustice equally as they pass through life. There have been attempts to apply John Rawls's precepts in determining the just age allocation of health resources in this second sense (Daniels 1988; Wolf 1999). These rely upon the notion that principles of justice are best derived from behind a 'veil of ignorance' (Rawls 1972: 17–22), an abstraction that assumes that just principles can only be determined by prudential agents who are blinded to all facts about themselves that will cloud their impartiality, including their ages. Ironically, however, any reallocations so derived would frustrate processional justice. Processional injustice occurs if one age cohort or 'generation' benefits from welfare transfers or tax changes at various life stages as it proceeds through the lifecourse, a form of inequity that Thomson (1989) claimed to have detected in New Zealand. Cohorts of different sizes can also give rise to processional injustice. A small cohort that follows a large cohort – such as the 1960s baby boomers – can carry a heavier burden if their benefits are cut or taxes raised to deal with affordability issues. It might also be argued, however, that the (inevitably?) higher living standards of future cohorts, and indeed many other factors experienced differentially by different cohorts, such as wars or economic depressions, should also be taken into account.

Moreover, interdependencies between cohorts or generations question the efficacy of age-equity policies. For instance, if pensions are cut, employees may have to provide for their elderly parents, while raising unemployment benefits may benefit retirees in reducing their children's reliance upon them. Private transfers within the family are usually downward, from older to younger members, but are generally ignored in discussions of generational equity (Rydell 2005: 28). Finally, the concept of intergenerational equity is problematic on account of the heterogeneity of older people. Indeed *intra*-generational inequality by class and gender



may be more marked than that between generations, and attempts to achieve age equity could well exacerbate such inequalities. For instance, the poor tend to die younger and to receive low aggregate pension income. Similarly, Ginn and Arber (2000) argued that, given gender inequalities in pension provision and the greater role of women in providing informal health care, the consequences of mooted pension and health-service changes to address generational inequity would have a greater negative impact upon women, who constitute the majority of older people.

Needless to say, such complexities seldom surface in sensationalist 'age war' treatments, and a common view is that the main influence on the discourse has been ideological and its chief role has been to facilitate welfare retrenchment (Kohli 2005: 519; Macnicol 2006: 51, 56; Minkler and Robertson 1991). Emerging in the United States during the mid-1980s, the notion of intergenerational inequity was largely promoted by Republicans and business interests. Particularly influential was the formation in 1984 of *Americans for Generational Equity* (AGE), a lobby group chaired by a Republican senator and financed by private health-care and insurance corporations. The terminology that has characterised both the affordability and equity discourses has been most unedifying, in that it has fed upon and exacerbated old-age prejudice. This has been apparent not only with respect to lobby organisations such as AGE, with their loose talk of 'greedy geezers' and 'whingeing pensioners' (Laslett 1996: 238), but also in political and academic circles. For instance, the Swedish Minister of Finance recently referred to the baby-boom generation as a 'mountain of flesh' (Rydell 2005: 4), while Kotlikoff and Burns (2004), prominent US promoters of intergenerational equity, have characterised the current situation as constituting 'fiscal child abuse'. This thinking complements that of agelessness in de-legitimising older people as a welfare constituency.

### **The nature and distinctiveness of old-age prejudice**

Given that anti-ageism movements originated in concerns that older people were more rather than less prone to discrimination, it is ironic and perverse that age-equality agendas in effect de-prioritise old-age prejudice and threaten wellbeing in older age. The priorities of governments in shaping age agendas are partly the reason, but there are also grounds for arguing that old-age prejudice is an analytically distinct phenomenon that has been inadequately recognised and addressed by its subsumption as an age equality issue. At least four features of the age prejudice that affects older people might be considered particular to the age group. First, it

derives in large part from human fear of the ageing process and its association with decline, dependency and mortality. People therefore seek to distance themselves from the labels 'elderly' or 'old' and the associated negative stereotypes, and older people especially therefore become derided and marginalised. Secondly, old-age prejudice seems much more pervasive in its reach than the prejudices that affect younger people. Under-representation or exclusion from employment, the media, advertising and jury service are examples, along with ageist assumptions underlying many aspects of health care, social services and education provision. Drawing upon structured dependency perspectives, Scrutton (1990: 21) dubbed these wider manifestations as 'structural ageism', when ageist attitudes 'become part of the rules of institutions, govern the conduct of social life and blend imperceptibly into everyday values and attitudes that ... have a drastic effect on the way older people lead their lives'.

Thirdly, old-age prejudice can assume a greater intensity and perniciousness than that affecting younger people, extending on occasions to denial of 'personhood' and treatment as a sub-human species. This is reflected, for instance, in the 'fair-innings' argument, that older people have a lesser claim to rationed health care and other resources and, in an extreme expression, that their deaths should be less mourned. The implication is that beyond a certain age threshold, rights to life become diminished. Related thinking underlies the use of QALYs (Quality Adjusted Life Years) and related methods of prioritising health resources, which embrace utilitarian assumptions that legitimise comparisons of the relative worth of different lives, and which in practice tend to devalue the years lived by older people. The retention of the 'epidemiology of ageing' as a medical expression is also symptomatic of the denial of personhood with the implication that old age is akin to a disease. Another manifestation is the tendency towards 'infantilisation' in the institutional treatment of dependent older people. In explaining this phenomenon, Hockey and James (1995) argued that the social construction of childhood in Western societies constitutes a denial of personhood with respect to children too, if more benevolent in intent. The assumptions of immaturity and dependency in childhood provides a comforting template for adult carers; imaging old age as a second childhood bridges the cognitive dissonance between the physical dependency of some older people and independent adulthood. Treating older people as child-like extends beyond institutional settings to become a pervasive patronising concern that challenges older people's competence and freedom, and undermines their independence and morale (Scrutton 1990: 12).

For Thomas Cole (1992), all such features are but symptoms of a more fundamental malaise afflicting old age, a crisis of 'meaning' at the end of

life. In his influential cultural history of ageing in America, Cole traced the transformation of Western ideas about old age between the 16th century and the third quarter of the 20th century. Ancient and medieval understandings of old age as part of the eternal order of things gave way to the secular, scientific and individualistic tendencies of modernity. Old age was gradually removed from its religious and cultural significance as a meaningful end-stage in the 'journey of life', and redefined as a scientific and medical problem. By the mid-20th century, older people were confined to society's margins, culturally disenfranchised, and robbed of vital social roles and sense of purpose. This resulted not only in the negative and degenerative aspects of old age being emphasised and exaggerated, but also in the emergence from the early 19th century of a counterpoint – conceptions of a 'good old age' of health, virtue and self-reliance. The latter exacerbated rather than addressed the loss of meaning, however, by promoting the denial and postponement of old age, thereby perpetuating its ontological barrenness.

The resonance of Cole's work in foreshadowing subsequent critiques of the idea of agelessness is noteworthy. Indeed, under Cole's formulation of the nature of old-age prejudice, which might usefully be labelled 'ontological ageism', both age discrimination and its 'positive ageing' policy antidotes denigrate older age because they endorse the same prognosis of the end-stage of life as bereft of purpose and status: 'The attack on ageism originated in the same chorus of cultural values that gave rise to ageism in the first place – ageism and its critics have much more in common than is generally realized' (1992: 228). This analysis clearly challenges the legitimacy of current anti-ageism and equality constructs with respect to older age, and supports the view that anti-ageism agendas are currently in something of a crisis. As McHugh (2003: 181) commented with some exasperation, 'negative images of elders are ageist, so-called positive images of elders are ageist. Bipolar and equivocal views of ageing dominate our age, and regress in an infinite series that leads inexorably to the most perplexing question of all: is non-ageist thinking fathomable or culturally possible?'

#### *Ageism and younger people*

While there is evidence that ageism is experienced with comparable frequency by both older and younger employees, such findings need to be treated with considerable caution, and there is still a case for seeing old-age prejudice as special. The supply-side and human capital factors that differentiate the employment conditions and prospects of different age groups may be wrongly perceived as irrational age prejudice, as might a

host of other factors such as poor career advancement on account of performance rather than age. There is evidence, moreover, that older people have a greater tendency to internalise negative age stereotypes and hence are less likely to report or perceive age injustice (Duncan and Loretto 2004). While negative age stereotyping is reportedly experienced across the entire age range, surveys seldom capture differences in the degrees of prejudice or injury visited upon different age groups. Bearing these caveats in mind, it is plausible that young and older people can genuinely be exposed to age prejudice of a similar nature and degree. If denial of personhood is accepted as a feature of both old age and childhood, then vestiges are likely to extend both upwards, into young adulthood and young-adult workers, and downwards to older workers and the 'young-old' in general. For younger adults, however, the problem is temporary, unrelated to fears of ageing processes, and will ease with age, while for older adults the opposite can be expected, with prejudice intensifying into deep old age.

Another explanation for the detection of ageism across all ages, including among 'prime age' employees, might simply be that appropriate age differentiation has been observed. Current formulations of ageism come close to associating any form of age differentiation with *prima facie* evidence of prejudice and injustice, but the use of 'age appropriate' distinctions can be defended. Few could deny that needs and contributions differ by age. The social-care and health-care needs of older people mean that they generally consume a disproportionate portion of such provision and of other social expenditure; and children are deemed unsuited to marry or contribute economically until a certain age is reached, distinctions recognised in law and resource allocations. Moreover, for Neugarten (1981), age-status systems and norms pervade the cultural fabric of any society and secure a high degree of consensus, whether formally sustained in rules and regulations or applied by social sanction. Examples of the latter include social disapproval of those above a certain age frequenting clubs or other social settings geared to youth; or popular disapproval of wide age gaps in emotional or sexual relationships. Furthermore, an age-status system may be viewed as *functional* in providing an essential mechanism of social control in any society:

For the individual, it establishes a series of social positions that provide clarity and predictability, regular movement from lower to higher rungs of the age-status ladder, and a certain coherence as new role patterns are automatically assigned with increasing age. For the society, it provides for an effective division of labor, in the broadest sense of that term, thereby establishing a social mechanism for maintaining the economy, the educational system, the family system, and the military, political and religious systems (Neugarten 1981: 815).

Recognition of age norms or ‘appropriateness’ as a major dimension of social organisation similarly led Macnicol (2002: 16) to conclude that ‘as age is a category we all deploy in order to make sense of the world – a truly “age-neutral” society can only ever be a hypothetical abstraction’.

It is plausible, therefore, that the realisation that age discrimination affects all age categories owes more to the promotion of the ideology of age neutrality *by means of* ageism discourses than to individuals’ experiences. In this connection, it might be noted that the dissociation of ageism from old age did not arise from lobbying by younger people against ageism, but rather from *a priori* reasoning or the ‘logical’ extension of the original concept by academics and equality advocates. Nevertheless, the evidence that it is not just older people who perceive differential age treatment as discriminatory cannot simply be dismissed; it counters the assumption of age-status systems as internalised, functional and having broad support. One explanation is that age systems and norms are fluid and change over time along with such factors as improved health, the changing age structure, and changes in the ages and forms of emotional, sexual and intellectual maturity among younger people. Social and legal conventions that become outdated may be experienced as discriminatory (Neugarten 1981: 816–8). The limitations of using chronological age as a proxy for determining social or functional age transitions is another likely cause. These forms of perceived age discrimination are, however, different from the more pernicious and elaborate forms of age prejudice that affect old people. Indeed, Oswick and Rosenthal (2001) found much evidence of outdated age norms in employment, as embraced in the customary ‘age-typing’ of different occupations, but found no evidence that these norms denoted a more generalised prejudice on the part of employers against any particular age group.

### **Policy implications**

If it is accepted that old-age prejudice should be confronted as a distinctive and pressing problem, then remedies are required that do not embrace damaging notions of age equivalence. This section considers the scope for such responses.

#### *The scope for legal remedy*

The UK *Employment Equality (Age) Regulations 2006* and the European Union Directive from which they derive are deficient in three main respects as a means for challenging old-age prejudice. Most obvious is their restriction

to employment. If age prejudice intensifies with age in broader structural and institutional manifestations, then the exclusion of goods, facilities and services from the scope of the law is clearly perverse. The second defect is the endorsement of 'formal equality', or consistency of treatment, as a dominant equality principle to promote the notion of age equivalence. As Fredman (2003) observed, this principle cannot promote appropriate treatment according to age *difference*. For instance, the refusal to allow flexible working may prove more harmful to older than younger workers, but to assert equality does not itself create a right to flexible working. Nor does this criterion assist in distinguishing invidious prejudice from appropriate age differentiation, and its application to achieve age parity may result in older workers losing benefits if they are levelled down not up. A third limitation is that there are no requirements under EU or UK law to accommodate older workers whose labour-market characteristics or personal capability are judged inconsistent with business exigencies, though displacing such labour is now subject to fairly stringent 'objective justification' criteria.

United Kingdom equality law is currently in ferment, however, with plans for a single *Equality Act*, and the establishment in 2007 of the new Commission on Equality and Human Rights (CEHR), which replaced existing commissions and is to oversee implementation of the *Human Rights Act 1998*. Motivating this process have been long-running concerns over the complexity and inconsistency of current discrimination laws, fears of competition for victim status from an overcrowded equality agenda, and the envisaged problems of dealing with individuals who have encountered 'multiple discriminations'. This has prompted the search for a 'grounding' principle that can rationalise and bind together different forms of discrimination, and incorporate human rights legislation. Most discussed in this context has been the notion of 'equal human dignity' (Disability Rights Commission 2006; Fredman 2003; Hepple 2003), a principle long recognised in human rights adjudication. Rooted in the Kantian notion of inherent human worth, the concept of dignity has already made inroads into equality laws, including in the EU Race and Employment Directives to define harassment, and has been especially associated with court proceedings in Canadian and South African courts, countries often cited as models for a dignity-based equality jurisprudence.

Should discrimination law progress in this direction, older people might secure better protection. Equal respect for the dignity of people of different ages will on occasion require treating different age groups differently. Indeed, the age lobby has long campaigned for a richer concept of age neutrality on this basis, one that eschews damaging notions of agelessness in favour of equal dignity in protecting age-related special

needs (Age Concern England 1999: 24–33). Moreover, as equality based on dignity must enhance rather than debase individuals, it is difficult to argue that a levelling down solution is as good as one that levels up, thereby protecting age-based interventions that favour older people. It is possible too that the dignity criterion could help elevate age protection relative to commercial rationality in determining the treatment of older workers.

For Fredman (2003), the benefits of this approach crucially rely not only upon extending the law to goods, facilities and services, but also upon a more pro-active approach than is possible under a complaints-based litigation model, including the use of mainstreaming and enforcement of public obligations through compliance orders. This argument is supported by the limited impact of the *Human Rights Act 1998* with respect to the institutional and health-care treatment of dependent older people. The Act enshrined dignity criteria and human rights, and created obligations for organisations that carry out public functions, but to date the responses have been described as minimalist and reactive, focused only upon avoiding litigation; moreover, vulnerable older people have lacked the means, confidence, skills and stamina necessary to pursue complaints (Butler 2006; Harding 2005). Nevertheless, the CEHR will not have the power to enforce public duties or to issue compliance notices in the case of age (DTI 2004: 72).

Townsend (2006) argued that the human rights route provides the greatest legal and institutional scope for tackling discrimination against older people, including that of ‘institutionalised ageism’ derived from structured dependency, and that the ‘universalism’ of human rights can better address multiple manifestations of discrimination and deprivation than current targeted approaches. He shares the view that the indivisibility of human rights provides a valuable grounding principle with which to integrate and simplify anti-discrimination frameworks. Although the influence of human rights upon equality agenda has evolved very rapidly and is having a substantial impact upon the law, progress is being seriously hampered by the inadequate methodology of human rights implementation, which is in its infancy. New and imaginative research methodologies are therefore required to define and measure affronts to human dignity and identity that currently go unrecorded. Only by measuring and operationalising such concepts can reliable evidence be produced of violations and the institutions and policies required in response.

As well as the limited impact of the *Human Rights Act*, the evidence that is emerging from judicial processes is consistent with Townsend’s analysis. One recent review of case law in Canada and South Africa has shown that perceptions of dignity are undefined, amorphous and subjective and that

this has provided broad scope for value judgements and perverse decisions that frustrate equality principles (O'Connell 2006).

*Tackling 'ontological ageism'*

It might be inferred from Cole's (1992) analysis that legislative measures can deal at best with the symptoms rather than the essence of old-age prejudice. Indeed for Cole, the solution lies in 'social criticism and public dialogue aimed at creating socially just, economically sound, and spiritually satisfying meanings of aging' (1992:239). Few practical suggestions as to appropriate policies have been forthcoming, however, at least in the secular sphere. Cole's work has nevertheless generated valuable debate on the relationship between meaning and wellbeing in older age, with *Generations*, the journal of the *American Society of Aging*, devoting a special issue to this theme in 1999. Ageing identity and 'genuine ageing' have now become prominent themes in the field of social gerontology (particularly in the work of Biggs 1993, 2005), and have important implications for how professional carers and practitioners should interact with older people. In terms of broader social policy, however, the implications remain unclear, apart from Cole's preference for policies that emphasise communitarian values and intergenerational solidarity and that might help reconnect older people to society. Hence, in adjudicating upon United States welfare reforms, a social insurance model is favoured over the promotion of individual retirement accounts, because the latter promote individuality and disconnect people from 'a higher spiritual or ethical purpose' (Cole and Stevenson 1999: 76). The reasoning and terminology are unlikely to convince hard-nosed policy-makers.

*Age activism and the third-age movement*

As a guide to policy, Cole's historical analysis has been seen as somewhat irrelevant in view of the massive improvements in average life expectation over the last century and the tripling of older people's share of the all-age population. These demographic conditions have no historical or cultural precedent that might inform policy. The 'ontological ageism' and prejudice that face today's 'old' therefore require new, more urgent and proactive remedies than can be achieved through a metaphysic on the meaning of life (Laslett 1999). For Laslett (1996), the emergence of a new 'third age', located between the 'second age' of family responsibility and work life, and the 'fourth age' of final dependency and decline, could be a period of personal fulfilment and the 'crown of life' for older people. While the health, national wealth, longevity and demographic conditions required for the emergence of the third age had been met in Britain by



around 1950, conceptions of older people were still dominated by the negative stereotypes of dependence and inactivity, which rendered third agers as 'a generation in limbo', subject to prejudice and forced into 'indolence'. A somewhat idealistic manifesto for third agers was therefore proposed, which aimed to confront old-age prejudice by re-engaging them with society through new social roles, especially in the educational sphere and as custodians of the cultural inheritance. An institutional catalyst was to be the 'Universities of the Third Age' (U3A), financed and run by and for third agers and organised through a federal structure of local branches. Their goal was to foster activity through education, and to raise third-age consciousness, confidence and autonomy.

Laslett's ideas were initially of considerable influence, and led in the UK to the institution of a remarkable three-year research project by *The Carnegie Trust* into third age matters during 1989–92, followed by a three-year *Carnegie Third Age Programme* to promote third age issues to policy-makers. This coincided with the emergence of the anti-ageism bandwagon in the early 1990s, however, and Laslett's vision of active ageing was quickly over-shadowed by, and even enlisted in support of, anti-ageism perspectives inimical to his vision. Damaging notions of agelessness geared chiefly to promoting employment opportunities for older people, and culminating in the current ideologies of work obligation and pension retrenchment, torpedoed significant progress in this direction. This was despite a vigorous defence by Laslett of the affordability of the third age, and his and his followers' insistence (*e.g.* Gibson 2000) that recognition of the third age did not condone agelessness nor anti-ageing sentiments. He also insisted that the second age could not easily be prolonged by political decree because, in common with Macnicol (2006), he doubted that the demand for labour would ever be sufficient for older workers to remain in employment. Other controversies generated by Laslett's work included: whether the lived experience of personal ageing, which for many entails gradual transformations and a progressive diminution in the quality of life, is realistically represented by discrete lifecourse stages (Siegel 1990); whether elevating the third age relative to the fourth as a partial solution to the denigration of all older people might intensify rather than reduce prejudice against even more marginalised fourth agers (Young and Schuller 1991: 181); and scepticism about the 'grandiose expectations' implied by the new social roles envisaged for third agers (Laslett 1996: xii).

In retrospect, it is not surprising that an apolitical campaign of this kind, resting upon a curious mix of advocacy, reason and idealism, should fail to make much progress even though third age activism remains very much alive – in 2006, the United Kingdom national U3A website boasted

a membership of 350,000. Moreover, proposals continue to be made for a more autonomous and influential role for older people. For instance, Ben-Israel and Ben-Israel (2002) drew parallels between the emergence of the third age and that of the industrial proletariat during the 19th century, and argued that both third and fourth agers have yet to achieve 'social dignity' comparable to that achieved by organised labour, as manifested in labour law and collective bargaining rights. They proposed a new legal discipline or "senior citizens' law" that would regulate their status and provide protected rights, including freedom of organisation and social collective bargaining. Agency-shop arrangements could overcome the difficulty of organising a scattered, ageing constituency, with an organisation tax deducted from old-age pensions and paid to the most representative organisation. Such organisations could then reach legally binding social-collective bargaining agreements, with legally protected sanctions in the form of consumer boycotts, pickets and protests.

Such proposals are not wholly fanciful, given the increased political clout of an ageing electorate, and some evidence that 'generational consciousness' characterises current third agers (Gilleard and Higgs 2002). Indeed, the *American Association of Retired Persons* (AARP) with its membership in excess of 35 million is often cited as the most powerful lobby group in Washington. In Britain, representational membership-based groups for older people are small and few, but this may change. In 2006, a new membership organisation, *Heyday*, was launched with support from *Age Concern England* for people planning for or in retirement. It was explicitly modelled on the AARP and *Dane Age* in Denmark, and targets the 'younger old' or third agers, although Age Concern plans to reorient its activities towards fourth-age issues.

#### *Policy towards older workers*

In contrast to the current model of workfare solutions, an alternative approach to confronting the harsh labour-market conditions that face many older workers would be a radical package of imaginative measures to subsidise work at older ages. For Macnicol (2006: 114–5), these could include additional in-work benefits, older worker employment quotas, the extension of pensions to all those aged 50 or more years with no retirement condition, and changes in work conditions to reduce stress. Though this would be expensive and wholly against the grain of current policies and ideologies, it is argued that in the long run there would be net savings from a reduced requirement for social security support. Policy in this direction would also offer a genuine choice between working and retirement. Moreover, as benefits would be extended to younger age groups rather

than being removed from older people, the material basis for a positive third age is preserved.

### **Conclusions**

Anti-ageism has something of the character of a principle in search of a cause. Though emerging from concerns over the treatment of older people, who continue to experience age prejudice in its most virulent forms, its recent incorporation into several voluntary and statutory equality agenda has reoriented concerns towards simplistic and unrealistic notions of age equalisation and equivalence, goals that originate neither from social movements nor from the demands of oppressed minorities. This rootlessness has also rendered age-equality agendas prone to ideological manipulation, by which they are invoked to undermine the interests of older people, both within and outside employment. Arguably, then, current anti-ageism agenda are in crisis.

The distinct origins and many manifestations of old-age prejudice transcend simple equality constructs. Equality agenda that treat older people as 'prime age' adults or ageless beings deny and downgrade their distinctive needs and actual and potential contributions, and question the legitimacy of old age *per se*, and they especially denigrate those who cannot conform. Moreover, the fear, negativity and absence of meaning with which old age is often regarded, gives rise to a brand of age prejudice that is scarcely equivalent to that which affects younger adults. A shift in equality agendas towards human rights constructs such as 'dignity' may work in favour of older people by endorsing differential treatment on the basis of differential age-related needs; as by challenging utilitarian criteria in the allocation of scarce medical and other resources; and by confronting the demeaning attitudes and treatment that follow from the perception of older people as in certain respects less than human. Movement in this direction is by no means certain, however, and to be of significant value, will require the extension of age-discrimination law beyond employment, and more pro-active means of compliance and enforcement than now seem likely.

It might be argued, moreover, that legislation of any kind can do little more than tackle some of the symptoms of old-age prejudice, because its causes lie ultimately in denial of mortality or the human condition. The resulting ontological barrenness of older age and associated prejudice may, however, be lessened by policy approaches that seek to re-connect older people to mainstream society, and to this end, welfare and pension approaches that emphasise communitarian values and intergenerational

solidarity have been advocated. The notion of intergenerational solidarity has secured further support as a counter-ideology to protect older people's welfare rights against intergenerational inequity and age-wars perspectives, and is widely endorsed by the international age-awareness and human rights lobbies. Hence, Age Concern England established a UK-wide 'inter-generational network' in 1999 and runs several programmes to promote solidarity. The issue has been taken up at European level, with a European Commission Green Paper that promotes solidarity (Commission of the European Communities 2005), while the United Nations' 'International Youth Day' in 2004 had its chief theme 'youth in an intergenerational society'.

On the other hand, this emphasis could undermine more autonomous and pro-active challenges to old-age prejudice on the part of older people themselves, who now constitute a large, mostly active and potentially powerful political constituency. Indeed, for Laslett (1996: 253), notions of intergenerational solidarity have little historical legitimacy, and denote a patronising and controlling attitude towards older people. Instead, older people should seek a degree of financial and social autonomy. In terms of pension reforms, and in sharp contrast to Cole and Stevenson (1999), he therefore advocated a personal retirement-fund model that entailed an element of compulsory saving along the lines proposed by Falkingham and Johnson (1995). This combines earnings-related funded pensions with tax-financed minimum pension provision in a single system, one that would allow people visibly and adequately to pay for their own third age. It would help identify and address generational inequity and would ensure a greater degree of intra-generational justice (Laslett 1996: 247–49). Moreover, Falkingham and Johnson (1995: 215) estimated that the scheme would result in net savings to the Treasury.

A second schism in thinking about how to tackle old-age prejudice is of course the dichotomy between promoting employment and the vision of a new third age characterised by personal fulfilment and new social roles. The latter construction of active ageing has been all but subverted by the anti-ageism bandwagon and the associated work obligation ideologies; these continue to threaten the material basis for a productive third age, and indeed there has been little political or academic discussion of the concept since the Carnegie Trust initiatives over a decade ago. Revisiting the third age concept therefore seems merited, including discussion and resolution of some of the major controversies initiated by Laslett but which were never resolved. Clearly, the harsh labour-market conditions facing older workers also merit attention. Yet if, as argued by Macnicol (2006: 96–101) and others, the historical evidence is that 'the lump of labour fallacy' – the notion that the number of jobs in an

economy is fixed or constant – is not fallacious with respect to older workers, then Laslett's vision (or a modification of it) seems eminently preferable to what otherwise may be in store for many older people forced by economic necessity to re-enter employment at the bottom end of the labour market. Radical measures to subsidise employment at older ages is a further option that could provide genuine choice between work and retirement while preserving the material conditions for a productive third age.

Activism by or on behalf of older people is likely to intensify in the face of the current threats, and will no doubt be boosted by the growing influence of an ageing electorate. This could prove to be a conservative and reactive force, geared chiefly to defending pension and welfare arrangements designed for a previous era, and weakened by recourse to equality constructs that inadequately reflect and confront the roots of prejudice. Alternatively, such activism could contribute to a climate for change towards newer, more positive visions and experiences of older age both within and outside the employment sphere. For this more comprehensive and constructive path to be taken, new thinking and changes of emphasis will be required by advocacy groups, policy-makers and the academic community. The key requirements include a policy shift on the part of the 'age lobby' from defensive strategies and ideologies of generational interdependence and solidarity towards promoting organisational, financial and social autonomy in older age. Pension reform might also be usefully informed by the same criteria. Greater recognition is also required by equality advocates that older age is poorly served by current anti-discrimination templates, not only with respect to the weaknesses inherent in their endorsement of age equivalence, but also given the time-static adjudication framework. Extension of age laws beyond employment is a minimum requirement, and the legitimacy of policies and statutes directed specifically to old-age prejudice needs consideration. With respect to research agendas, a focus upon the methodology of human rights is clearly required. Another priority is to resume conceptual and empirical work on new 'third age' social roles, a line of inquiry that continues to be undermined by the current over-emphasis upon labour market issues as the first step in tackling old-age prejudice.

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*Accepted 9 March 2008*

*Address for correspondence:*

Colin Duncan, Senior Lecturer in Employment Relations,  
University of Edinburgh Business School,  
William Robertson Building, 50 George Square,  
Edinburgh EH8 9JY, UK.

E-mail: [Colin.Duncan@ed.ac.uk](mailto:Colin.Duncan@ed.ac.uk)