

Age Discrimination and Paid Work

Policy Brief No. 7



Summary

With the aging of the Canadian population, many changes will be required in the domain of work and retirement. While considerable transformations have been made in recent years that improve the situation for older workers, such as the creation of legislation to eliminate the use of mandatory retirement in most areas, ageism and age discrimination still persist. Employers continue to have negative attitudes toward older workers and these attitudes can be seen in the training, hiring, and retention of older employees. Age discrimination is difficult to prove and thus most cases are not pursued. Older women face even greater challenges in the workforce, and both older men and women experience the most difficulty, as compared to younger individuals, when searching for new employment. Policy changes are suggested here that seek to improve the situation for older workers.

Key Findings

- Policies have been created to eliminate mandatory retirement across Canada, yet some exceptions still cause older employees to be forced out of the workplace.
- Changes in retirement policy will directly influence employer and government pensions.
- Ageism is reflected in employers' attitudes and this directly impacts older worker retention, training, and recruitment.
- Age discrimination legislation still has a long way to go to be effective in the fight against ageism.
- Particular attention needs to be paid to older female employees and their battle with gendered ageism.
- Ageism is particularly evident when unemployed and searching for work.
- Policy improvements are needed to remove mandatory retirement in all areas, to educate employers to change ageist attitudes and hold them more accountable for their actions, and to improve programs to help older workers in their job search process.

Background

As a result of the aging of the Canadian population, the aging of the workforce has now become a pressing focus for Canadian policy. Due to the recent state of the economy, baby boomers can no longer expect financial security in later life. In fact, many individuals will be forced to continue paid work well into their "retirement" years. While the elimination of mandatory retirement in most sectors theoretically allows older workers the ability to continue working, the persistence of ageism in the workplace makes this economic trend a difficult journey for many. This brief examines some of these policy changes and explores the prevailing attitudes toward older individuals in the workplace.

Mandatory Retirement

While some exceptions exist which will be described below, as of July 1, 2009, provincial legislation has been enacted across Canada to remove the use of mandatory retirement. Implementation of legislation started in the 1980s and has been handled independently by each province. The most recent province to prohibit the use of mandatory retirement was Nova Scotia on July 1, 2009. British Columbia enacted similar legislation on January 1, 2008. Prior to that, Newfoundland and Labrador eliminated mandatory retirement on May 26, 2007 and Saskatchewan eliminated its use on November 17, 2007. On December 12, 2006, the Ontario government banned the use of mandatory retirement by employers. These provisions had been enacted in 1983 by Manitoba and in 1982 by Quebec and New Brunswick. Similarly, Alberta, Prince Edward Island, Nunavut, Northwest Territories, and Yukon also have no retirement age.

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On December 15, 2011, Bill C-13 amended the Canadian Human Rights Act and the Canada Labour Code and eliminated mandatory retirement in federally regulated workplaces. This new development is a huge victory for older workers across Canada.

Unfortunately, there are still a few exceptions to these rules. Some jurisdictions, such as New Brunswick, still allow employers to use mandatory retirement if it is part of a company's retirement or pension plan. Further, many legal and consulting firms have clauses that specify that "partners" cannot be over age 65, even though they theoretically will allow them to remain at the firm in a different role. Other workplaces have legislation that permits the use of mandatory retirement if age is believed to limit a person's ability to do a job, such as pilots, firefighters, or police.

While it is important to have the highest level of skill for these occupations, people age at different rates and functional age is not directly connected to chronological age. In fact, chronological age becomes less and less useful as an index of age as one grows older (Settersten & Mayer, 1997). Periodic performance appraisals (regardless of age) could be utilized in these occupations to maintain productive employees. These could be coupled with the existing medical evaluations for pilots, for example (O'Conner, 2010), and expanded to other occupations to ensure public safety.

A comprehensive review of the relationship between age and job performance, examining 96 studies in 46 journals, found a low correlation between age and job performance, except in the case of very young workers (McEvoy & Cascio, 1989). More recently, Sturman (2003) also found that age was only related to job performance for younger workers. It has been suggested that older workers use their lifetime of experience to compensate for any age-related changes in cognitive or physical function (Baltes, Staudinger, Maercker, & Smith, 1995).

Mandatory retirement legislation is historically coupled with pension legislation, so it is important to note that changes to mandatory retirement will likely have consequences to the pension system and the labour market (Gomez, Gunderson, & Luchak, 2002). For example, employers have been found to replace older workers with younger ones to avoid higher costs associated with pensions and salaries (Roscigno, Mong, Byron, & Tester, 2007).

However, since the elimination of mandatory retirement in most Canadian workplaces, approximately only 28% of men and 17% of women aged 65-69 were employed in 2010 (Carrière & Galarneau, 2011). That is, most Canadians still choose retirement over work after age 65 if it is financially feasible. Unfortunately, those that need to remain working are often faced with discriminatory attitudes from employers about their age. These attitudes will now be addressed.

Employers' Attitudes and Practices Toward Older Workers

Much has been done to change attitudes regarding racism and sexism, but far too little has been done to change the mindset created by ageism affecting the basic human rights of older workers (Ibbott, Kerr, & Beaujot, 2006, 171). Butler (1969) coined the term ageism to describe discriminatory attitudes, behaviours, and policies against people because of their age. Employers conditioned by a youth-oriented society often convey these attitudes in the workplace to the detriment of older workers (Roscigno, Mong, Byron, & Tester, 2007). For example, Gringart, Helmes, & Speelman (2005) surveyed 128 employers about their attitudes toward older workers and found that discrimination in hiring was a direct result of negative attitudes and stereotypes about older workers and thus most employers were "not very likely to hire older workers" (96).

Many employers also believe that even the work experiences that accumulate over the life course tend to be lost due to "skill obsolescence" (Adler & Hilber, 2009, 72). Older workers are seen as "less productive, less creative, less flexible, less trainable, less interested in new technology" and "less promotable" (Adler & Hilber, 2009, 72). Employers' attitudes have also been linked to organizational characteristics. For example, Berger (1999) found that employers from large companies (with twenty or more employees) had more negative attitudes towards older workers than those from small companies. Employers' age and gender were also related to their attitudes, with older female managers being the most positive toward older workers. In order for employers to deal with the impending worker shortage, they need to change their ageist attitudes toward older workers and avoid discriminating against them in the workplace.



Age Discrimination in the Workplace

Attempts have been made to create legislation to counteract ageism but little progress has been made with respect to employers' attitudes and practices. Thus, even with legislation in place in the area of employment, only a small number of court cases are ever resolved. In the U.S. in 2005, of the 16,585 age discrimination complaints submitted to the Equal Employment Opportunity Commission (EEOC), 63% were discarded due to insufficient grounds for complaint. Successful intervention resolved only 1.2% of cases, while 18% were resolved without going to court (Dennis & Thomas, 2007). Hiring practices are the most common area for age discrimination, yet being unable to substantiate most cases leads to lack of reporting. Further, many cannot afford the cost, time, or emotional damage of a courtroom fight.

MacGregor (2006) indicates that there is poor feedback from civil society organizations (CSO) to the existence of ageism, especially in Canada and the U.S. Organizations such as the Canadian Association for Retired Persons (CARP) and the American Association of Retired Persons (AARP) attempt to bring change in regard to issues affecting seniors. Unfortunately, their efforts seem to be making little progress in convincing those in power of the seriousness of age discrimination. Endeavours at legislating policies are consistently met by opposition, exceptions, lack of enforcement, and simple lack of interest by lawmakers (Macgregor, 2006).

Firbank's (2001) study of the Quebec Human Rights Commission (QHRC) revealed variability in ageism complaints between 1983 and 1996, after the introduction of the Charter prohibiting discrimination. There were peaks in complaints during economic downturns when employers had a tendency to eliminate older workers in an effort to downsize their labour force. The majority of these complaints concerned dismissals and hirings. Firbank (2001) emphasized the need to inform employers and the public that older workers have the same rights as other workers.

Gendered Ageism at Work

In most research and discussions of age discrimination and paid work, gender is often neglected. However, females comprise an increasing share of the work force and their experiences should not be ignored. Older female workers often experience gender

discrimination coupled with age discrimination (McMullin & Berger, 2006). McDonald (2006) uses the term "invisible" when referring to the position of women within the topic of work and retirement. Historically women were generally seen as homemakers and thus not only was their unpaid work in the home not considered "work", their paid work was also viewed as non-essential (Denton, Fretz, & Spencer, 2000, 337).

Women of the baby boom cohort were successful in affecting change in many areas, including challenging the norm that married women needed to become homemakers, automatically connecting their retirement to their husbands' retirement (McDonald, 2006). Those women who needed to work generally experienced periods of unemployment, usually from low paying, low status jobs, thereby failing to provide themselves financial security for their retirement years (Denton, Fretz, & Spencer, 2000). Unfortunately, these pension plans were based on the length of time spent in the workforce and due to women's intermittent periods of paid work, they once again did not gain the same advantages experienced by men (Berger & Denton, 2004). This forces many widows to live in poverty or to re-enter the workforce in order to have a livable income (McDonald, 2006).

Older Workers' Perspective on Ageism

If the stress of remaining in the paid labour force for those with existing employment is high, this stress is even greater for those older workers who are unemployed and looking for work. Many now face the burden of dealing with ageism from employers, recruiters, and employment counsellors (Berger, 2006). Many older workers who are looking for work experience reactions from employers that reflect both subtle and overt ageism. These ageist attitudes and stereotypes create negative experiences for candidates that lead them to feel the need to conceal their age whenever possible by changing their appearance, revising their résumés, and using language that they believe reflects a younger age (Berger, 2009). For example, individuals modified their résumés to de-emphasize age by eliminating dates and referring to work-related experience for the past ten years rather than listing all previous employment experience that might give a clue to actual age. Hair dye was used by many women and men to look younger and



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men discussed shaving facial hair or purchasing toupees to cover baldness in an attempt to appear younger.

Unfortunately, older workers who have spent a long time at one job can find themselves at a disadvantage when having to seek employment due to a lack of "job search skills" (Adler & Hilber, 2009, 72).

With respect to training, older individuals often suspect that employers are reluctant to train them, due to the shortened time period before retirement. However, to counteract this stereotype, older workers often take courses or attend workshops to update their skills and avoid being classified as out-of-date by employers (Berger, 2009).

The Need for Policy Improvements

Various implications of population aging in Canada have been discussed in this policy brief. While policy changes have been noted on some fronts, there are still many areas that require considerable improvement. Legislation to eliminate mandatory retirement across Canada can be applauded, however, the gaps highlighted in this brief suggest that ageist attitudes still exist and need to be addressed by government policy. The second area for policy improvement relates to the need to hold employers more accountable for discriminatory practices with respect to training, retention, and hiring of older workers. Part of this policy improvement could involve the creation of educational programs for employers that help foster more positive attitudes toward older employees. Some advances have been made in this area, such as the recommendation from the Expert Panel on Older workers to create an awareness campaign to educate employers about the value of older workers (Riddell, 2009). However, this now needs to be translated into practice. Finally, while some government-funded programs have been created to help older unemployed workers in their job search process (e.g. the federal/provincial Targeted Initiative for Older Workers offering employment assistance services to unemployed workers aged 55-64 in smaller towns experiencing high unemployment rates), more still needs to be done to assist them. In order for Canada to meet the needs of the aging population and eliminate ageist attitudes and practices, policies such as the ones described above will need to become a national priority.

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About the Policy Brief

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