

A comparative review of international approaches to mandatory retirement

by Andrew Wood, Marisa Robertson and Dominika Wintersgill

Department for Work and Pensions

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Department for Work and Pensions

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The Authors

Andrew Wood, Research Director, specialises in public policy and financial sector research, for both public and private sector clients. He has run many high profile studies for the Department for Work and Pensions (DWP), covering different aspects of the pension reforms, retirement saving and decision-making, as well as deregulation. He read Modern and Medieval Languages at the University of Cambridge.

Marisa Robertson, Senior Research Executive, is a member of our public policy team, and focuses on pensions research and projects investigating the impact of central government policy on local authorities and individuals. She co-authored three recent studies into the impacts of and responses to the workplace pension reforms for DWP, and read European Studies at the University of Reading.

Dominika Wintersgill, Project Manager, has five years' experience of public policy research, including projects for DWP, HM Revenue & Customs, the Office for National Statistics, the Home Office and the Department for Culture, Media and Sport. She read Culture & Society at the London School of Economics and Cultural Studies with German at the University of East London.

Abbreviations

AARP	American Association of Retired Persons
ADA	Americans with Disabilities Act (USA)
ADEA	Age Discrimination in Employment Act
AP	Age Pension
bfoq	Bona fide occupational qualifications
BIS	Department for Business, Innovation and Skills
DB	Defined Benefit
DC	Defined Contribution
DWP	Department for Work and Pensions
DRA	Default Retirement Age
EEA	Employment Equality Act
EEO	Equal Employment Opportunities
EHRC	Equality and Human Rights Commission
EU	European Union
FMA	Financial Markets Authority (New Zealand)
GDP	Gross Domestic Product
GNP	Gross National Product
GIS	Guaranteed Income Supplement (Canada)
GNP	Gross National Product

MSD	Ministry of Social Development (New Zealand)
NZS	New Zealand Superannuation
OAS	Old Age Security (Canada)
OASDI	Old-Age, Survivors, and Disability Insurance (USA)
OECD	Organisation for Economic Co-operation and Development
PRETA	Pre-Retirement Allowance (Ireland)
PRSA	Personal Retirement Savings Account (Ireland)
QNHS	Quarterly National Household Survey (Ireland)
SG	Superannuation Guarantee (Australia)
SPA	State Pension Age
UA	Unemployment Assistance

Glossary of terms

Bona fide occupational qualifications (bfoq)	The insistence on specific capabilities or qualifications (which might include age) deemed reasonable by human rights authorities in respect of a particular job or role.
Cohort	A group of subjects who have shared a particular experience during a particular time span (e.g., people born in 1950).
Compulsory retirement age	See mandatory retirement age .
Default retirement age (DRA)	The default retirement age is set by government, and is the minimum age at which employers can (if they choose to) set a mandatory retirement age , requiring employees to retire. Employers are able to set a mandatory retirement age below the DRA only where this can be objectively justified by the particular occupation (bfoqs). They also have a duty to consider any requests to work beyond the DRA. In the UK the DRA was introduced in the Employment Equality (Age) Regulations 2006 and set at age of 65.
Defined Benefit (DB) scheme	An occupational pension scheme that provides benefits based on a formula involving how much a person is paid at retirement (or how much a person has been paid on average during their membership of the scheme) and the length of time they have been in the pension scheme.

Defined Contribution (DC) scheme	A pension scheme that provides pension scheme benefits based on the contributions invested, the returns received on that investment (minus any charges incurred) and the rate at which the final pension fund is annuitised.
Dependency ratio	See old-age dependency ratio .
Effective retirement age	The average age at which individuals withdraw permanently from the labour force.
Employment protection	Refers to regulations concerning both hiring (e.g. rules favouring disadvantaged groups, conditions for using temporary or fixed-term contracts, training requirements) and firing (e.g. redundancy procedures, mandated pre-notification periods and severance payments, special requirements for collective dismissals and short-time work schemes).
The Employment Equality (Age) Regulations 2006¹	These regulations were introduced by the UK Government in 2006. They established a general framework for equal treatment in employment and vocational training. The Regulations made it unlawful to take decisions on employment and vocational training that were based on a person's chronological age rather than their competence.
Gross Domestic Product (GDP)	A measure of total economic activity. It measures the sum of the value created through the production of goods and services within the economy.
Gross National Product (GNP)	A measure of total economic activity. It is defined as the market value of all goods and services produced in one year by labour and property supplied by the residents of a country.

¹ Office of Public Sector Information (2006). *The Employment Equality (Age) Regulations 2006*.

Mandatory retirement age	An age, which may be set out in a contract of employment, at which an employer can require an employee to retire. In the UK employers may set this no lower than 65, which is the default retirement age . Employees can retire at an earlier age if they choose.
Net replacement rate	The individual net pension entitlement divided by net pre-retirement earnings, taking account of personal income taxes and social security contributions paid by workers and pensioners.
Normal pension age	The age used for planning purposes in an occupational pension – it may be possible to draw pension before this, or continue to accrue afterwards, but this age is used for planning, and may influence employers' perceptions of normal expected retirement age.
Normal retirement age	The age (or age range) over which it is normal for people to retire. This may be determined by an employer's policy or may just be a cultural norm in an organisation or at national level. It is generally linked to employer pension arrangements or to the State Pension Age. It may or may not be the same as the compulsory retirement age. Some employees may continue to work beyond this age.
Occupational pension scheme	A scheme set up by an employer to provide retirement and/or death benefits to employees.
Old-age dependency ratio	The ratio of inactive elderly population to the total labour force age 15-64.
Organisation for Economic Co-operation and Development (OECD)	A membership organisation that brings together the governments of 30 countries around the world to allow them to compare policy experiences, seek answers to common problems, identify good practice and coordinate domestic and international policies. OECD also produce comparable statistics and economic and social data.

Participation rate	The percentage of people in a given population who are available for work: in other words, either employed, or unemployed and looking for work.
Personal pension	A contract-based pension scheme with the legal contract existing between the individual and the pension provider. Personal pensions can be provided as a part of an arrangement made for the employees of a particular employer or can be purchased by the individual.
Poverty	For the purposes of this report, a household is in poverty when its income is less than 50 per cent of the median household disposable income for the entire population.
Seniority wages	A situation where an employee's wages increase steadily throughout employment, such that it is common for older workers to be paid significantly more than younger workers offering the same skills.
State pension	The benefit provided by the government at State Pension Age to those with a sufficiently high National Insurance contribution record. Countries other than UK may have their own requirements for receipt of the state pension.
State Pension Age (SPA)	The age at which an individual can claim their State Pension . It is currently 65 for men and 60 for women in the UK. It will increase to 65 for women from 2010 to 2020. It will then increase from 65 to 68 for men and women by 2046.

Summary

This research study, conducted by RS Consulting on behalf of the Department for Work and Pensions (DWP), was designed to examine existing, published evidence on international approaches to mandatory retirement. The research will be used to inform the Government's review of the default retirement age (DRA), which is jointly led by DWP and the Department for Business, Innovation and Skills (BIS).

Background

In 2006, as part of the Government's commitment to implementing age legislation, the Employment Equality (Age) Regulations 2006 made it unlawful to take decisions on employment and vocational training that were based on a person's chronological age rather than their competence. There was no upper age limit to this legislation, other than in the case of the DRA.

The DRA was set at 65. This meant that it was unlawful for employers to set a mandatory retirement age of below 65 unless, in their particular case, an employer could objectively justify a lower age. Employers did not have to specify 65 as the DRA: they could set a higher age or choose to have no mandatory retirement age.

The use of the DRA was being monitored at the time of writing, and is the subject of an evidence-based review in 2010.

Scope of the research

This research consists of a literature review examining existing, published evidence on international approaches to mandatory retirement.

The overall aim is to provide useful lessons for the DWP and BIS review of the DRA, by offering the UK learning points as to the impact of different approaches to age legislation on individuals, businesses and the economy.

The case studies were selected to represent a broad spectrum of approaches and a range of experiences of age legislation, including countries that have never had specific age legislation; countries that have had age legislation for longer than the UK; and countries that have increased the minimum permitted mandatory retirement age or banned it altogether.

Research questions

The research sets out to answer the following research questions:

- What is the demographic make-up of the country and at what rate is the country's population ageing?
- What is the current legislative situation regarding retirement and age discrimination?
- What was the historical context, stimulus for change and policy route in arriving at the current situation having or not having DRA?
- What is the retirement income provision in the country?
- Where appropriate, how does the process of mandatory retirement operate in practice?
- What is the impact of mandatory retirement on businesses, individuals and the economy?

Key findings

Context of the case study countries

In all of the countries studied, as in the UK, issues around retirement and the ageing society were an important policy topic, in the face of increasing dependency ratios and the consequent burden this was likely to put on the countries' social security and pension systems. Each of the countries in this study had its own unique demographic, labour market and political circumstances. They can be grouped into three categories, based on their approach to age legislation in 2010:

Countries where mandatory retirement is not permitted at any age

- **USA:** In 1986 the US became one of the first countries to outlaw mandatory retirement. Previously the minimum permitted mandatory retirement age was 70. An exception applied to bona fide occupational qualifications (bfoqs) which affect positions in the armed services, aviation, judicial and safety industries.
- **Canada:** Canada has had a complex legal history of abolishing mandatory retirement province by province between 1973 and 2009, reflecting the involvement of federal and provincial governments and courts. By the time of writing, mandatory retirement was effectively illegal in every province, however, exceptions were permitted for bfoqs.
- **New Zealand:** Mandatory retirement was made illegal between 1993 and 1999, and the State Pension Age (SPA) was increased from 60 to 65 over the same period. New Zealand also implemented a number of policies to increase participation rates among the older population, including the *New Zealand Positive Ageing Strategy*, in part designed to improve opportunities for older people in the workplace.

- **Australia:** Before the 1990s there was no age discrimination legislation, and so the use of mandatory retirement was effectively a matter for the individual contract between the employer and the employee. Commencing in the 1990s, several laws were enacted to abolish age discrimination, finally cemented in 2004 when mandatory retirement was made illegal. Since 1989, a number of initiatives have been enacted to encourage working later, including measures to support older people in the workplace.

Countries where mandatory retirement is permitted, with a minimum permitted mandatory retirement age set by legislation

- **Japan:** Japan has one of the most rapidly ageing populations of all member countries of the Organisation for Economic Co-operation and Development (OECD): there was predicted to be almost one inactive elderly person to each person of working age by 2050. Use of mandatory retirement was always lawful and almost universal in Japan. An organisation's mandatory retirement age is generally set out in a collective agreement, within which employers are encouraged to provide or facilitate a source of income for employees beyond mandatory retirement age. The minimum permitted retirement age increased from 55 to 60 in 1994, and is increasing to 65 by 2013. In addition, the SPA is being increased from 60 to 65 by 2030.
- **France:** Mandatory retirement is permitted, and the minimum permitted mandatory retirement age in the private sector was increased from 60 to 65 in 2003. At 60, the French SPA is lower than that of most European countries and there is little incentive to work beyond it: post-retirement income as a proportion of pre-retirement income is the highest of all the case study countries. In fact, there are several state schemes that allow early (rather than late) withdrawal from the labour market, although these are now being restricted and phased out. France has the lowest over 65 participation rates of all the case study countries.
- **Sweden:** In 2001 a law was passed making mandatory retirement before the age of 67 illegal. In addition, a major reform of the public pension system was made in 1999. There are now compulsory employer and employee contributions to the state system, and pension benefits now depend on years worked: the longer the work period, the higher the pension.

Country in which mandatory retirement is legal, with no minimum age set by legislation

- **Ireland:** Ireland has not changed its mandatory retirement policy, and has always permitted mandatory retirement as a clause in the employment contract. In 2010 Ireland had the youngest population of the case study countries due to relatively high birth rates, high immigration and a slower improvement in life expectancy among older people in the second half of the 20th century than the other case study countries. However, the number of foreign nationals working in Ireland has fallen as demand for labour contracted during the recent financial crisis. In addition, with life expectancy increasing, Ireland's old-age dependency ratio was expected to be worse than that of the UK and the OECD average by 2050.

Impacts of age legislation on employers and business

Key findings

- Employers often believe banning mandatory retirement will increase their costs: but it is unclear whether this is actually the case in countries that are comparable to the UK.
- Only in countries where seniority wages were common were additional costs evident.

Increasing the minimum permitted mandatory retirement age, or abolishing it altogether, often had implications for employers' human resources (HR) policies. There was also evidence that abolishing mandatory retirement in some countries had led to employers needing to pay disproportionately high insurance and benefits such as disability insurance, life insurance, health insurance and pension payments. However, we could find no research evidence that attempted to quantify these costs in countries that are comparable to the UK.

Only in Japan, France and Sweden did an increase in the DRA lead to a reported increase in costs to employers. Here, unlike in the UK, it was common for employees to stay with an employer throughout a large part of their working life, with their salary increasing steadily throughout employment ('seniority wages'). These countries have all increased their minimum permitted mandatory retirement age in recent years. The effect of this, taking into account seniority wages, has been that employers have often had to pay disproportionately higher salaries to their oldest employees, whether or not they are more productive than their younger counterparts. In 1990, when the Japanese government announced its intention to increase the minimum permitted mandatory retirement age from 55 to 65 over several years, this met with resistance from employer and business associations.

It was also reported that, where mandatory retirement was banned, employers were sometimes reluctant to talk to employees directly about matters that could be construed as age discrimination. In New Zealand a number of employers were afraid of addressing issues such as retirement with older workers, for fear of being seen to breach their human rights. As a way of addressing this concern, an increasing number of employers were managing the issue by improving their performance review processes, or running retirement seminars that were available to all employees.

Impacts of age legislation on individuals

Key findings

- Age legislation can act as a catalyst for employers to provide more opportunities and flexible conditions for older workers, particularly when led by government initiatives.
- When it is made easy – and satisfying – for employees to make a phased transition into retirement, employees can be encouraged to work later.
- There is little research evidence that banning mandatory retirement impacts upon the employment opportunities of younger people.

The abolishment of mandatory retirement has sometimes led employers to adapt their working environment to provide more flexible working conditions for older employees, to encourage them to adopt a 'phased' or gradual retirement. When led by the government, training schemes for older workers were also sometimes implemented. In Australia, for example, the government has started publicly-funded employment services that provide access to training for older people.

Evidence suggests that such policies can be successful in encouraging employees to work later in life, particularly when supported by government initiatives. Studies have shown a range of workplace changes that could facilitate the productive employment of older workers including: work scheduling, flexible hours, voluntary work-time reductions, vacation and leave policies, phased retirement, job assignment, improved workplace organisation, hiring and contracting strategies, training practices, and benefit and compensation methods.

In New Zealand in particular, the promotion of flexible work options is one of the goals of the *New Zealand Positive Ageing Strategy*, launched by the government. The impact that this policy had in increasing the participation rates of older people may be in part due to the promotion of flexible working options. In one quantitative study of a large sample of imminent retirees in New Zealand followed over a three-year period after mandatory retirement was abolished, three-quarters chose to make phased transitions into retirement. In another study, 60 per cent were able to identify changes in terms of flexible working that they felt may have influenced them in deciding to continue working.

OECD reports from Canada, France, Ireland and Japan show that there is no clear link between the employment levels of older workers and those of younger workers.

The role of attitudes towards older employees

Key findings

- Employers' and society's negative attitudes to older workers can act as a barrier to working later, irrespective of the age legislation in place: but these attitudes can be overcome.

Little evidence was found to suggest that older workers' productivity declines with age. Nevertheless, there is clear evidence that many employers across different countries do believe that older workers' productivity does decline. Perceived disadvantages of working with older workers included inflexibility in completing tasks, lack of participation in training, difficulty in maintaining up-to-date skills, unease or unwillingness to learn new technologies and increased healthcare costs.

In one study of employers in Sweden, older people were seen as the least preferable potential employees, when asked to choose between different groups of people such as the long-term unemployed, women planning to have a child, immigrants, lone parents, physically disabled people and people above 55 years of age.

Some studies have shown that employers' negative attitudes towards older people can have an impact upon the employees' own attitudes toward their abilities. A robust quantitative study in Australia found that the chances of workers successfully being re-employed decline progressively with age. The experience of being subject to downsizing and unemployment often resulted in a sense, for older people, that searching for a job was futile. One study of attitudes of 55 to 64 year olds found that they often questioned their physical ability to continue work, and also to cope with technology and other changes at work, including stress.

Such attitudes were evident across almost all the countries studied, whether or not they had made changes to their age legislation. They are also likely to be faced in the UK, although there is some survey evidence that these negative attitudes are less marked in the UK than in other parts of Europe.

To counter attitudes such as this, the *New Zealand Positive Ageing Strategy* included a set of *Positive Ageing Goals and Objectives* designed to increase opportunities for older people to participate in their communities. The elimination of ageism is one of these goals. Qualitative interviews with recruitment professionals reported that after the implementation of the strategy, employers were now adopting a more open attitude to employing older workers. This was also aided by an immediate need for industry to take on older employees, due to a skills shortage. This is also said to have improved attitudes towards older employees: many employers now speak highly of their older employees and often comment on their knowledge, expertise and experience, their ability as mentors, their work ethic and their stability.

Impact of the State Pension Age and retirement benefits

Key findings

- The structure of state retirement benefits has a significant role to play in individuals' decisions to retire – or continue working.

Many sources of evidence have shown that the SPA, and the level of benefits available to individuals in retirement, can be just as important in determining individuals' actual age of retirement as the mandatory retirement age.

In Sweden, major pension reform was undertaken in 1999. The state system changed from Defined Benefit (DB), which gave pensioners guaranteed benefits, to Defined Contribution (DC), with benefits depending on contributions made and the performance of the funds invested. Before the pensions reform, it was often reported that there was no incentive for individuals to work for a long time, because contributions were based on the highest 15 years of earnings, rather than contributions paid over a lifetime. After the changes, a number of surveys suggested that there is a growing interest among those aged 60 plus in working part-time while drawing a pension, whether out of financial necessity, or simply because the system makes it in their financial interest to work longer and save longer.

Conversely in France, there is evidence that access to a range of early retirement schemes has allowed workers to retire even earlier. For example, the OECD reported that the government, under pressure from unions, introduced an early retirement scheme for those who were aged 56 or older and had a full contribution history. In 2004, a quantitative study conducted by the National Pension Fund estimated that 90,000 people would take up the scheme in 2005, which would equate to a take-up rate of 75 per cent. Such schemes are now being restricted.

Impacts of age legislation on participation rates, the economy and public sector expenditure

Key findings

- Age legislation, with no accompanying policies to encourage older working, is unlikely to increase the participation rates of older workers significantly.
- Age legislation is more likely to increase the participation rates of older workers when enacted in conjunction with an increase to the SPA and other policies to support older working.
- There is little research evidence as to the impact of age legislation on the economy or public sector spending.

Increasing or abolishing the permitted mandatory retirement age has often been used by governments as a way to encourage working later: but its impact on the participation rates of older people in the labour market has often depended upon what other policies were enacted at the same time.

In Canada, mandatory retirement has been progressively banned across provinces from 1986 to 2009, not usually in tandem with other age-related policies. Empirical analysis of census data, comparing the provinces where mandatory retirement was still allowed from age 65 with those where it had been made illegal, showed no significant impact upon participation rates.

In France, the DRA increased from 60 to 65, but the participation rate of this age group did not increase. This could be due to several factors that may have acted as a disincentive to working longer: SPA remained at 60 years of age, which is lower than most European countries; several early retirement schemes remained in place; and few incentives existed for employees to work beyond SPA.

Conversely, in New Zealand three policies were enacted in tandem from the mid-to late 90s:

- mandatory retirement, which had been allowed from the age of 60, was gradually banned;
- the SPA was gradually increased from 60 to 65;
- the *New Zealand Positive Ageing Strategy*, aimed at improving attitudes toward older workers, was launched.

The number of people in the labour force aged over 50 more than doubled between June 1991 and June 2005. This was said to have made a difference by reducing the skills shortage within several key industries, including manufacturing, where an overall decline in employment had been witnessed.

Economic analysis has often speculated that abolishing mandatory retirement should impact upon public finances. However, there was no clear empirical evidence to prove the economic impact of increasing the mandatory retirement age in this respect.

1 Introduction

This report provides the findings from a literature review conducted by RS Consulting on behalf of the Department for Work and Pensions (DWP), examining existing, published evidence on international approaches to mandatory retirement. The research will be used to inform the government's review of the default retirement age (DRA), which is jointly led by Department for Business, Innovation and Skills (BIS) and DWP.

This chapter details the policy background to the study, outlining the history of age legislation and the DRA in the UK and the purpose of the DRA review. It also contains the research objectives and methodology.

1.1 Policy background

In October 2000, the Government made a commitment to implementing age legislation by 2006. This was required in order to transpose into UK law the European Directive on Equal Treatment in employment and occupation (2000/78/EC).² This stated that both direct and indirect discrimination in employment on the grounds of gender, religion or belief, disability, age or sexual orientation were to be prohibited throughout the European Union (EU) by December 2003. The Directive was part of a series of measures aiming to combat discrimination, and formed part of a wider equality strategy that included a Directive on equal treatment with regard to racial and ethnic origin as well as an action programme to combat discrimination.

During 2003, the Government consulted on how discrimination in employment and vocational training on the grounds of age could be prohibited. BIS led the development of the regulations in light of the responses to the consultation. Subsequently, the Government created the Equality and Human Rights Commission (EHRC). The EHRC became operational on 1 October 2007 and took responsibility for enforcement of the age regulations.

² Europa (n.d). *Equal treatment in employment and occupation*.

Over the same period, DWP was responsible for implementing the Government's *Extending Working Life policy*.³ It took forward particular aims within this policy area, which were set out in the 2003 Pensions Green Paper *Simplicity, security and choice: Working and saving for retirement*.⁴ These included encouraging employers to recruit, train and retain older workers (aged 50 and above), and helping employers adopt age-positive employment practices ahead of the age discrimination legislation that was introduced in October 2006.

1.1.1 The Employment Equality (Age) Regulations 2006

The Employment Equality (Age) Regulations 2006⁵ prohibited discrimination on grounds of a person's age in employment and vocational training. Prior to this legislation, the UK had a voluntary Code of Good Practice on age introduced by the Government in 1999. The Equality (Age) Regulations made it unlawful to take decisions on employment and vocational training based on a person's chronological age rather than their competence. The regulations cover, for example, recruitment, selection, pay and benefits, promotion, dismissal, redundancy, retirement and training. The definition of employment includes contract workers, the self-employed and most office holders.

The law covers direct age barriers (for example, recruitment being limited to 30- to 40 year olds) and indirect barriers, i.e., action that has an indirect impact on certain age groups (for example, recruitment being limited to those holding a qualification that has only existed for five years, thus ruling out people over the age of 30). The law also outlawed harassment and victimisation of people on account of their age. However the law does not include:

- discrimination in goods and services;
- education or voluntary unpaid work;
- duties on public bodies to promote age diversity (such as those that apply in the case of race, gender and disability).

At the time of writing there was no lower age limit to this legislation, but as the law concerns work and training, the effective lower age was 16. There is no upper age limit, other than in the case of the DRA (see Section 1.1.2). Compared to other discrimination laws, the Equality (Age) Regulations include a wider range of possible exemptions where actions and decisions based on a person's age may in fact be allowed. If challenged, the exemptions have to be objectively justified as meeting legitimate aims.

³ Hedges, A. and Sykes, W. (2009). *Extending working life: changing the culture*.

⁴ Department for Work and Pensions (2002). *Simplicity, security and choice: working and saving for retirement*.

⁵ Office of Public Sector Information (2006). *The Employment Equality (Age) Regulations 2006* available at <http://www.opsi.gov.uk/si/si2006/20061031.htm>

1.1.2 The UK default retirement age

The Equality (Age) Regulations introduced a DRA of 65, which meant that it was unlawful for employers to set a mandatory retirement age of below 65 unless, in their particular case, an employer could objectively justify a lower age. At the time of writing employers did not have to specify 65 as the DRA: they could set a higher age or choose to have no mandatory retirement age.

In addition, the Equality (Age) Regulations gave employees the right, and a formal procedure existed, to request the opportunity to work beyond their employer's mandatory retirement age, which employers had an obligation to consider. Employers' duties included notifying the employee not less than six months ahead of their impending retirement of their right to make a written request to continue working; and the employer was obliged to arrange a meeting to consider employees' requests 'in good faith'.

The use of the DRA was being monitored at the time of writing, and is the subject of an evidence-based review in 2010.⁶ As Section 1.2 discusses, this literature review forms a part of the DRA review.

1.2 Research aims and objectives

As part of the DRA review, DWP and BIS jointly commissioned a number of research projects, all of which were designed to inform the Government's review of the DRA:

- qualitative research with individuals on their experiences of the 'right to request' and working beyond the DRA;
- the second survey of employers' policies, practices and preferences relating to age;
- qualitative research with employers on the DRA;
- a comparative review of international approaches to mandatory retirement;
- analysis of modules of questions in surveys such as *British Social Attitudes Survey* and *Attitudes to Pensions*.

This research is the fourth element of the programme: a literature review examining existing, published evidence on international approaches to mandatory retirement.

The overall aim is to provide useful lessons for the DWP and BIS review of the DRA, by giving potential learning points based upon eight key comparator countries. It sets out to answer the following research questions for each country:

- What is the demographic make-up of the country and at what rate is the country's population ageing?

⁶ Further background to the DRA review: BIS (2008). *Ministers call for evidence on the default retirement age*.

- What is the current legislative situation regarding retirement and age discrimination?
- What was the historical context, stimulus for change and policy route in arriving at the current situation having or not having DRA?
- What is the retirement income provision in the country?
- Where appropriate, how does the process of mandatory retirement operate in practice?
- What is the impact of mandatory retirement on businesses, individuals and the economy?

1.3 Methodology

This research consisted of a literature review. This is a widely used research methodology, designed to review published information – in this case, sources of research – in a particular subject area. Because a literature review can incorporate a wide range of information, it is an effective way to summarise and synthesise arguments and ideas into a comprehensive overview.

This literature review is based exclusively on evidence that has already been published, such as statistical data and published research evidence: we did not conduct any primary research. It is a particularly appropriate methodology for assessing very large subject areas and can help evaluate and show relationships between different sources of information that might never have been recognised prior to conducting such a review.

1.3.1 Establishing suitable data sources

At the commencement of the study, the RS Consulting team conducted an internet-based trawl of the range of sources that might be relevant to this study. While later stages followed the principles of a structured, rigorous review of the information available in the selected countries, in these initial stages we needed to adopt a more pragmatic approach, not ruling any source of information in or out. The process consisted of:

- identification of appropriate databases, search engines and relevant international and national organisations that might provide access to published research of sufficient standing to include in the study. These included:
 - Applied Social Sciences Index and Abstracts database;
 - Blackwell Synergy journal database;
 - British Education Index;
 - British Library online index;
 - Cambridge Journals database;

- Electronic Journals Service;
- Emerald journal database;
- EUROPA – the portal site of the EU;
- IngentaConnect article database;
- International Bibliography of the Social Sciences;
- International Political Science Abstracts;
- The JSTOR database of academic articles;
- Organisation for Economic Co-operation and Development (OECD);
- Oxford Journals;
- Sage Journals Online;
- Springerlink database;
- development of an initial selection of search terms, which would be used consistently as part of the scoping exercise to understand the prevalence of pertinent articles on each database. We then searched for relevant references, abstracts and articles for inclusion. The search terms included:
 - default retirement;
 - mandatory retirement;
 - compulsory retirement;
 - automatic retirement;
 - flexible retirement;
 - age discrimination and employment;
 - older workers;
 - working longer;
 - age management;
 - age legislation;
- information found using these sources was then assessed in terms of:
 - what range of information it could supply in respect to mandatory retirement and age legislation;
 - whether any evidence/research was sufficiently robust to be included in the review;
 - the extent to which there was duplication across the information sources (many of the sources in our initial searches referenced the same articles).

On the basis of the initial searches, the research team examined the age legislation and the demographic context of a wide selection of developed countries, in order to inform the selection of the case studies.

1.3.2 Selection of case studies

After a careful review of past and current situation as well data available regarding the countries specified in Section 1.3.1, the research teams at RS Consulting and DWP selected eight countries as case studies. The key criteria for selection were:

- the case studies were to represent a broad spectrum of approaches and a range of experiences of age legislation, including countries that have never had specific age legislation; countries that have had age legislation for longer than the UK; and countries that have raised the minimum permitted mandatory retirement age or banned it altogether;
- all were to have usefully comparable demographic, labour market and economic profiles to the UK, and to have faced similar issues in terms of an ageing population;
- all of the countries had implemented changes, either through policies or legislation, to attempt to deal with these issues;
- the decisions were also made based upon the volume of relevant and accessible research data on the use and impact of age legislation.

The RS Consulting research team in conjunction with DWP agreed that the study should focus on the following eight countries, which were selected based on the criteria above. Chapter 2 explores the demographics, context and background of each of these countries in detail:

- Australia;
- Canada;
- France;
- Ireland;
- Japan;
- New Zealand;
- Sweden;
- USA.

In selecting countries for inclusion, we did consider, in detail, a number of other possible countries, all of which might have produced interesting case studies:

- Netherlands, Belgium, Greece, Italy, Spain, Switzerland and South Korea were considered for inclusion, but their situation with regard to age legislation, as well as the amount of data available, suggested that other countries would produce more useful case studies.

- The Scandinavian countries, Norway, Denmark and Finland, shared similar characteristics to Sweden. All have a history of age-positive and anti-discriminatory policies, however, it was thought most useful to include just one of these four. Sweden was selected in part because of the very wide range of information available on the country, alongside its more closely comparable size and population to the UK.
- Germany was seen as being similar to France, particularly with regard to the role of collective bargaining in setting mandatory retirement ages, and the relatively strict employment laws in comparison with the UK. We thought it most appropriate to select only one for inclusion. France was selected on the basis of availability of information, and the wide range of issues faced: in particular the very low economic activity rates for over 50s.

The research teams at RS and DWP agreed that the review would be based on English language sources only. This was in part due to budgetary and time restrictions, however given the widespread availability of English-language information in research, academia as well as many national and international organisations' sources, we do not believe that this restriction has impacted significantly upon data availability.

1.3.3 Production of eight case studies

Using the sources of published research relevant to each of the countries, the research team then produced eight detailed case studies. While the topics varied slightly in their relevance to each country, each case study followed the following same broad areas:

- context, including population and economic profile, and participation rates among the 65-plus age group;
- state and occupational pension provision and employment protection law;
- history of mandatory retirement policy and legislation;
- current age legislation;
- mandatory retirement awareness and understanding;
- retirement practices;
- individuals' experience and attitudes toward retirement practices;
- impact of mandatory retirement on businesses, individuals and the economy.

Data was found in a variety of ways including:

- online electronic databases of academic journals;
- the British Library (both a hand-search and trawl of the electronic index);
- search engines, e.g. advanced search capabilities available via the Google search engine;

- reports produced by respected organisations such as OECD, AARP (formerly known as the American Association of Retired Persons) or the European Commission;
- book searches conducted using the Amazon and Google book search function.

A snowballing technique was employed to identify new data sources for less common subject areas. Useful references in readily available articles were followed in order to gain more depth or investigate a particular area of interest, which might have not been discussed in detail in the original data source.

1.3.4 Final reporting

The final stage of the research study entailed condensing the findings from each of the eight case studies into this overall report, drawing together the themes, giving potential learning points and useful lessons as to the impact of different approaches to age legislation on individuals, businesses and the economy.

The report is structured according to the following topic areas:

- Chapter 2 outlines the context of each reviewed country, including demographics, pension entitlements and current age legislation;
- Chapter 3 examines the effects of age legislation on employers and businesses;
- Chapter 4 goes on to evaluate the impact of age legislation on individuals;
- Chapter 5 explores the wider impact of age legislation on the participation rates of older workers and on the economy in general;
- finally, Chapter 6 draws together the findings and key conclusions, bringing in the perspectives of other organisations such as OECD.

1.3.5 Methodological limitations

All research approaches have some methodological limitations. A literature review is no exception. This study incorporated only recognised, published, secondary research. No non-published material was included. We were, therefore, bound by the information that was available to us: not all of the subjects that were of interest to the review had necessarily been covered by existing, published research.

The approach taken – a formal review of existing literature – minimised the risk of the research team missing an information source of interest. Nevertheless, any research study conducted within a set time limit is bound to be somewhat selective. Although great effort was taken to assess all potential sources of information, it is impossible to guarantee that every relevant source was reviewed.

This literature review was limited to published sources in the English language only, and so excluded any sources written exclusively in other languages and not translated into English. Our initial searches did, however, establish that a substantial amount of evidence was available in English for all of the case study countries, and so it was agreed that adopting this approach would not prove to be a significant barrier to the collection of comprehensive information.

Overall, the quality of the evidence evaluated was high, but only reliable sources of data were included. This does not necessarily mean it was statistically robust: the data evaluated was of both qualitative and quantitative nature, and we state this clearly throughout this report. Where doubts did arise about the reliability of a research source, this was most often due to:

- the use of hypothetical modelling, rather than analysing actual behaviour;
- unclear or small sample sizes in quantitative research;
- the time-relevance of data: the research data was out of date, or relevant to a set of circumstances that no longer applies.

In cases where the quality of data was questionable, the literature in question was not included in this study. The references do not include materials identified via searches but rejected from the study on these grounds.

2 Context of the case study countries

Eight countries were included as case studies as part of this literature review. These were countries likely to offer the UK useful lessons as to the impact of different approaches to age legislation on individuals, businesses and the economy. In practice, this meant that each country in the study was comparable to the UK in terms of its demographic make-up and economy, and at the same time, that a range of different approaches to age legislation was encountered across all the case studies.

We have grouped the eight countries into three categories, based on their approach to age legislation in 2010:

Countries where mandatory retirement is not permitted at any age

- Australia.
- Canada.
- New Zealand.
- USA.

Countries where mandatory retirement is permitted, with a minimum permitted mandatory retirement age set by legislation

- France.
- Japan.
- Sweden.

The UK also falls into this category.

Country in which mandatory retirement is legal, with no minimum age set by legislation

- Ireland.

The situation presented by Ireland is rare, certainly among countries that were usefully comparable to the UK and so were considered for inclusion.⁷ Consequently, Ireland is the only one of the eight case study countries that falls into this category.

In all of the countries, as in the UK, issues around retirement and the ageing society were an important policy topic, in the face of increasing dependency ratios (the ratio of the inactive elderly population to the total labour force aged 15 to 64) and the consequent burden this was likely to put on the countries' social security and pension systems.

But each of the countries in this study has its own unique demographic, labour market and political circumstances: it is impossible to assess the effect of age legislation in a particular country without some appreciation of the context. In order to provide sufficient background to explore the impact of age legislation, this chapter gives a comparative overview of each case study country in the following areas:

- demographic profile;
- economic profile, including participation rates of those aged 65 or older;
- pension income and the level of employment protection;
- the history of age legislation;
- current age legislation, and any other relevant legislation or government initiatives relating to employment of older people.

Much of the economic data in this chapter and elsewhere in this report were produced by the Organisation for Economic Co-operation and Development (OECD). The OECD is a membership organisation that brings together the governments of 30 countries around the world, including the UK and all of the case study countries, to allow them to compare policy experiences, seek answers to common problems, identify good practice and coordinate domestic and international policies. It also produces comparable statistics and economic and social data.⁸

⁷ Switzerland did also permit mandatory retirement at any age, depending upon the benefits offered by the employer's occupational pension scheme. In addition there was no relevant age discrimination law in Switzerland, which is a non-EU country. However, the limited amount of data available on the country was felt to restrict the amount that the UK could learn, and so Switzerland was not selected for inclusion.

⁸ For further general information on the OECD see the OECD website at <http://www.oecd.org>

2.1 Demographic and economic profiles

Many of the sources of literature reviewed for this study were in agreement as to the principal driver of age-related policies in the case study countries: the ageing population. In common with most developed countries, populations in the case study countries were ageing through a combination of low birth rates and increased life expectancy. This was exacerbated in some countries by a spike in the 60 plus population due to large numbers of people born in the immediate post-war period ('baby boomers') now reaching retirement age.

These demographic developments were expected to have widespread economic effects across most of the countries. These included:

- changes to the labour market, as a result of the reduction in size of the working age population;
- increased pressure on state finances as a result of increased social security expenditure, as states need to support a relatively larger, elderly, dependent population.

The economic data in Table 2.1 illustrate how the population is ageing in each of the case study countries, as well as its current implication for retirement income:

- **A.** The first three columns compare the population and Gross Domestic Product (GDP) per capita in each country.
- **B.** The columns on age demographics show life expectancy, how the population breaks down into different age groups, and the dependency ratio (the ratio of inactive elderly population to the total labour force age 15 to 64).
- **C.** The final set of columns compare current income and poverty rates in retirement.

Table 2.1 Population, GDP, age demographics and income in retirement of UK and the case study countries (data is 2008-9 except where stated)

	A. Population and GDP			B. Age demographics					C. Income in retirement					
	Total population in millions	GDP per capita	%GDP spent on pensions	Life expectancy at birth	Population age			Old-age dependency ratio		Average age at which people leave labour force (2002-7)	Net replacement rates (for men)	Household poverty rates (where head of household aged 65+)		
					0 – 14	15 – 64	65+	2010	Expected in 2050			All	Working	Not working
USA	307.2	\$46,400	2005 6%	78	20%	67%	13%	26%	50%	64	47%	24%	9%	34%
Canada	33.5	\$38,400	4%	81	16%	69%	15%	25%	52%	63	64%	7%	2%	10%
Australia	21.3	\$38,500	4%	82	19%	68%	14%	27%	54%	63	59%	27%	4%	32%
New Zealand	4.2	\$27,700	4%	80	21%	67%	13%	24%	52%	65	47%	2%	1%	2%
Sweden	9.06	\$36,800	8%	81	16%	66%	19%	36%	49%	64	64%	6%	3%	7%
France	64.1	\$32,800	12%	80	19%	65%	16%	38%	65%	59	65%	9%	1%	9%
Japan	127.1	\$32,600	9%	82	14%	64%	22%	46%	95%	68	40%	21%	13%	30%
UK	61.1	\$35,400	6%	79	19%	67%	16%	33%	58%	63	44%	10%	1%	12%
Ireland	4.2	\$42,200	3%	78	21%	67%	12%	24%	60%	65	46%	25%	5%	36%
OECD average (where available)			7%					31%	62%	63	72%	13%	7%	17%

Data: Adema, W. and Ladaïque, M. (2009). *How expensive is the welfare state?: gross and net indicators in the OECD Social Expenditure Database (SOCX)*.

Central Intelligence Agency (2009) The world factbook 2009.

OECD (n.d). *Statistical extracts: LFS by sex and age* – indicators, available at http://stats.oecd.org/Index.aspx?DatasetCode=LFS_SEXAGE_LR

OECD (2009a). *Pensions at a glance: retirement income systems in OECD countries*.

1 The old-age dependency ratio is the ratio of inactive elderly population to the total labour force age 15-64. Age-dependency ratios are a measure of the age structure of the population. They relate the number of individuals that are likely to be 'dependent' on the support of others for their daily living – youths and the elderly – to the number of those individuals who are capable of providing such support; OECD (n.d). *Glossary of statistic terms*, available at <http://stats.oecd.org/glossary>

2 The net replacement rate is the individual net pension entitlement divided by net pre-retirement earnings, taking account of personal income taxes and social security contributions paid by workers and pensioners.

2.1.1 Population and GDP

All of the countries in the study were selected to be broadly comparable to the UK in terms of its demographic and economic characteristics. In practice this meant that the countries were selected from those in North America, Western Europe, Australasia and parts of Asia.

Table 2.1 shows that, while the populations of the reviewed countries did of course vary widely, the GDP per capita was broadly comparable in each case: the highest GDP was in the USA at \$46,000, with the lowest in New Zealand at \$28,000. The UK was broadly in the middle of the range at \$35,000.

The table also shows that the proportion of GDP spent on pensions varies between the case study countries and ranges from 12 per cent in France to three per cent in Ireland, while the average spend in the OECD was seven per cent in 2005.

2.1.2 Age demographics

To measure and compare the demographic shift, we have looked at changes over time to the old-age dependency ratio, defined by OECD as the ratio of the inactive elderly population to the total labour force age 15 to 64.⁹

OECD holds historical dependency ratio data, and also produces projections as far ahead as 2050. By comparing the 2010 figure with the 2050 figure, we can measure how quickly the population is ageing, and consider how many workers there will be to support each retired person.¹⁰

Sweden, the USA, New Zealand and Canada were all predicted to have dependency ratios at the lower end of the scale by 2050 (49 to 52 per cent); whereas the UK, France and Ireland all had predicted dependency ratios of around 60 per cent.

Japan's situation now, and that predicted in 2050, were both more extreme than the UK and the other case study countries. It had the oldest population of the reviewed countries in 2010: one in five people were aged 65 or older. The dependency ratio was expected to increase from 46 in 2010 to 95 per cent by 2050: in other words there was predicted to be almost one inactive elderly person to each person of working age by 2050.¹¹ Measures taken by Japan in reaction to this are explored in Section 2.4.2.

Ireland is an unusual case, because in 2010 it had the youngest population of the case study countries. This was due to relatively high birth rates, high immigration and a slower improvement in life expectancy among older people in the second half of the 20th century than the other case study countries. However, the number of foreign nationals working in Ireland has fallen as demand for labour contracted

⁹ OECD (n.d). *Glossary of statistic terms*, available at <http://stats.oecd.org/glossary/detail.asp?ID=5216>

¹⁰ It is important to note that the ratio does take into account unemployment or inability to work.

¹¹ The OECD average for 2050 is estimated at 62 per cent.

during the recent financial crisis. In addition, with life expectancy increasing, Ireland's old-age dependency ratio was expected to be worse than that of the UK and the OECD average by 2050.

2.1.3 Income in retirement

Examining how closely pension income reflects the income provided by working life wages is one measure of income in retirement. OECD¹² uses net replacement rates for men to measure how effectively a pension system provides a retirement income to replace earnings, the main source of income before retirement.¹³ The net replacement rate is defined as the individual net pension entitlement divided by net pre-retirement earnings, taking account of personal income taxes and social security contributions paid by workers and pensioners.

Table 2.1 shows that out of the eight case studies, France had the highest net replacement rate with a median of 65 per cent, and Japan had the lowest rate with 40 per cent. The UK was only slightly ahead of Japan, with a net replacement rate of 44 per cent.

In addition to net replacement rates, OECD (2009a)¹⁴ also measures poverty among the older population. The incidence of poverty is measured as the percentage of households with income below 50 per cent of the median household disposable income, which means people with incomes below the 50 per cent level are defined as 'income poor'.

Of the reviewed countries, the old-age poverty rate was highest in Ireland, Australia and Japan. The lowest rate was in New Zealand. OECD noted (2009a) that one of the main drivers behind the higher poverty rate was the level at which the state pension was set. In Ireland for example, the state pension was set at over US\$2,500 lower than the poverty threshold in 2005.

2.2 Participation rates

One way of assessing the interaction between population ageing and the economy is to consider participation rates. This is the percentage of people in a given population who are either employed, or are unemployed and looking for work. Participation rates do decline in the higher age groups in all countries, but the rate of the decline differs from country to country.

Table 2.2 directly compares the participation rate within the 15 to 64 age group with that of the over-65 age group. This is the simplest way to make an at-a-glance comparison across countries.

¹² OECD (2009a). *Pensions at a glance: retirement income systems in OECD countries*.

¹³ Because countries differ very widely in the percentage of women working, and also being reliant on their spouse's pension income in retirement, the OECD does not use net replacement rates for women as a consistent measure across countries.

¹⁴ *ibid.*

Table 2.2 Participation rates among the 15 to 64 and among the over-65 age groups in the UK and the case study countries¹⁵

Mandatory retirement	Country	Age band	
		15 – 64 (OECD ranking)	65+ (OECD ranking)
Prohibited at any age	Canada	79% (6)	10% (11)
	New Zealand	78% (8)	15% (8)
	USA	75% (13)	17% (6)
	Australia	77% (10)	9% (14)
Permitted, with a minimum permitted mandatory retirement age set by legislation	Sweden	81% (4)	12% (9)
	Japan	74% (16)	20% (3)
	France	70% (19)	2% (29)
	UK	77% (9)	8% (15)
Permitted, with no minimum age set by legislation	Ireland	72% (18)	10% (12)
	OECD average	71%	12%

There is relatively little difference between countries in terms of the participation rates of the 15 to 65 year old age groups: most are between 75 and 81 per cent, with only France, Ireland and Japan slightly below this. But there is greater difference between countries in terms of over-65 participation, with rates varying between two per cent and 20 per cent.

In comparison with other case study countries and the UK, the Japanese, the US and New Zealand over-65 participation rates were particularly high. Japan occupies the top position in the table with one in five people aged over 65 being economically active. Japan's net replacement rate was the lowest of all case study countries, and its old-age poverty among the highest, suggesting that many need to work out of economic necessity. Overall, as Section 2.4.2 will show, Japanese workers do retire late: usually a few years after reaching mandatory retirement age or State Pension Age (SPA); but the last years of their working lives differ from the main period of their careers, often characterised by relative job insecurity and pay cuts.¹⁶

In contrast to Japan, French participation rates are very low, with the overall participation rate for people over 65 of just two per cent, which was by far the lowest of all of the countries included in this study, and one-fifth of that of the UK.

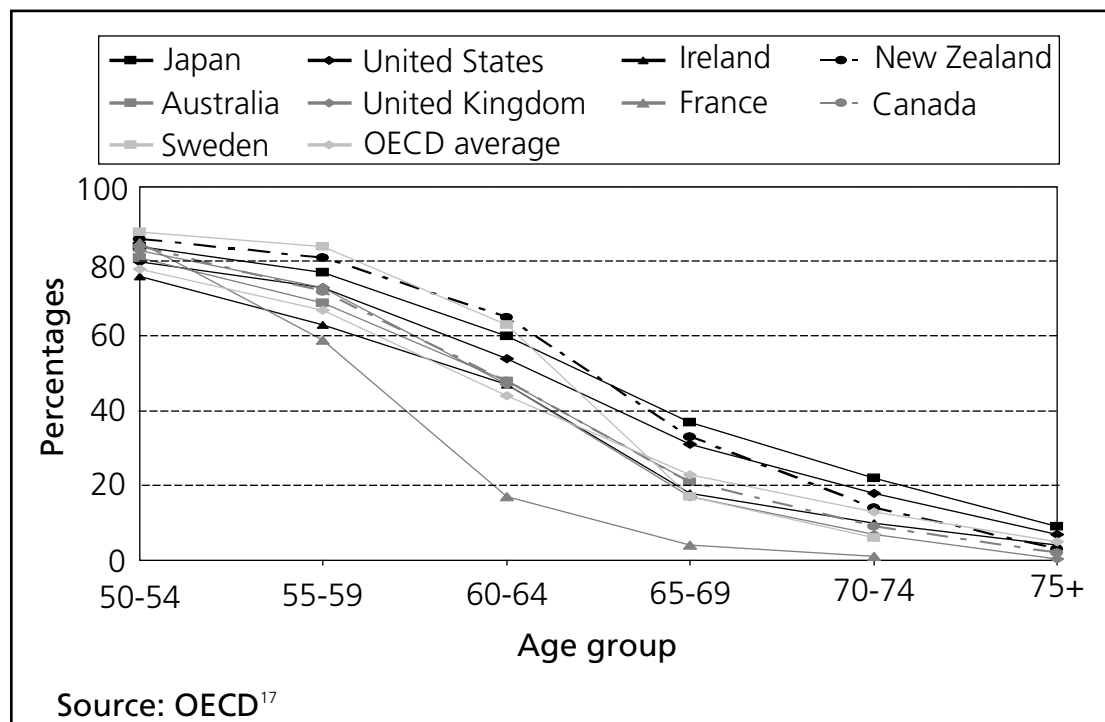
The participation rates did not decline at the same rate in all of the countries. Figure 2.1 shows the fall-off in participation rates across the different age groups. We see that, while the participation rates start at similar levels, some countries' participation rates begin to decline much earlier than others'.

¹⁵ OECD (n.d). *Statistical extracts: LFS by sex and age – indicators*, available at http://stats.oecd.org/Index.aspx?DatasetCode=LFS_SEXAGE_I_R

¹⁶ Casey, B. (2005). *The Employment of older people: can we learn from Japan?*

In France, for example, participation falls off very quickly beyond the age of 55, whereas Sweden manages to retain its high level of participation up to the age of 65, before decreasing sharply.

Figure 2.1 Fall-off in participation rates in the UK and the case study countries



2.3 Pension provision and employment protection

Table 2.3 outlines the system of pension provision in each of the case study countries, and also summarises their employment protection laws. It gives the following characteristics:

- SPA
- minimum permitted mandatory retirement age where relevant
- eligibility criteria for the state pension;
- pension benefit calculation;
- retirement options before and after SPA, showing where it was possible to draw state pension before reaching SPA, where postponing retirement is rewarded by adding to future pension income;
- occupational pension provision;
- employment protection.

The pension systems in all eight case study countries are diverse and have been formed over many decades. Each country's pension system is a complex mix of more than one tier and there are complex rules guiding the contribution calculation, taxation, etc. This section provides a simplified overview of each country.

¹⁷ OECD (n.d). *Statistical extracts: LFS by sex and age – indicators*, available at http://stats.oecd.org/Index.aspx?DatasetCode=LFS_SEXAGE_I_R

Table 2.3 Pension provision and employment protection in the UK and the case study countries¹⁸

Mandatory retirement	SPA	Minimum permitted mandatory retirement age	State pension eligibility	Pension benefit calculation	Retirement options before and after SPA	Occupational pension provision	Employment protection indicator
Prohibited at any age	USA	66	Minimum requirement of 10 years' contributions.	Pension benefit based on average earnings for the 35 highest years of earnings.	Early retirement possible from 62, but subject to benefit reduction. Late retirement also possible: deferment can be made up to the age of 70, with a corresponding increase in benefits.	Small minority covered by Defined Benefit (DB) pension schemes. 58 per cent were covered by a private pension of some kind (in 2009).	0.6
	Canada	65	Full state pension requires about 40 years' contributions, but a single valid contribution is sufficient to generate some level of entitlement.	Pension subject to an income test operated through the tax system.	Early pension can be claimed from age 60. The earnings-related pension can be deferred, earning a six per cent increment for each year after age 65 – up to a maximum of five years.	Overall coverage by voluntary private pensions, including both personal and occupational plans, was around 57 per cent (in 2009).	1.2
Continued							

¹⁸ OECD (2009a). *Pensions at a glance: retirement income systems in OECD countries*.

OECD (n.d). *Strictness of employment protection – regular employment*, available at http://stats.oecd.org/Index.aspx?DataSetCode=EPL_R

Dixon, S. and Hyslop, D. (2008a). *The employment and retirement transitions of New Zealanders aged in their 60s: evidence from LEED*.

Table 2.3 Continued

Mandatory retirement	SPA	Minimum permitted mandatory retirement age	State pension eligibility	Pension benefit calculation	Retirement options before and after SPA	Occupational pension provision	Employment protection indicator
Prohibited at any age	Australia Men: 65 Women: 63	Not allowed	Eligibility earned with 10 years' residency.	The superannuation consists of a mandatory employer contribution to a private pension plan (nine per cent of employee earnings since 2002).	Access to superannuation benefits possible after age of 55; individuals who are still working can also access their benefits from age 55.	The occupational pension system in Australia is compulsory.	1.4
	New Zealand 65	Not allowed	Ten years' residency from age 20 (including five years after age 50)	Level of pension is outlined in the national budget and is indexed to prices, but is subject to a floor and ceiling linked to movement in wages.	State pension cannot be taken before SPA. Receipt of the state pension is not dependent on retirement from work; it is possible to combine pension and employment.	KiwiSaver: a voluntary work-based savings scheme that encourages saving for retirement. Introduced because traditionally only a small proportion of New Zealanders were members of private or employer-based superannuation schemes.	1.5

Continued

Table 2.3 Continued

Mandatory retirement	SPA	Minimum permitted mandatory retirement age	State pension eligibility	Pension benefit calculation	Retirement options before and after SPA	Occupational pension provision	Employment protection indicator
Permitted, with a minimum permitted mandatory retirement age set by legislation	Sweden	67	Full state pension earned with 40 years' residency.	Contributions of 18.5 per cent of pensionable pay are credited and then up-rated in line with economy-wide average earnings.	The pension can be received from the age of 61, with a reduction for each month of retirement before 65, with no upper age-limit on accruing further pension entitlements, with additional income for each month of postponement above 65.	Around 90 per cent of the Swedish labour force is covered by occupational pension schemes. Those born in 1979 or before are covered by a mix of DB and Defined Contribution (DC) elements. Those born since 1979 accrue a retirement pension under the new DC plan.	2.7
	France	60	A full state pension requires 40 years' contributions.	The earnings measure is based on a number of best years of earnings, adjusted in line with price inflation.	Early retirement possible from 56 under certain circumstances related to working conditions. If people work after age 60 and have reached the qualifying conditions for a full pension, each additional year increases the benefit by three per cent.	Two occupational schemes: one for non-professionals, which is mandatory and has a specified contribution ceiling, and a scheme for professionals with no contribution ceiling.	2.6

Continued

Table 2.3 Continued

Mandatory retirement	UK	Ireland	SPA	Minimum permitted retirement age	State pension eligibility	Pension benefit calculation	Retirement options before and after SPA	Occupational pension provision	Employment protection indicator
Permitted, with a minimum permitted mandatory retirement age set by legislation	UK		Men: 65 Women: 60 (if born on or before 5 April 1950)	65	To qualify for a full state pension 30 years of contributions or credits are required.	The full basic state pension is specified in the budget and in 2006/7 corresponded to 14 per cent of average earnings.	Pension cannot be claimed before SPA. Deferral possible with an increment of around 10 per cent for each full year.	Overall coverage of voluntary occupational and personal pensions is 58 per cent.	1.2
Permitted, with no minimum age set by legislation	Ireland		Basic: 65 Contributory: 66	Not specified	Full entitlement requires an average of 48 weeks' contributions per year throughout the working life. Basic pension requires minimum of 24 weeks per year.	The values of both pensions decided upon in the annual budget.	Pensions cannot be claimed before SPA. Work and pension can be combined subject to earnings being less than legally specified amount, but it is not possible to defer the state pension.	In 2006, 43 per cent of workers had some kind of occupational pension provision.	1.7

2.3.1 The role of employment protection law

The OECD employment protection indicators measure the procedures and costs involved in dismissing individuals or groups of workers and the procedures involved in hiring workers on fixed-term or temporary work agency contracts. OECD looked at three main components related to protection of regular workers against (individual) dismissal, specific requirements for collective dismissals and regulation of temporary forms of employment as set of data items to measure the strictness of employment protection. Based on various data sets OECD expressed the strictness of the rules as an indicator, based on a scale of zero to six, with six being the most strict and zero the least strict. The average OECD score in 2008 was 2.1.

The impact of the employment protection legislation on the labour market is complex: as it increases the cost of terminating contracts, it might lead to greater worker retention; but as it can also lead to increased hiring costs it can reduce the number of workers hired. OECD suggests that *'the evidence [of impact] is less clear for older workers and it is difficult to draw any simple conclusion across countries about whether they are harmed or helped by strict employment protection. In one of the few studies that have focused specifically on the relationship between employment protection law and labour market outcomes of older workers, it was found that stricter provisions tended to depress hiring rates at both ends of the age spectrum.'*¹⁹

OECD also noted that there was *'a statistically significant and negative relationship between employment protection law strictness and the [participation rate] of employees aged 50 to 64. There are also negative correlations between employment protection law strictness and hiring and retention rates for older workers, although not statistically significant in the case of job retention rates.'*²⁰

2.4 Age policy and legislation

OECD (2009a)²¹ noted that most OECD countries have reformed their pension systems in the last two to three decades, as well as their age legislation. These have ranged from slow and evolutionary gradual transformations to one-off reforms. In most cases the reforms had been driven by concerns over the sustainability and affordability of public pension systems, as was the case in Sweden. In others, such as the US and Canada, reforms were driven more by human rights issues, although state pension sustainability issues nevertheless existed.

To try and draw these issues together, Section 2.4.1 will examine the chronology of age legislation in each of the countries. Section 2.4.2 will go on to look in more

¹⁹ OECD (2006). *Live longer, work longer*, p.75.

²⁰ OECD (2006). *Live longer, work longer*, p. 76.

²¹ OECD (2009a). *Pensions at a glance: retirement income systems in OECD countries*.

detail at how age legislation fits in with other, related government policies in each country.

2.4.1 Chronology of age legislation

The eight case studies analysed as part of this review represent a broad spectrum of approaches and a range of experiences of the age legislation.

Figures 2.2 to 2.4 summarise the history of age legislation in three broad groups:

Figure 2.2: Countries where mandatory retirement is not permitted at any age

- **Australia:** Before the 1990s there was no age discrimination legislation, and so the use of mandatory retirement was effectively a matter for the individual contract between the employer and the employee. Commencing in the 1990s, several laws were enacted to abolish age discrimination, finally cemented in 2004 when mandatory retirement was made illegal.
- **Canada:** This country presented a complex scenario as practice varied by province, reflecting the involvement of federal and provincial governments and courts. The province of New Brunswick introduced the first (limited) restrictions to the use of mandatory retirement in 1973 while Nova Scotia was the last to act, in 2009.
- **New Zealand:** mandatory retirement has been illegal since 1999 and the SPA was increased from 60 to 65 during the 1990s.
- **USA:** The minimum permitted retirement age increased to 70 in late 1970s, and in 1986 the USA became one of the first countries to outlaw mandatory retirement. An exception applied to bona fide occupational qualifications (bfoqs) which affect positions in the armed services, aviation, judicial and safety industries.

Figure 2.3: Countries where mandatory retirement is permitted, with a minimum permitted mandatory retirement age set by legislation

- **France:** Mandatory retirement is permitted, and the minimum permitted retirement age in the private sector was raised from 60 to 65 in 2003.
- **Japan:** Mandatory retirement was always lawful, but the minimum permitted retirement age increased from 55 to 60 in 1994, and at the time of writing was increasing to 65 by 2013. In addition, SPA was being increased from 60 to 65 by 2030.
- **Sweden:** In 2001 a law was passed making mandatory retirement before the age of 67 illegal.
- **UK:** In 2006 the DRA was introduced and set at 65.

Figure 2.4: Country in which mandatory retirement is legal, with no minimum age set by legislation

- **Ireland:** Ireland has not changed its mandatory retirement policy, and has always permitted mandatory retirement as a clause in the employment contract.

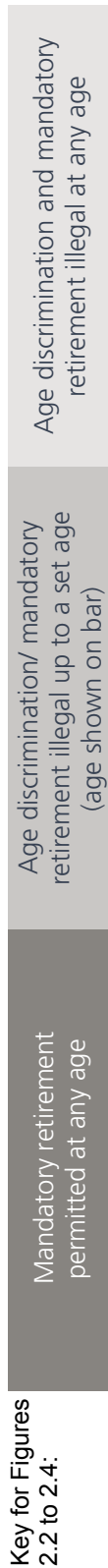


Figure 2.2 Chronology of age legislation in countries where mandatory retirement is prohibited at any age

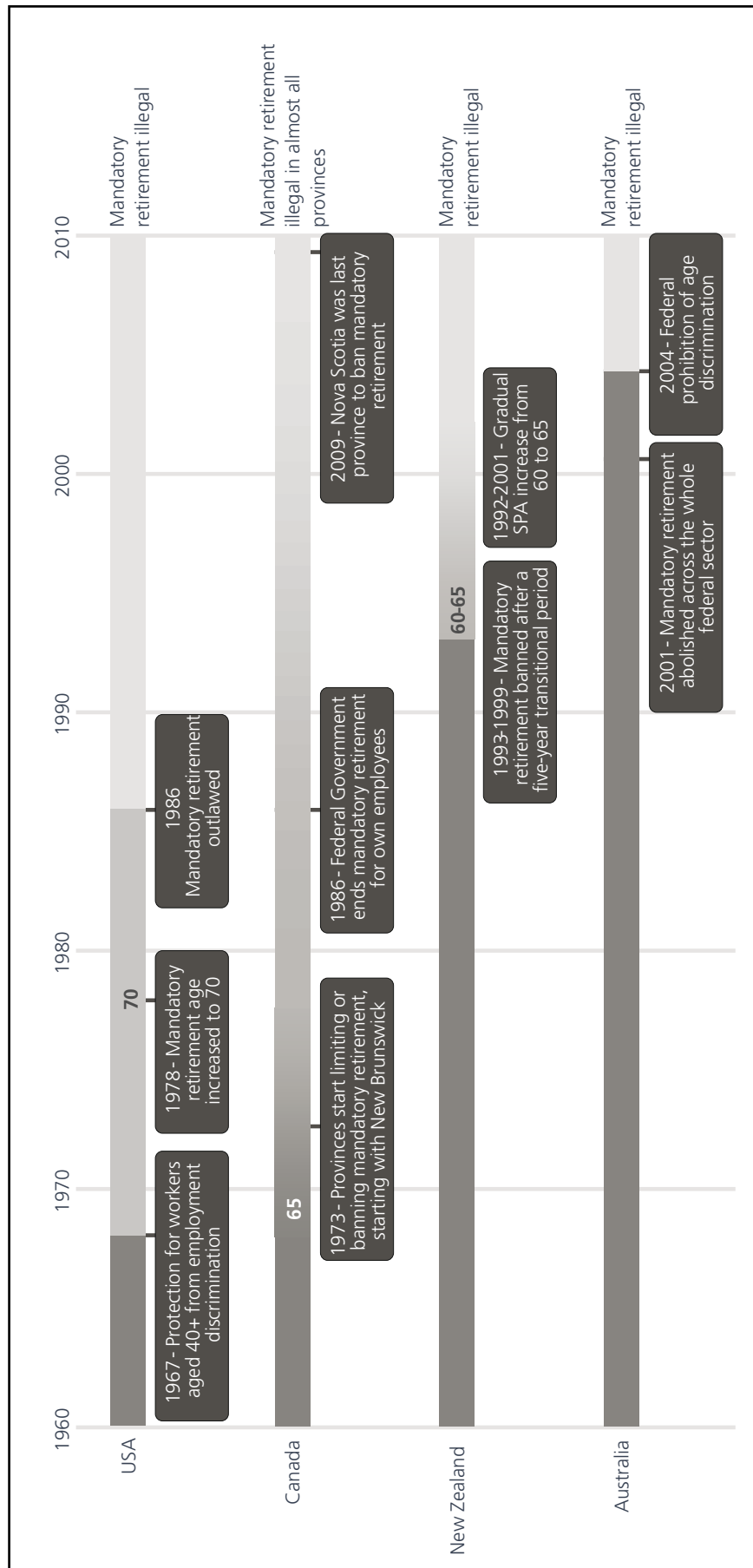


Figure 2.3 Chronology of age legislation in countries where mandatory retirement is permitted with a minimum permitted mandatory retirement age set by legislation

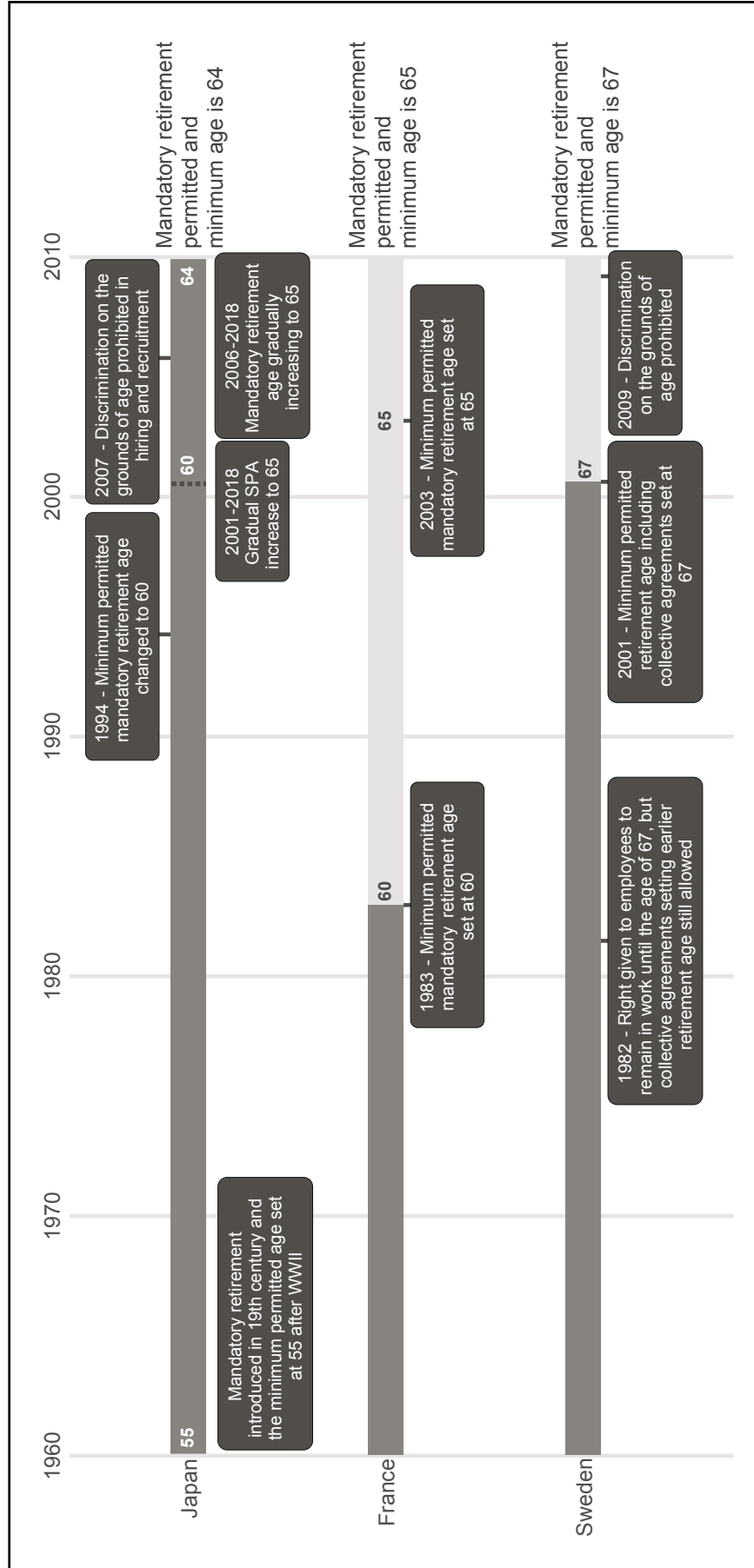


Figure 2.3 Continued

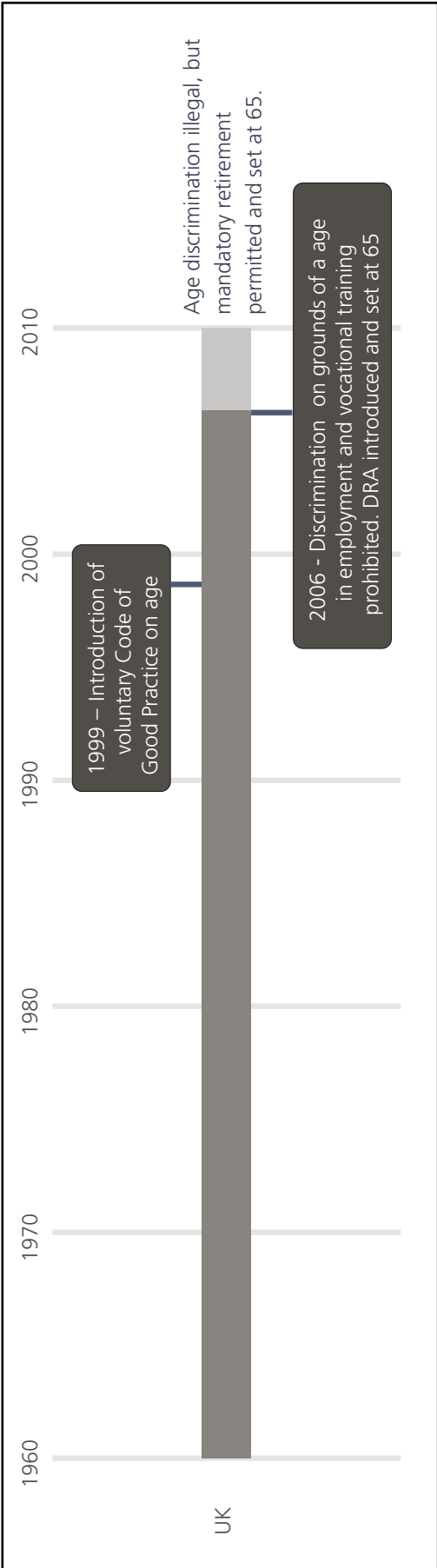
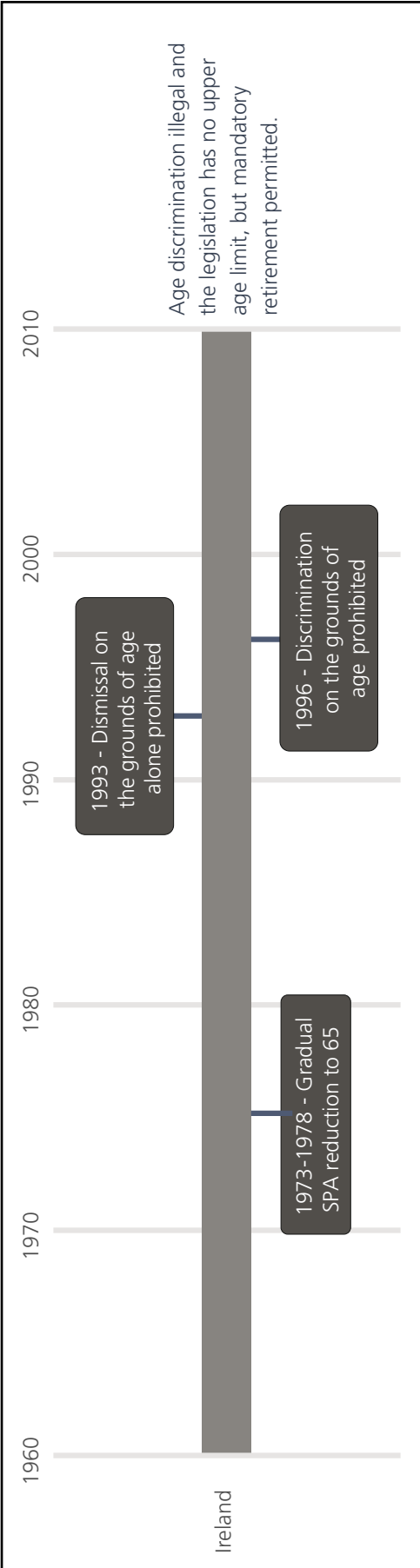


Figure 2.4 Chronology of age legislation in country where mandatory retirement is permitted, with no minimum age set by legislation



2.4.2 Current legislation relating to mandatory retirement

Increasing or abolishing the permitted mandatory retirement age has often been used by governments as a way to encourage working later, but as Chapters 3 to 6 will show, its impact on the participation rates of older people in the labour market can often depend on other policies enacted at the same time. This section summarises how age legislation fits in with other, related government policies in each of the case study countries.

USA

Mandatory retirement in the US was illegal at any age. It was unlawful for an employer to discharge any individual or to otherwise discriminate against them with respect to their compensation, terms, conditions, or privileges of employment, because of that individual's age.²² An exception applied to jobs which affected positions in the armed services, aviation, judicial and safety industries.

Older workers could also find protection under the Americans with Disabilities (ADA) Act 1990. As workers age, the likelihood of their acquiring an age-related disability increases, and the Act states that no person eligible under the Act shall be discriminated against on the basis of disability in regard to discharge of employment.²³

Retirement benefits can be increased if retirement is delayed beyond a person's relevant SPA, as far as the age of 70. This increase was intended to encourage workers to postpone their retirement, in an attempt to slow the rate at which the cost of Social Security is expected to increase in the future.

Canada

Canada has had a complex legal history of abolishing mandatory retirement province by province between 1973 and 2009. By the time of writing mandatory retirement was effectively illegal in every province, however, exceptions were permitted for specific occupations.

Changes in legislation have been happening since 1973 and Nova Scotia was the last province to prohibit mandatory retirement in 2009. Consequently, only employees in New Brunswick and in federally regulated industries remained subject to mandatory retirement. However, the 2009 key ruling by the Canadian Human Rights Tribunal in a case concerning Air Canada pilots implied that mandatory retirement without a bona fide cause would also become unenforceable for all federally regulated employees.

²² U.S Code (1926). *Title 29 of the United States Code*.

²³ U.S Department of Labor (1990). *Americans with Disabilities Act 1990*.

New Zealand

In New Zealand mandatory retirement had been gradually abolished between 1992 and 2001 and is currently illegal. Before the 1990s there was no age discrimination legislation in place, and the use of mandatory retirement was a matter for individual contracts between the employer and employee.

New Zealand also implemented a number of policies and initiatives to increase participation rates among the older population. These included an increase in the age of entitlement to the New Zealand state pension (from 60 in 1992 to 65 in 2001), and outlawing discrimination against applicants, employees, volunteers or contract workers because of their age.²⁴

The New Zealand Ministry of Social Development also produced the *New Zealand Positive Ageing Strategy* in 2001.²⁵ This included the *Positive Ageing Goals and Objectives*, designed to improve opportunities for older people to participate in their communities, such as the promotion of flexible work.

Australia

Mandatory retirement has been banned since the 1990s, and the 2004 Commonwealth Age Discrimination Act strengthened the regulations further. Although mandatory retirement has been abolished in Australia, there are still exceptions in the case of bfoqs.²⁶

Since 1989, a number of initiatives have been enacted to encourage working later. New South Wales was the first state government to set up a labour market programme aimed specifically at the mature-age unemployed. This programme aimed to maximise the retention of mid-life and older workers in the labour force, and to facilitate the re-entry of unemployed mature-age people into the labour force.

There are currently three publicly-funded employment services providing access to training in particular, known as 'Job Search Training,' 'Intensive Assistance' and the 'New Employment Incentive Scheme'.²⁷

Additionally, the 2001-02 Australian Budget incorporated a programme called 'Australians Working Together' that included a number of measures to aid older people in the workplace, such as career counselling, courses to upgrade skills and payments for taking part in accredited training courses.²⁸

²⁴ Davey, J. (2007). *Maximising the potential of older workers*.

²⁵ Ministry of Social Development (2001). *New Zealand Positive Ageing Strategy*.

²⁶ Patterson, R. (2004). *The eradication of compulsory retirement and age discrimination in the Australian workplace: a cause for celebration and concern*.

²⁷ Wooden, M. et al. (2001). *Barriers to training for older workers and possible policy solutions*.

²⁸ Encel, S. (2003). *Age can work – the case for older Australians staying in the workforce*.

Japan

Japan has one of the most rapidly ageing populations of all OECD member countries.

Because of its unique and extreme demographic circumstances, retirement and pension policies are a major topic for national discussion. Japan has been working on encouraging extending working lives, with a variety of policies implemented over decades, and has a very high level of labour force participation amongst older workers – almost three times higher than that of the UK. It also has one of the highest average retirement ages in OECD.

Japan's default retirement age (DRA) increased from 55 to 60 in 1994, and it is now increasing to 65 by 2013 (currently it is 64). In addition, SPA is being increased from 60 to 65 by 2030, and state pension benefits have been cut; the option of combining work and pension receipt was also introduced in 2006.

Use of mandatory retirement was always lawful and almost universal in Japan. An organisation's mandatory retirement age is generally set out in a collective agreement, within which employers are encouraged to provide or facilitate a source of income for employees beyond mandatory retirement age. Japanese workers often work beyond their retirement age – re-employment in a different position with lower pay is very common.

Despite the range of measures put in place by the government, Japan still faces a population crisis. As a result, there have been discussions of the possibility of increasing the DRA further to 70, or even abolishing it altogether. However, such measures have not yet been taken forward.

France

At the time of writing, mandatory retirement was permitted and the minimum permitted mandatory retirement age was 65. France's Pension Reform Act was last revised in 2003.²⁹

Nonetheless, at 60, the French SPA is lower than that of most European countries and there is little incentive to work beyond it. In fact, there are several schemes that allow early (rather than late) withdrawal from the labour market, including:

- the Special Redundancy Early Retirement Allowance: for wage-earners aged over 57 made redundant for economic reasons, and for whom new jobs cannot be found;
- Early Withdrawal for Workers Exposed to Asbestos: allowing those aged 50 or above who have an asbestos-related occupational disease to leave their jobs. This also applies to others who have not yet become ill but who have worked in high-risk establishments;

²⁹ Taylor, P. Ed. (2008). *Ageing labour forces, promises and prospects*.

- Combined Early Retirement/Hiring Scheme: enabling people to stop working early of their own accord. The employer commits to hiring someone in return.

The French government has already gone some way towards facilitating change to counter its demographic challenges. These early retirement schemes are being restricted, and the mandatory retirement age in the private sector was raised from 60 to 65 in 2003.

It is widely agreed that the SPA will need to increase in the future if the pension system is to be sustained. In February 2010 the French president met key union leaders to discuss pension reform plans that would reduce the burden on the state, including increasing the SPA. Unions have already voiced their opposition to the proposed reform.

Sweden

In the early 1990s, projections showed that the Swedish public pension system's buffer funds would be exhausted within 25 years, and a dramatic increase to contribution rates would be needed in order to continue paying the promised benefits to pensioners.

A major reform of the public pension system was made in 1999. The system changed from DB, which gave pensioners guaranteed benefits, to DC, with benefits depending on contributions made and the performance of the funds invested. The new system is mandatory: employees and employers are both required to contribute 9.25 per cent of gross earnings.

In addition, the benefits received at retirement now factor in life expectancy, effectively increasing the pension paid to those with a lower life expectancy. Allowances are also made that allow workers to combine income from employment with that earned from pensions.

In practice there is no fixed number of years needed for a 'full pension'. Pension benefits depend on years worked: the longer the work period, the higher the pension. An individual may claim the DC state pension from the age of 61, but it increases in value the longer an individual delays taking it. By delaying pension receipt from 61 to 70, some individuals can receive almost twice the rate of pension, for example.

In 2001, a law was passed making mandatory retirement before the age of 67 illegal. Prior to the introduction of this DRA, most collective agreements had imposed an age of 65.

Ireland

There is no DRA in Ireland. Mandatory retirement is permitted as a clause in the employment contract, the usual retirement age being the SPA of 65, but crucially this is not specified in government legislation. In practice, exits from the labour force peak around the age of 65.

With the introduction of the 2004 Equality Act, age discrimination at any age became illegal. All employees, including those over the age of 65, are covered by redundancy legislation, unfair dismissal legislation and equality legislation: but employers are allowed to set mandatory retirement ages in employment contracts, in contrast with all of the other countries in this study.

The Irish Business and Employers Confederation (IBEC) does recommend employers set mandatory retirement ages in employment contracts, to avoid the risk of inadvertently breaching the age discrimination legislation.

In recent years Ireland's state pension system has become progressively more generous, possibly as a result of 20 years' sharp economic growth up to 2007, with no special policies to encourage working beyond SPA. In the context of these regulations, Irish workers have little incentive to retire before reaching SPA, but also little enticement to continue employment beyond SPA. As a result, people tend to exit the labour force at 65.

3 Impacts of age legislation on employers and business

As Chapter 2 explored, in all of the countries studied as well as the UK, issues around retirement and the ageing society were an important policy topic, in the face of increasing dependency ratios and the consequent burden this was likely to put on the countries' public finances. In part in response to this, seven of the eight case study countries had made changes to rules around the minimum permitted mandatory retirement age – either increasing it or banning it altogether. Only in Ireland was mandatory retirement permitted by law at any age if agreed as part of a contract.

In this chapter we will seek to understand the impact of these changes to age legislation on employers and business. It will examine the impact of age legislation on factors such as:

- human resources (HR) practices;
- adaptation of work life and training;
- the cost to employers of insurance and other benefits.

In addition, it will look at the situation in Ireland, where to date no changes had been made to the permitted mandatory retirement age, to examine what the UK might learn from its experiences.

3.1 Impact of age legislation on employers' human resources practices

Government legislation around mandatory retirement defines what employers may or may not write into an employee's contract of employment. Some sources agree that the immediate impact of increasing the permitted mandatory retirement age,

or banning mandatory retirement altogether, is likely to be on companies' HR practices. In Canada, where mandatory retirement is now illegal in most states, Smithson (2007) noted that previously, mandatory retirement policies had served as 'deemed notice' of eventual termination of employment. For employees nearing the age of 65 employers would now have to address the issues of reasonable working notice, or pay in lieu thereof, themselves.³⁰

In addition, as reported in both the US and Canada, employers may need to be aware of possible discriminatory practices towards older employees. Since the introduction of the US Age Discrimination in Employment Act (ADEA) (1967), and the Americans with Disabilities Act (ADA) (1990), that both protect older employees from discrimination on the basis of age or disability, employers now need to be careful in case older employees perceive them to be infringing these laws.

This may particularly be the case where there are performance or other potential disciplinary problems with particular employees in the relevant age group. Whereas in the past it was often said that employers would be able to ignore these issues if the employee was very close to mandatory retirement age, now more active management and discipline would be necessary. In this study we could find no research sources that measured the real cost to business of these policy changes.

It was also reported that employers were sometimes reluctant to talk to employees directly about matters that could be construed as age discrimination. In New Zealand for example, where mandatory retirement is now also banned, a study by McPherson (2008) reported that a number of employers were afraid of addressing issues such as retirement with older workers, for fear of being seen to breach their human rights. He observed that, as a way of addressing this concern, an increasing number were managing the issue by improving their performance review processes, or running retirement seminars that were available to all employees.³¹ In addition, many employers attempted to provide more flexible working conditions for their older employees, something that Section 3.2 examines.

3.2 Impact of age legislation on the provision of flexible working and training

The abolishment of mandatory retirement has sometimes led some employers to adapt their working environment to provide more amenable working conditions for older employees, implementing policies such as flexible working and gradual retirement. No sources were found, however, that suggested that such changes to policy had led to significant cost increases to businesses.

Alongside these changes, there was some evidence to suggest that some employers were conducting training programmes that could improve opportunities for older workers – although this did happen primarily where such programmes were encouraged or run by the government.

³⁰ Smithson, R. (2007). *Coping with the retirement of mandatory retirement*.

³¹ McPherson, M. (2008). *Older workers: Employers speak out*.

3.2.1 Flexible working

In Canada, where mandatory retirement is now largely illegal, several sources reported that the rapid increase in the share of the workforce aged 55 and older would make it imperative for employers to adopt a wide range of employment and compensation practices, in order to cater to the varying needs and preferences of this age group.

Gunderson (1998), Robson (2001), and Fourzly and Gervais (2002)³² stated that workplace changes that could facilitate the productive employment of older workers include: work scheduling, flexible hours, voluntary work-time reductions, vacation and leave policies, phased retirement, job assignment, improved workplace organisation, hiring and contracting strategies, training practices, and benefit and compensation methods targeted to older employees.

A robust Statistics Canada, General Social Survey 2002 report³³ concluded that employers hoping to retain workers past the typical retirement age will have to find ways to make working later more appealing, and also cited possibilities that included flexible hours, voluntary work time reductions, and adjusting vacation and leave policies. Section 4.1 examines the impact of flexible working policies such as these on employees' desire to work longer.

In France, where the minimum permitted mandatory retirement age increased to 65 in 2003, an Organisation for Economic Co-operation and Development (OECD) report³⁴ stated that few companies had tried to amend their working practices for their older workers. Only in the very largest companies, such as Renault and Thales, was there actually some awareness of the need to break from the early retirement culture, by focusing on keeping people in employment by adapting their job roles, or by encouraging mobility and flexibility.

Taylor (2002) demonstrated that where a mandatory retirement age exists, employers may choose to keep employees on beyond this age, but changes to the contract may be detrimental to the worker. He conducted a case study of a large Japanese firm, which had implemented a policy of employment beyond the mandatory retirement age for some of its staff. In practice, staff were retired but then re-employed under different terms. Taylor noted: *'Under the terms of this scheme, a relatively low wage is supplemented by pension income, leaving an individual somewhat better off than if they had opted for retirement at 60. Workers can work until age 65, though their contract is reviewed annually.'* Although this could be seen as providing employees with a flexible route to retirement, Taylor pointed out that it could instead be viewed as shifting older workers into publicly

³² Kesselman, J. (2004). *Mandatory retirement and older workers: encouraging longer working lives.*

³³ Schellenberg, G. and Silver, C. (2004). *You can't always get what you want: Retirement preferences and experiences.*

³⁴ OECD (2005e). *France: jobs and older workers.*

subsidised low-paid work, which may also embed age discrimination because those aged over 60 are treated differently from other workers.³⁵

3.2.2 Training

Although there is often a perceived need for training for older workers, employers do not always provide this voluntarily. In New Zealand, for example, mandatory retirement is not permitted, but few organisations have specific training programmes targeted at older workers, reportedly because this could be construed as a potentially discriminatory practice in favour of older people. This is despite the fact that several of the employers participating in McPherson's (2008) qualitative study with members of the Equal Employment Opportunities (EEO) Employers Group mentioned IT as a training issue for older people. Many believed that more one-to-one training at a slower pace was necessary for older workers, whereas some stated that older workers had more performance problems than others, primarily as a result of reduced physical capabilities.³⁶

Some of the more successful training programmes have been government-led. In Australia mandatory retirement is illegal, and since 1989, the Australian government has tried to put several programmes in place aimed at improving access to training for the adult population in general, and for older people in particular. There are three publicly-funded employment services that provide access to training. These are Job Search Training, Intensive Assistance and the New Employment Incentive Scheme (NEIS).³⁷

In France, the government has encouraged mid-career training and the development of forward-looking career and skills management, especially for small and medium-sized enterprises. All employer organisations and unions signed a national agreement on lifelong occupational training on 20 September 2003. The agreement made easier access to training for all workers aged 45 and above, and granted them the right to a 'skills audit'. Individuals can possess a training passport, and employees are entitled to a 'careers guidance interview' every five years after reaching the age of 45.³⁸

3.3 Impact of age legislation on employers' payment of insurance and benefits

We found no sources that attempted to measure whether changes to HR policies or training as a result of age legislation had led to significant cost increases to businesses. However, a variety of sources did assert that the act of abolishing

³⁵ Taylor, P. (2002). *New policies for older workers*, p.166.

³⁶ McPherson, M. (2008b). Boomers and beyond: Recruiters tell their stories.

³⁷ Wooden, M. et al. (2001). *Barriers to training for older workers and possible policy solutions*.

³⁸ Taylor, P. (2008). *Ageing labour forces, promises and prospects*.

mandatory retirement has meant that employers have had to pay disproportionately high insurance and benefits such as disability insurance, life insurance, health insurance and pension payments for these employees.

In Canada and the US for example, disability and life insurance were said to become particularly costly for older workers, potentially resulting in significantly increased employment costs. The US Medicare system does require employers to pay more for medical care insurance for older employees.³⁹ In Sweden, Sundén showed that employers were often reluctant to employ people aged over 65 in part because they are not covered by sickness or unemployment insurance.⁴⁰

In Manitoba, the Human Rights Commission has acknowledged the difficulty of assessing when an older worker on disability benefits would have retired. Accordingly, the Manitoba Commission allows for long-term disability benefits to be terminated when a beneficiary reaches 65, unless there are grounds for expecting recovery and a return to work. Disability coverage and employer-paid life insurance are other areas where employers are reportedly likely to want to offer less generous cover to the over 65s, given the greater costs involved.

We could find no sources that demonstrated the likely eventual cost implications of issues such as these empirically, and the Human Rights Commission has suggested that the 'fear factor' of higher benefit costs is overblown, and the macro level impact on employer costs will be limited.

3.4 Impact of age legislation where seniority wages are common

Japan is often said to be a labour market where 'seniority wages' are commonplace. This is where an employee's wages increase steadily throughout employment, such that it is common for older workers to be paid significantly more than younger workers offering comparable skills.

Seniority wages are said to be particularly common in Japan because it is usual for Japanese employees to stay with the same employer throughout a large part of their working life. France and Sweden are also mentioned as countries where seniority wages are common, in contrast to the UK and the US, where it is often said to be more typical for individuals' earnings to increase with age until the mid-50s, but then to decline progressively with the evolution of responsibilities. In practice, however, seniority wages could be present in any industry in any country.

Japan, France and Sweden have all increased their minimum permitted mandatory retirement age in recent years. The effect of this, taking into consideration seniority wages, has been that employers have often had to pay disproportionately higher

³⁹ Lynch, E. (1993). *Late-life Crisis: a comparative analysis of the social insurance schemes for retirees of Japan, Germany, and the United States.*

⁴⁰ Sundén, A. (2004). *The future of retirement in Sweden.*

salaries to their oldest employees, whether or not they are more productive than their younger counterparts.

In 1979 the economist Edward Lazear developed a model illustrating how firms adopt mandatory retirement policies to offset the effect of seniority wages.⁴¹ His model was based on an assumption that earnings grow faster than productivity for those covered by long-term contracts, and as result, during the later part of an individual's career, employees would be overpaid relative to their productivity. Lazear argued that it was in the interests of employers and employees alike to operate long-term contracts where employees were underpaid, relative to their contribution, in their early years but overpaid in later years. Such arrangements were held to provide incentives for employees to be loyal and to minimise job changes between employers. In turn, they increased the incentive for employers to invest in the human capital of their workforce through training. However, such policies are only financially sustainable for an employer if mandatory retirement is in place, allowing them to retire the most costly employees as their productivity falls.

There is some research evidence supporting this theory. In Japan in the 1980s, government legislation was updated with strong suggestions that companies should make an effort to increase their mandatory retirement age from 55 to 60, although this was not set in law. Clark and Ogawa (1992) measured the effect of this by examining the growth rate of earnings between 1981 and 1986, based on quantitative data collected by the Japanese Ministry of Labour. They found that in larger companies, senior workers' earnings did indeed grow more slowly when the mandatory age was higher, as a result of employers' having to pay their employees for longer. The evidence from medium and smaller companies was more ambiguous, but supported this overall picture. Clark and Ogawa predicted that any increase to the minimum permitted mandatory retirement age would result in a reduction of wages for older age groups.

In 1990, when the Japanese government did announce its intention to increase the minimum permitted mandatory retirement age from 55 to 65 over several years, this met with resistance from employer and business associations. The Japan Federation of Employers' Associations called for the government to abandon the lifetime employment system.⁴² An OECD report agreed that many Japanese employers believe that a mandatory retirement system is necessary, as it enables employers to remove costly employees within a system that is based on strict employment protection laws and seniority wages.⁴³

In France, where seniority wages are also common, evidence has suggested that employers have a reluctance to employ older workers. One continuing issue that France faces is older workers' reluctance to reduce the high salaries that they

⁴¹ Lazear, E. (1979). *Why is there mandatory retirement?*.

⁴² Oka, M. (2008). *Japan: towards employment extension for older workers*.

⁴³ OECD (2005b). *Ageing and employment policies: Japan*. Paris: OECD.

earned at the peak of their career. Therefore employers often seek to retire their older employees, and replace them with younger ones, who offer equivalent competencies.⁴⁴

In Sweden in 2001, the Employment Protection Act was amended to enable employees to stay in work until 67. A variety of sources stated that the Act came into force after much discussion and despite much criticism from both trade unions and employers. Employers were critical of the law because it reduced the ability of employers to retire those employees on the very highest salaries. Unions believed that the new law would, *'infringe fundamental principles regarding the right of the labour market parties to act as independent, autonomous organisations entitled to regulate their dealings with one another in collective agreements.'*⁴⁵

In the USA, Clark and Ghent (2008)⁴⁶ in a study of employment in university education demonstrated that more experienced faculty members cost more than younger, inexperienced staff, and suggested that eliminating mandatory retirement would be likely to have a long-term significant impact for reasons of seniority wages.

3.5 The impact on employers where mandatory retirement may be set at any reasonable age

Ireland is the only country of the eight studied where mandatory retirement can be set at any reasonable age by the employer if they have grounds to do so.

Mandatory retirement is permitted as a clause in the employment contract, but retirement age is not governed by legislation. The Department of Social and Family Affairs (2007) specified that *'There is nothing in employment or equality law that imposes a compulsory retirement age.'*⁴⁷ All employers must state a valid reason for dismissing any employees aged 16 or over.⁴⁸

Although figures for the proportion of companies setting a mandatory retirement age were not readily available, employers are advised to set a mandatory retirement age by business confederations, to avoid potential legal issues around age discrimination. For example, the Irish Business and Employers Confederation (IBEC) states:

⁴⁴ Forette, F. (2005). *Innovations in the French government policy on aging.*

⁴⁵ OECD (2003). Ageing and employment policies: Sweden, citing the complaint of 20 November 2001 by the Swedish Confederation of Professional Employees' (TCO) and the Swedish Trade Union Confederation's (LO) against Sweden for breach of ILO Conventions, p.53.

⁴⁶ Clark, R. and Ghent, L. (2008). *Mandatory retirement and faculty retirement decisions.*

⁴⁷ Department of Social and Family Affairs (2007). Green paper on pensions, p.212.

⁴⁸ AARP (n.d). *Age discrimination in employment legislation in Europe.*

*'It is advisable for companies to state the [mandatory] retirement age of the company. There is no [default] retirement age in Ireland, and employees over the age of 65 are now covered by redundancy legislation, unfair dismissal legislation and equality legislation.'*⁴⁹

The OECD pointed out that Ireland is characterised by a fairly low hiring rate for older workers when compared to countries like the UK, US or Canada. In addition, in 2009 the Equality of Opportunity Committee reported that:

*'In the Republic of Ireland age accounted for 22 per cent of all discrimination claims in 2004, and age is the third most common ground for claims, after gender and race. A common reason for claims against employers in the Republic of Ireland on the grounds of age discrimination is employers' stereotypical ageist assumptions.'*⁵⁰

This example also introduces a wider issue, and one that is not specific to Ireland: that negative attitudes toward older workers must often be tackled if they are to be employed successfully. Section 4.2 will examine this further.

3.6 Key findings

- Employers often believe banning mandatory retirement will increase their costs: but it is unclear whether this is actually the case in countries that are comparable to the UK
- Only in countries where seniority wages were common were additional costs evident
- There is also evidence that banning mandatory retirement has caused some employers to avoid discussing retirement-related issues with employees

⁴⁹ IBEC (n.d). *Contract of employment*.

⁵⁰ Equality of Opportunity Committee (2009). *Age discrimination in employment inquiry*, p.2.

4 Impacts of age legislation on individuals

Chapter 3 demonstrated that increasing or abolishing the minimum permitted mandatory retirement age had implications for employers' human resources (HR) policies, and often necessitated a move towards more flexible working conditions. This chapter will examine the impact of these new flexible practices on employees' willingness to go on working later in life.

In addition, it will look at the role of attitudes towards older workers, and their impact on encouraging employees to work longer. Finally, it will examine other factors that can impact upon employees' decisions to work later, in particular the role of the state pension and other retirement-related benefits.

4.1 The impact of flexible working on employees' decisions to work later

As Section 3.2 explored, the abolishment of mandatory retirement has often led to employers choosing to adapt their working environment to provide more amenable working conditions for older employees, by, for example, providing flexible working and gradual retirement schemes. There is a range of evidence to suggest that such policies can be successful in encouraging employees to work later in life, and so potentially lead to an increase in participation rates among older workers, particularly when these are supported by government initiatives.

In New Zealand, where mandatory retirement is illegal, a quantitative, nationally representative Ministry of Social Development (2000) survey of 65 year olds⁵¹ showed a preference for phased transitions into retirement. The survey found that 54 per cent of participants would like to continue working over the next year, while 31 per cent mentioned they would like to work fewer hours. Few participants wished to give up work completely (seven per cent).

⁵¹ Ministry of Social Development, Centre for Social Research and Evaluation (2009). *To work or not to work? Findings from a survey of 65-year-old New Zealanders.*

In 2001, the Ministry of Social Development acknowledged the value of older workers and produced the *New Zealand Positive Ageing Strategy*.⁵² This includes a set of *Positive Ageing Goals and Objectives* for improving opportunities for older people to participate in their communities. The elimination of ageism and the promotion of flexible work options is one of these goals and it contains several objectives, among them:

- implementing fair and inclusive HR policies in the government sector that support the employment of older workers and entitlements to training; provide family-friendly workplaces, flexible-working options and recognise those with caring responsibilities;
- assisting those providing government services to older people to have an understanding and awareness of older people's issues;
- working with local government and the business sector to eliminate age discrimination in hiring practices, enable staff to participate in work-based training, and encourage the provision of flexible working arrangements that enable older workers to remain in paid work as long as they are able to;
- promoting the continuation of paid employment into later years for those who wish to remain in paid work, in order to both prepare for retirement and to supplement retirement income.

Dixon (2008b), in a longitudinal, quantitative study in New Zealand, followed a large sample of imminent retirees over a three-year period, and, consistent with the Ministry of Social Development survey, found that working-age people tended to favour phased retirement.⁵³ While a quarter of participants moved immediately from their previous working patterns into full retirement, three-quarters chose to make phased transitions into retirement.

In Ministry of Social Development's 2009 survey of 65 year olds in New Zealand, 60 per cent of participants identified changes in terms of flexible working that they felt may have influenced them in deciding to continue working. The most commonly mentioned were:

- flexible working hours (27 per cent);
- being able to take more unpaid leave (18 per cent);
- job sharing (18 per cent);
- working from home (16 per cent);
- working only at times that suited, e.g. evening, weekends (15 per cent).

⁵² Ministry of Social Development (2001). *New Zealand Positive Ageing Strategy*.

⁵³ Dixon, S. (2008b). *Transitions from work to retirement*.

In the US, where mandatory retirement has been abolished, according to AARP (formerly known as the American Association of Retired Persons), retirement is now seen as a gradual 'process', and no longer a straightforward transition from full-time work. Approximately one-quarter of workers who retired in the 1990s eventually returned to work in new careers.⁵⁴ In some instances, older workers can move into partial retirement where they retire from their main employer, collect pension benefits and continue to work in a 'bridge job'.

Encel (2003) conducted a study in Australia that recognised older workers' preference for staying in work. The study showed that the Australian Commonwealth Government had attempted to reduce the extent to which mature-age workers were choosing to take early retirement. Measures included:

- changes to retirement income policies, including pensions and superannuation arrangements to redress incentives to early retirement;
- changes to superannuation arrangements to make it easier to contribute at an older age, and to make it easier for individuals who decide to re-enter the workforce;
- job search and placement assistance for older job seekers; and improved coordination among job placement agencies.

A robust Statistics Canada, General Social Survey 2002 report⁵⁵ suggested that abolishing mandatory retirement may increase the participation rates of older employees, not simply because of the change to the law, but because of changes that employers made to their working conditions. The study showed that about 26 per cent of people who retired between 1992 and 2002 would have been willing to stay if they had had the option of shortening their working week without their pension entitlements being impacted. However, only 12 per cent said a removal of mandatory retirement restrictions per se would have impacted their decision to keep working.

4.2 The role of attitudes towards older employees

While government policy can make an immediate impact upon employers' HR policies and practices, giving employees the legal right to continue working beyond a given age, attitudes towards older employees in the workplace can be just as important in determining employees' willingness to work later in life. This section will examine both positive and negative attitudes toward older workers. In addition, it will look at the impact that employer attitudes can have on older employees themselves, as well as the perceived relationship between age and productivity.

⁵⁴ Johnson, R., Kawachi, J. and Lewis, E. (2009). *Older workers on the move: recareering in later life* quoting Maestas (2004).

⁵⁵ Schellenberg, G. and Silver, C. (2004). *You can't always get what you want: Retirement preferences and experiences*.

4.2.1 Evidence of negative attitudes towards older employees

Research studies in all of the case study countries have shown that, to varying degrees, employers do sometimes hold negative perceptions of older employees.

In the US, where mandatory retirement has been abolished, surveys conducted with HR workers during 2007 found that the perceived disadvantages of working with older workers included inflexibility in completing tasks, lack of participation in training, difficulty in maintaining up-to-date skills, unease or unwillingness to learn new technologies and increased healthcare costs.⁵⁶

In Sweden, in 1998, the National Labour Market Board conducted a survey of employers to investigate levels of age discrimination against older people. One of the questions concerned the willingness of employers to employ different groups of people such as the long-term unemployed, women planning to have a child, immigrants, lone parents, physically disabled people and people above 55 years of age. Of these groups, older people were the least preferable to employers. Nearly 40 per cent of employers expressed negative or very negative views on hiring older people. Forty-five per cent were neutral and only 11 per cent expressed positive views.⁵⁷

Also in Sweden, the European Foundation for the Improvement of Living and Working Conditions looked at two quantitative surveys.⁵⁸ Three-quarters felt 'negative' or 'strongly negative' about employees continuing to work beyond the age of 67.⁵⁹

Perry and Freeland's (2001) study of employers in New South Wales in Australia found that they very frequently believed mature workers to be inflexible, lacking in initiative, resistant to change, unwilling to learn new technologies, prone to ill-health and high absenteeism, deteriorating in mental and physical capabilities, prone to workplace injury, and generally more difficult to manage.⁶⁰

Negative employer attitudes towards older employees were also found in France, where a 2005 report by the Organisation for Economic Co-operation and Development (OECD) showed that employers typically believed that employing

⁵⁶ OECD (2005c). *Ageing and employment policies: United States*.

⁵⁷ Sundén, A. (2004). *The future of retirement in Sweden*.

⁵⁸ A survey of 2,000 employers conducted by the Pensions Forum, and a major survey on employer attitudes commissioned by the Swedish National Insurance Board.

⁵⁹ Thirty-four per cent felt 'negative' and 41 per cent felt 'strongly negative'. European Foundation for the Improvement of Living and Working Conditions (2007). *Employment and labour market policies for an ageing workforce and initiatives at the workplace*. National overview report: Sweden.

⁶⁰ Perry, J. and Freeland, J. (2001). *Too young to go: mature age unemployment and early retirement in New South Wales*.

older workers held few benefits compared with employing younger ones.⁶¹ Warr (1994) had earlier demonstrated evidence of negative attitudes toward older employees and their performance.⁶²

In Ireland, OECD (2005) and the Department of Social and Family Affairs (2007) reports also demonstrated some negative attitudes among employers towards older workers. Employers tended to believe that older employees are less productive, less ambitious and more prone to illness. Basten *et al.* (2002) conducted qualitative research with 94 representatives of the older population in Ireland, including workers, unemployed and retired people. They identified a number of barriers and issues relating to labour force participation among the elderly, such as:

- too much emphasis on qualifications rather than experience;
- a perceived skills mismatch, with limited access to training;
- the consequent lower quality of jobs available acting as a financial barrier to participation, when pensions, benefits and taxation are taken into account.⁶³

Table 4.1 compares attitudes to men and women working beyond age 70 in Ireland, Sweden, France and the UK (with Norway, the Netherlands, Germany and Spain included for comparative purposes). The results are taken from the European Social Survey, in response to the question: '*Apart from your own feelings, how do you think most people would react if a man/woman they knew well...carried on working after the age of 70?*'

People could 'disapprove openly', 'disapprove secretly', 'not mind either way' or 'approve'. Table 4.1 only compares the percentage of people that disapprove openly or secretly: the countries are ranked in order of disapproval.

⁶¹ OECD (2005d). *Ageing and employment policies: France*.

⁶² Riach, P.A. and Rich, J. (2006). *An experimental investigation of age discrimination in the French labour market*, citing Warr (1994).

⁶³ Basten, A. *et al.* (2002). *Labour market inequalities for older people in Ireland*.

Table 4.1 Attitudes to men and women working beyond age 70, by country⁶⁴

	Views about women working after 70				Views about men working after 70			
	Base	Openly disapprove %	Secretly disapprove %	All who disapprove %	Base	Openly disapprove %	Secretly disapprove %	All who disapprove %
France	991	42	30	72	985	35	31	69
Spain	929	38	31	68	896	28	31	64
Germany	1,414	26	34	60	1,403	19	32	56
Netherlands	901	27	30	57	938	18	27	51
Sweden	920	15	29	45	957	13	27	42
Ireland	851	16	23	40	881	10	18	34
UK	1,193	13	20	33	1,173	8	15	28
Norway	869	3	14	17	871	3	12	16

It is notable that France, which currently has a very low participation rate amongst the older population (see Table 2.2), also has a very high disapproval rating of those working beyond 70. Otherwise there is no clear pattern in terms of how attitudes relate to current participation levels. Disapproval of older working in Sweden and Ireland is in the middle of the range of countries, and both have far higher levels of disapproval than the UK.

4.2.2 The impact of negative attitudes

Some studies have shown that employers' negative attitudes towards older people can result in it becoming more difficult for employees to find work, or even to stay employed, which can have a consequent impact upon their own attitudes to their abilities.

In Australia mandatory retirement has been illegal since the 1990s. A robust quantitative study conducted by The Department of Family and Community Services⁶⁵, covering 1,520 people in 2001/02, examined the very long-term unemployed and their opinions with regard to finding work. Most stated that they felt pessimistic about their chances of finding employment, and 37 per cent of interviewees felt that age was the single greatest impediment to employment. When it came to retrenchment, or downsizing, a robust, longitudinal study conducted by Dawkins and Littler from the Institute of Applied Economic and Social Research in 2001, *Downsizing: Is It Working for Australia?* found that permanent exit from the labour force increased steadily with age, from 36 per cent at age 20, and 39 per cent at age 40, to 42 per cent at age 60.

⁶⁴ McKay, S. (2010). *Never too old? Attitudes towards longer working lives.*

⁶⁵ Encel, S. (2003). *Age can work – the case for older Australians staying in the workforce.*

In another quantitative study, not one employer identified those aged 51 years and over as the preferred age group for recruitment.⁶⁶

The experience of retrenchment (being subject to downsizing), and unemployment often resulted in a sense, for older people, that searching for a job is futile. The Reark study of attitudes of 55 to 64 year olds found that they often questioned their physical ability to continue work, and also to cope with technology and other changes at work, including stress associated with work.

The result of employers' negative attitudes can also be witnessed in France. Riach and Rich's (2006) investigation into whether age discrimination exists in the French labour market involved creating two fictitious CVs. One was that of an older waiter, aged 47, and the other was that of a younger waiter, aged 28, each with similar interests and experience. The authors counted the number of positive and negative or non-responses each CV got. The experiment was conducted across 24 French towns. It detected a level of net discrimination against the older applicant of 58 per cent. Paris was the most extreme, where the younger candidate received eight favourable responses from Parisian restaurants, whereas the older candidate received none.

Additionally in France, a 2005 OECD report stated that older people suffer the most when looking for work because of labour market selectivity, the consequence of which is that they are last to be considered for work. This trend has meant that over-50s who are unemployed tend to be long-term unemployed, where 40 per cent have been looking for work for more than two years. Additionally, more than six out of ten of the unemployed in the 50 to 64 age group have been out of work for over a year, compared with four out of ten in the 25 to 49 age group.⁶⁷

4.2.3 Evidence of more positive attitudes towards older workers

Despite the great deal of evidence indicating the existence of negative attitudes toward older workers, there is little evidence to suggest that older workers' productivity does in fact decline with age.

Ashenfelter and Card (2002) conducted a quantitative survey and database analysis of university staff nationwide in the US. They demonstrated that it was in fact the more productive and better-paid employees that were more likely to stay on beyond State Pension Age (SPA), whereas the less capable staff were more likely to retire.⁶⁸

⁶⁶ Perry, J. and Freeland, J. (2001). *Too young to go: mature age unemployment and early retirement in New South Wales*.

⁶⁷ OECD (2005d). *Ageing and employment policies: France*.

⁶⁸ Ashenfelter, O. and Card, D. (2002). *How did the elimination of mandatory retirement affect faculty retirement?*

According to McPherson (2008), employment associations in New Zealand have been forced to take on older employees due to a skills shortage currently being experienced in the country. This is said to have in itself assisted in improving attitudes towards older employees.⁶⁹ Many employers now speak highly of their older employees and often comment on their knowledge, expertise and experience, their ability as mentors, their work ethic and their stability.

It is still unclear to what degree attitudes across the board towards older workers have really improved in New Zealand as a result of the need to employ older workers. McPherson (2008), analysing qualitative results, notes that the employers he spoke to were divided on this issue.⁷⁰ Roughly equal groups said:

- they had not noticed any change;
- there had been no change and believed attitudes toward older workers had always been positive;
- they had noticed a positive change.

In the US the abolition of mandatory retirement provided employers with an opportunity to work with and learn more about older workers. As a result, numerous positive aspects of working with older workers were reportedly recognised, such as loyalty and dedication to the company, commitment to quality work, dependability, solid performance and experience, basic skills, leadership ability, and getting on well with co-workers.⁷¹

In Australia, research cited in *Too young to go: mature age unemployment and early retirement in New South Wales*, stated that employers held both positive and negative attitudes with regard to the qualities of older workers. On the positive side, they were valued for their skills, experience, corporate knowledge, commitment, strong work ethic, reliability and low absenteeism.

4.3 Impact of mandatory retirement on younger workers

There is little evidence that increasing the minimum permitted retirement age, or banning it altogether, impacts upon the employment opportunities of younger people.

According to the Canadian OECD report, *Ageing and Employment*, some economic arguments suggest that mandatory retirement creates employment opportunities for younger workers. In 2003, the president of the Canadian Workers union asserted that mandatory retirement allows, 'the opportunity to allow younger

⁶⁹ McPherson, M. (2008b). *Boomers and beyond: recruiters tell their stories*.

⁷⁰ McPherson, M. (2008). *Older workers: employers speak out*.

⁷¹ OECD (2005c). *Ageing and employment policies: United States*.

workers to replace older workers.⁷² However, a Canadian study cited that there is little expectation, or evidence, that abolishing mandatory retirement is disadvantageous to younger workers, especially in the context of increasing concerns regarding labour and skill shortages.⁷³

In Ireland, an OECD report suggests that Ireland should avoid making the mistake of many other OECD countries in the early 1990s, when older workers from the labour market were removed from the labour force, as the overall labour supply was reduced, yet it did little to encourage younger workers.⁷⁴

In addition, a Japanese OECD report states that the solution to achieving higher rates of youth employment is not to discourage older workers from remaining longer in work.⁷⁵

In France, where the minimum permitted mandatory retirement age is 65, a quantitative study found that the impact of the early retirement policies on older workers had no effect on employment for other age cohorts. For example, youth employment remained static at 20 per cent, despite these labour policies.⁷⁶

4.4 Impact of the State Pension Age and retirement benefits

Many sources of evidence have shown that the SPA and the level of benefits available to individuals in retirement can be just as important in determining individuals' actual age of retirement as the mandatory retirement age.

In New Zealand mandatory retirement was made illegal at the same time as SPA was increased from 60 to 65. These two policies, enacted in tandem, are believed to have led to the participation rates of people older than 50 more than doubling from 1991 to 2005, according to census data. The rapid increase in the SPA, combined with the fact that it was easier to continue working, resulted in a number of older workers remaining in the labour force for longer than they had expected to.⁷⁷

In Ireland during the second half of the 1970s SPA was reduced from 70 to 65, and as a result Johnson (2000), in his comparison of data from censuses and labour force surveys, estimated that the '*Participation of men aged 65 to 69 fell*

⁷² OECD (2005f). *Ageing and employment policies: Canada*.

⁷³ Legislative Library of British Columbia (2006). *Mandatory retirement*.

⁷⁴ OECD (2009b). *Economic surveys: Ireland*.

⁷⁵ OECD (2005b). *Ageing and employment policies: Japan*.

⁷⁶ OECD (2005d). *Ageing and employment policies: France*.

⁷⁷ Hunard, R. (2005). *The effect of NZS eligibility age on the labour force participation of older people*.

*dramatically between the 1970 and 1980 censuses, from 64 per cent to 37 per cent.'*⁷⁸

Johnson compared the data for the same period for men aged 60 to 64 and 65 to 69 in the Republic of Ireland and Northern Ireland, where no change to the SPA took place. Johnson found no significant differences in participation rates for those aged 60 to 64; only for the 65 to 69 group, which was affected by the change. He concluded that, *'The large decline in participation of men 65 to 69 in the Republic between 1970 and 1980 was not matched in the North, suggesting that the benefit extension in the Republic was the cause of most of this decline.'*⁷⁹

In France, there is evidence that access to a range of early retirement schemes (see Section 2.4.2) has allowed workers to retire even earlier. For example, the OECD reported that the government, under pressure from unions, introduced an early retirement scheme for those who were aged 56 or older and had a full contribution history.⁸⁰ In 2004, a quantitative study conducted by the National Pension Fund estimated that 90,000 people would take up the scheme in 2005, which would equate to a take-up rate of 75 per cent.

Forette, Salord and Brieu (2008) assert that the SPA in France (currently 60) will also need to be adjusted at some point in the future in order to reflect the ageing demographics, because the SPA is one of the lowest by international comparisons.⁸¹ The belief that there is consequently little incentive to work beyond SPA has been echoed by the OECD:

*'One of the best options for enhancing the sustainability of the pay as you go pension system would be for the coming negotiations to yield an agreement to raise the [SPA].'*⁸²

In Sweden, major pension reform was undertaken in 1999. The state system changed from Defined Benefit (DB), which gave pensioners guaranteed benefits, to Defined Contribution (DC), with benefits depending on contributions made and the performance of the funds invested. Pension benefits are now dependent on the number of years worked: for example by delaying pension receipt from 61 to 70, some individuals can receive almost twice the rate of pension. Allowances were also made that allow workers to combine income from employment and pensions. Mandatory retirement is only allowed from the age of 67.

⁷⁸ Johnson, R. (2000). *The effects of old-age insurance on male retirement: evidence from historical cross-country data*, p.29.

⁷⁹ Johnson, R. (2000). *The effects of old-age insurance on male retirement: evidence from historical cross-country data*, p.39.

⁸⁰ OECD (2005d). *Ageing and employment policies: France*.

⁸¹ Forette, F. et al. (2008). *Living longer, working longer: A French challenge*.

⁸² OECD (2009e). *Economic survey of France 2009: Progress in labour market and other reforms*.

As a result of these changes, a number of surveys have suggested that there is a growing interest among those aged 60 plus in working part time while drawing a pension. The National Institute for Working Life (2001) reported that 60 per cent of working women and 55 per cent of working men were in favour of combining part-time work with a pension.⁸³

Before the pensions reform in Sweden, it was often reported that there was no incentive for individuals to work for a long time, because contributions were based on the highest 15 years of earnings, rather than contributions paid over a lifetime. This led to income redistribution from people with long working lives, to those with shorter working histories. However, the switch in 1999 to a DC scheme is said to be fairer to those who have worked for longer, and it is seen as putting more responsibility on the individual throughout his lifetime to plan and prepare for retirement.⁸⁴ Several surveys showed that, while most employees would like to retire before 65, financial realities often make this unrealistic. A survey by the Pensionsforum (2001)⁸⁵ found that, while 80 per cent of all workers in Sweden wanted to withdraw from the labour force before the age of 65, 70 per cent did not believe that their pension would be high enough to withdraw when they wanted to. Nevertheless, in the same survey, only around eight per cent believed that they would have to work after the age of 65.

Despite the lack of a mandatory retirement age, early retirement is a frequent occurrence in the US. Sources suggested that the most important path from work to retirement is associated with the receipt of Social Security income which allows eligible Americans to receive retirement benefits as early as 62.⁸⁶

4.5 The impact of health other personal circumstances

Personal circumstances do have an important role to play in an individual's decision to retire, and although studies often do not focus on these in depth, perhaps because they are seen as being beyond governments' control, they cannot be excluded from the picture.

In Ireland, a significant proportion of retirees said that their own ill-health or ill-health of a relative (24 per cent) was a primary reason to retire.⁸⁷ Other personal reasons included:

- a wish to spend more time with family (12 per cent);
- the availability of an early retirement option (ten per cent);
- a desire to enjoy life (nine per cent).

⁸³ OECD (2003). *Ageing and Employment Policies: Sweden*.

⁸⁴ Sundén, A. (2004). *The future of retirement in Sweden*.

⁸⁵ OECD (2003). *Ageing and Employment Policies: Sweden*, quoting Pensionsforum (2001).

⁸⁶ OECD (2005c). *Ageing and employment policies: United States*.

⁸⁷ Cullinan, J. and Gannon B. (2009). *Ill-health and early retirement in Ireland*.

In New Zealand, as with Ireland, health was also often considered to be a primary reason affecting retirement decisions. Research showed (Loretto *et al.*, 2005; Henretta *et al.*, 1992; Midanik *et al.*, 1995) that an individual's health could be impacted upon by their work life. A negative impact upon health could manifest itself because of stress, working conditions, or decreased wages or hours. These factors were seen as limitations that appeared to increase the likelihood of retirement.⁸⁸

Other factors that may contribute towards the decision to work or retire, included not feeling appreciated or not getting along with 'the boss'. This was considered important by 25 to 50 per cent of workers in the robust, quantitative *Health, Work and Retirement Study* conducted by the Health Research Council in New Zealand.⁸⁹

Conversely, the quantitative Ministry of Social Development's 2009 survey of 65 year olds,⁹⁰ where 1,712 individuals were interviewed, suggested that where workers liked their work and the continued contact with other people, and they felt they had something to contribute, this had an extremely positive influence on their decision to stay.

The Ministry of Social Development survey also found that seven per cent of working 65 year olds said they would like to give up work completely in the next year or so. The main reasons for this were:

- to allow more time for other interests (66 per cent);
- to spend more time with family (48 per cent);
- to spend more time with their partner (40 per cent);
- they needed to care for someone (12 per cent);
- work was too physically demanding (19 per cent);
- too demanding in other ways (21 per cent);
- for health reasons (17 per cent).

The Ministry of Social Development survey identified that a person's financial situation could impact upon whether they decide to work or retire. This was another reportedly important consideration when deciding whether or not to retire, with multiple issues determining whether retirement is financially viable, such as mortgage payments, debt and having children in higher education.

⁸⁸ Inder, L. and Bryson, J. (2007). *The ageing workforce: retaining, utilising and challenging workers – a literature review*, citing Loretto *et al.*, 2005; Henretta *et al.*, 1992; Midanik *et al.*, 1995.

⁸⁹ Davey, J. (2008). *What influences retirement decisions?*

⁹⁰ Ministry of Social Development, Centre for Social Research and Evaluation (2009). *To work or not to work? Findings from a survey of 65-year-old New Zealanders.*

4.6 Key findings

- Age legislation can act as a catalyst for employers to provide more opportunities and flexible conditions for older workers, particularly when led by government initiatives.
- When it is made easy – and satisfying – for employees to make a phased transition into retirement, employees can be encouraged to work later.
- Employers' and society's negative attitudes to older workers can act as a barrier to working later, irrespective of the age legislation in place: but these attitudes can be overcome.
- There is little research evidence that banning mandatory retirement impacts upon the employment opportunities of younger people.
- The structure of state retirement benefits has a significant role to play in individuals' decisions to retire – or continue working.

5 Impacts of age legislation on participation rates, the economy and public sector expenditure

This chapter will look at the impact of increasing or abolishing a minimum permitted retirement age on the participation rates of older workers: in other words, the proportion of older workers that are either employed, or unemployed and looking for work.

Increasing or abolishing the permitted mandatory retirement age has often been used by governments as a way to encourage working later: but its impact on participation has often depended upon what other policies were enacted at the same time. Where the mandatory retirement age was increased or abolished, alongside an increase to the State Pension Age (SPA), and the launch of campaigns to tackle negative attitudes to older workers, participation rates often increased. Section 5.1 examines countries where this was the case.

Where mandatory retirement was made illegal primarily on human rights grounds, there was less clear-cut evidence suggesting a significant increase in participation rates. This is examined in Section 5.2.

The remainder of this chapter will then look at whether it is possible to measure the impact of age legislation on public spending, tax revenue and economic growth.

5.1 Impact on participation rates where age legislation was implemented with a view to increasing participation rates

New Zealand, Australia, Japan, France and Sweden have all introduced changes to the minimum permitted retirement age with a view to achieving higher participation rates among older workers. New Zealand and Australia banned mandatory retirement altogether; Japan, France and Sweden introduced or increased the minimum permitted mandatory retirement age. In every case, changes to mandatory retirement legislation were not made in isolation, but alongside a series of other measures that had some influence upon the outcome.

The gradual abolishment of a minimum permitted mandatory retirement age in New Zealand has reportedly resulted in higher participation rates among older New Zealanders over the last 15 years. The Department of Labour (2007) stated that the number of people in the labour force aged over 50 had more than doubled, increasing from 267,000 to 547,000 between June 1991 and June 2005.⁹¹ However, mandatory retirement was gradually abolished in conjunction with a range of other factors:

- a change in the SPA, which increased from 60 to 65 between 1992 and 2001;
- the *New Zealand Positive Ageing Strategy* was launched around the same time.

Because of this it is not possible to isolate the impact that abolishing mandatory retirement itself had.

According to Davey (2007),⁹² the higher participation rates among older workers contributed positively to New Zealand's economy. The government's reform of the pension system in 1991 resulted in a number of older workers remaining in the labour force longer than they had expected to, largely as a result of increasing the eligibility age for New Zealand Superannuation (NZS), changes to the Human Rights Act 1993 and the prohibition of mandatory retirement. These older workers are said to have made a difference by reducing the skills shortage within several key industries, including manufacturing, where an overall decline in employment had been witnessed.

In Japan, there is some evidence to suggest that increasing the mandatory retirement age to 60 by the mid-1990s helped to curb unemployment among workers in their 50s, but at the same time resulted in a sharp increase of unemployed workers in their early 60s.⁹³

⁹¹ Davey, J. (2007). *Maximising the potential of older workers*, quoting Department of Labour (2007).

⁹² Davey, J. (2007). *Maximising the potential of older workers*.

⁹³ OECD (2005b). *Ageing and employment policies: Japan*.

In Australia mandatory retirement was made illegal in the early 1990s. From approximately 1983 to 2003, employment of older people grew by 88 per cent. However, the large increase in employment within the older age groups is due, at least in part, to the fact that the 'baby boomer' generation is now starting to reach SPA: many older workers are continuing to work as they progress into the older-age bracket, but there is little evidence of newly created jobs within this age bracket.⁹⁴

In France, the minimum permitted retirement age increased from 60 to 65, but the participation rate of this age group did not increase. This could be due to several factors that may have acted as a disincentive to working longer: SPA remained at 60 years of age, which is lower than most European countries; several early retirement schemes remained in place; and few incentives existed for employees to work beyond SPA.

5.2 The impact on participation rates in the US and Canada

In some respects the impact of age legislation in the US and Canada is more difficult to measure, in part because both countries have relatively long histories of gradually banning mandatory retirement across states and provinces, stretching back to the 1960s, when age legislation was implemented primarily on human rights grounds.

In Canada, Shannon and Grierson (2004)⁹⁵ conducted statistical analysis of data from the Canadian Census and the Labour Force Survey study, by comparing the provinces where mandatory retirement remained legal with those where it had been made illegal. Quebec and Manitoba were defined as the 'treatment groups', as these were the two provinces where mandatory retirement had become illegal during the 1980s. The control groups consisted of all of the remaining provinces (except for Prince Edward Island, which was excluded).

The empirical exercise undertaken found that there was little evidence to suggest any changes in the labour market, in the two decades since mandatory retirement became illegal, related to a relative increase in employment in the relevant age range in Quebec and Manitoba. They concluded that there was little support for the hypothesis that mandatory retirement has a large effect on employment of older workers aged 65 to 69.

However, Shannon and Grierson did assert that a plausible explanation for why this happened is that there were increasing early retirement trends over the period,

⁹⁴ Encel, S. (2003). *Age can work – the case for older Australians staying in the workforce*.

⁹⁵ Shannon, M. and Grierson, D. (2004). *Mandatory retirement and older worker employment*.

and therefore the demand for delayed retirement had fallen, even despite any change to mandatory retirement legislation. In effect, there are fewer people who are constrained by the practice of mandatory retirement.

In addition, the 1987 report of the Ontario Taskforce on mandatory retirement suggested that few workers had taken advantage of the absence of mandatory retirement in Manitoba and Quebec. Numbers from Statistics Canada indicate that the median retirement age between 1991 and 1995 was 62.3 in Manitoba and 61.0 in Quebec. During the 1996 to 2000 timeframe, those figures had actually fallen to 61.7 in Manitoba and 59.4 in Quebec. In Nova Scotia and Ontario, the retirement ages for the same, respective time periods were 60.6 and 60.8 for Nova Scotia, and 62.3 and 61.6 for Ontario.⁹⁶ In other words, where mandatory retirement was abolished there was no noticeable increase in the average age of retirement, compared to other 'control' provinces where mandatory retirement continued.

In the US, mandatory retirement was fully outlawed in 1986, having previously been set at 70. There is some evidence to suggest that there was some increase to participation rates for the over 70s, however the previous mandatory retirement age of 70 was already so high that the numbers affected (and the numbers studied) were small.

One study showing an increase was Ashenfelter and Card's quantitative research using a large, nationwide sample of faculty members at several US colleges and universities. The research showed that the elimination of mandatory retirement had no effect on the retirement rates of faculty members under 70 years of age. Retirement rates among those aged 70 and 71 were found to have decreased.⁹⁷

5.3 Impact on the economy and public spending

Economic analysis has often speculated that abolishing mandatory retirement should impact upon public finances, arguing the following:⁹⁸

- under mandatory retirement, some employees who would like to continue working beyond mandatory retirement age will be involuntarily terminated from their jobs;
- this alternative work may pay significantly less; and some will not succeed in finding work at all;
- the consequence of this is that they pay less income tax and sales tax;

⁹⁶ Statistics Canada (2003). *Perspectives on labour and income*, 'Fact sheet on retirement'.

⁹⁷ Ashenfelter, O. and Card, D. (2002). *How did the elimination of mandatory retirement affect faculty retirement?*

⁹⁸ For example, see Kesselman, J. (2004). *Mandatory retirement and older workers: encouraging longer working lives*, p.12.

- some will also begin drawing public pension benefits earlier than if they had been allowed to continue working;
- healthcare costs will be higher for workers compelled to retire earlier than they wanted. In addition, lack of physical and mental inactivity can spur degenerative diseases that afflict many older people.

However, there was no clear empirical evidence to prove the economic impact of increasing the mandatory retirement age in this respect.

For example, in the US, Social Security data suggests that the costs for Social Security and Medicare will rise steeply between 2010 and 2030. During those years, cost growth for Medicare will be higher than for Social Security because of the rising cost of health services, increasing utilisation rates, and anticipated increases in the complexity of services. Medicare costs will continue to grow rapidly after 2030 due to expected increases in the cost of health care. They are anticipated to reach 11 per cent of Gross Domestic Product (GDP) in 2083.⁹⁹ However, no research evidence has attempted to measure the impact of eliminating mandatory retirement on these projections.

Similarly in Ireland, the Department of Social and Family Affairs (2007) argues that the projected ageing of the Irish population will increase the pressure on public expenditure and estimates that age-related spending will increase from five per cent of GDP (in 2007) to 13 per cent by 2050. The Department of Social and Family Affairs points out that the changing demographics will mean that the existing system will not be able to support the pension demands of future retirees.¹⁰⁰ However, again, the impact that implementing a default retirement age (DRA) might have on these figures is unclear.

5.4 Key findings

- Age legislation, with no accompanying policies to encourage older working, is unlikely to increase the participation rates of older workers significantly.
- Age legislation is more likely to increase the participation rates of older workers when enacted in conjunction with an increase to the SPA and other policies to support older working.
- There is little research evidence as to the impact of age legislation on the economy or public sector spending.

⁹⁹ Social Security and Medicare Boards of Trustees (2009). *A summary of the 2009 Annual Reports*.

¹⁰⁰ Department of Social and Family Affairs (2007). Green paper on pensions.

6 Conclusions

The purpose of this study was to explore what the UK can learn from other countries' experiences of increasing the default retirement age (DRA) or banning mandatory retirement altogether, focusing on the impact of such policies on businesses, individuals and the economy overall.

As well as examining to what degree this study has answered those questions, this final chapter will also look at the extent to which the findings reflect the recommendations of the Organisation for Economic Co-operation and Development (OECD) and the European Commission.

6.1 Key conclusions

Age legislation, with no accompanying policies to encourage older working, is unlikely to increase the participation rates of older workers significantly

It was important for this research to answer a key question: '*does increasing the DRA or banning mandatory retirement increase participation rates among older people?*'. The case study evidence has shown that it depends on what policies are enacted alongside the age legislation.

Increasing the DRA, or banning mandatory retirement altogether, is rarely the only measure taken to increase participation among older workers. Because of this, published research evidence did not usually attempt to isolate the effects of this one single policy on participation rates.

The only exceptions to this were the US – where mandatory retirement was banned nationwide in 1986 – and in Canada where it has been progressively banned across provinces since that date. Although these policies were not enacted in complete isolation, the large amount of time that has elapsed since they were enacted did allow some conclusions to be drawn.

The most clear-cut evidence came from Canada: empirical analysis of census data, comparing the provinces where mandatory retirement was still allowed from age 65 with those where it had been made illegal, showed no significant impact

upon participation rates. In the US, the mandatory retirement age was already 70 before it was outlawed, and so the proportion of workers it affected was small. Perhaps because of this, no studies were able to use nationwide census data to show a significant increase in participation here either. A study of US college staff aged 70 or over in the US did however show a decrease in retirement rates after mandatory retirement was banned within this group, but it is difficult to judge how representative this might be even of the wider US population, let alone the UK population.

It seems reasonable to conclude that increasing the DRA or banning mandatory retirement with no accompanying policies to encourage older working would be unlikely to increase the participation rates of older workers significantly in the UK.

This argument is further supported by evidence from France: here, the DRA increased from 60 to 65, but the participation rate of this age group did not increase. This could be due to several factors that may have acted as a disincentive to working longer: the State Pension Age (SPA) remained at 60 years of age, which is lower than most European countries; several early retirement schemes remained in place; and few incentives existed for employees to work beyond SPA.

Age legislation is more likely to increase the participation rates of older workers when enacted in conjunction with an increase to the SPA and other policies to support older working

The UK can learn a great deal from countries such as New Zealand, which demonstrate that if age legislation is accompanied by other policies, the impact upon participation rates can be far greater. Here, three policies were enacted in tandem from the mid- to late 90s:

- mandatory retirement, which had been allowed from the age of 60, was gradually banned;
- the SPA was gradually increased from 60 to 65;
- the *New Zealand Positive Ageing Strategy*, aimed at improving attitudes toward older workers, was launched.

The number of people in the labour force aged over 50 more than doubled between June 1991 and June 2005. It is impossible to judge which of the three policies had the greatest impact, but the combined effect was an increase in participation among older workers that was said to have made a difference by reducing the skills shortage within several key industries, including manufacturing, where an overall decline in employment had been witnessed.

There is little research evidence as to the impact of age legislation on the economy or public sector spending

Economic analysis has often speculated that abolishing mandatory retirement should impact upon public finances. However, there was no clear empirical evidence that assessed the economic impact of increasing the DRA or banning

mandatory retirement, and so existing evidence cannot make predictions as to what the impact might be on the UK economy.

Employers often believe banning mandatory retirement will increase their costs: but it is unclear whether this is actually the case in countries that are comparable to the UK

In countries where the minimum permitted mandatory retirement age was increased or abolished, this often had implications for employers' human resources (HR) policies. There was also evidence that abolishing mandatory retirement in some countries had led to employers needing to pay disproportionately high insurance and benefits such as disability insurance, life insurance, health insurance and pension payments.

However, in both of these cases, we could find no research evidence that attempted to quantify these costs in countries that are comparable to the UK. This does not necessarily mean that the cost impact is low: it could simply be that no studies have attempted to measure this.

Only in Japan, France and Sweden was there evidence that an increase to the DRA could impact employers' costs significantly. Here, unlike in the UK, it was common for employees to stay with an employer throughout a large part of their working life, with their salary increasing steadily throughout employment so that employers have often had to pay disproportionately higher salaries to their oldest employees. In these cases, the attempts to increase the DRA often met with resistance from employer associations. Such structures are not commonplace in the UK however, and so resistance on these grounds seems relatively unlikely here.

Age legislation can act as a catalyst for employers to provide more opportunities and flexible conditions for older workers, particularly when led by government initiatives

The abolishment of mandatory retirement has sometimes led employers to adapt their working environment to provide more flexible working conditions for older employees, to encourage them to adopt a 'phased' or gradual retirement. When led by the government, training schemes for older workers were also sometimes implemented.

However, it is important to note that such policies were not usually a consequence of the change to age legislation per se. In France, where the DRA was increased but there were few clear moves by the government to encourage flexible retirement, few employers tried to amend their working practices for their older workers when the DRA increased.

It may be that examples such as New Zealand and Australia offer the UK better examples of how to encourage employers to provide access to flexible working conditions. In Australia, for example, the government has started publicly-funded employment services that provide access to training for older people.

When it is made easy – and satisfying – for employees to make a phased transition into retirement, employees can be encouraged to work later

Evidence from across the case study countries, including the US, Australia and Canada, suggests that it is not simply a change to age legislation that will encourage people to work later, but the changes that employers make to improve opportunities for employees, to allow them flexible working and a phased transition into retirement.

In New Zealand in particular, the promotion of flexible work options is one of the goals of the *New Zealand Positive Ageing Strategy*. The impact that this policy had in increasing the participation rates of older people may be in part due to the promotion of flexible working options. In one quantitative study of a large sample of imminent retirees in New Zealand followed over a three-year period, three-quarters chose to make phased transitions into retirement. In another study, 60 per cent were able to identify changes in terms of flexible working that they felt may have influenced them in deciding to continue working.

Employers' and society's negative attitudes to older workers can act as a barrier to working later, irrespective of the age legislation in place: but these attitudes can be overcome

Little evidence was found to suggest that older workers' productivity declines with age. Nevertheless, there is clear evidence that many employers across different countries do believe that older workers' productivity does decline. Perceived disadvantages of working with older workers included inflexibility in completing tasks, lack of participation in training, difficulty in maintaining up-to-date skills, unease or unwillingness to learn new technologies and increased healthcare costs.

Such attitudes were evident across almost all the countries studied, whether or not they had made changes to their age legislation. Such problems are also likely to face the UK, although there is some survey evidence that these negative attitudes are less marked in the UK than in other parts of Europe.

Nevertheless, New Zealand again provides useful lessons as to how these attitudes might be overcome. The *New Zealand Positive Ageing Strategy* included the elimination of ageism as one of its goals. Qualitative interviews with recruitment professionals reported that after the implementation of the strategy, employers were now adopting a more open attitude to employing older workers: many employers now spoke highly of their older employees and often commented on their knowledge, expertise and experience, their ability as mentors, their work ethic and their stability.

There is little research evidence that banning mandatory retirement impacts upon the employment opportunities of younger people

One aim of this research was to test an often-advanced economic argument: that increasing the minimum permitted retirement age, or banning it altogether, impacts upon the job opportunities of younger people.

In fact, a range of reports by the OECD in Canada, Ireland, Japan and France show that there is no clear link between the employment levels of older workers and those of younger workers. In other words, there is no evidence to support the argument that banning mandatory retirement in the UK will increase unemployment among younger workers.

6.2 The recommendations of the OECD and the European Commission

The OECD is a membership organisation that brings together the governments of 30 countries around the world to allow them to compare policy experiences, seek answers to common problems, identify good practice and coordinate domestic and international policies. In a 2006 report¹⁰¹ OECD called for a comprehensive change in policy, as well as advocating cultural change to ensure workers remained in employment longer than they do currently. Although our report was not based upon the OECD's recommendations, the conclusions that we have drawn in Section 6.1 do add weight to many of the arguments presented in the OECD report.

The report suggested that an increase in participation rates of older workers could be achieved by a comprehensive, age-friendly approach, comprising specific legislation as well as promoting cultural change, making it more acceptable and easier for older workers to continue in employment. OECD called for governments, employers, trade unions and civil society organisations to come together to develop and implement change. OECD recommended:

- implementing reforms to update pension systems, in order to increase employment among older workers; this could be incorporated into larger-scale reforms designed to tackle population ageing in general;
- changing employer attitudes and practices by challenging common myths about older age and older workers.

A report at the same time by the European Commission also recommended similar changes. It pointed out the following issues as needing to be addressed by future reforms:¹⁰²

- increasing employment rates among older people;
- resolving the lack of employment opportunities available to older workers;
- addressing the fact that workers were still retiring prior to reaching SPA.

¹⁰¹ OECD (2006). *Live longer, work longer*.

¹⁰² European Commission (2006). *Adequate and sustainable pensions: promoting longer working lives through pension reforms*; European Commission (2007) *Flexibility in retirement age provision*.

References

This section is organised under the following categories:

- sources covering multiple countries;
- sources covering the European Union (EU) countries;
- sources covering individual case study countries:
 - Australia;
 - Canada;
 - France;
 - Ireland;
 - Japan;
 - New Zealand;
 - Sweden;
 - USA.

Sources covering multiple countries

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This research study, conducted by RS Consulting on behalf of the Department for Work and Pensions (DWP), was designed to examine existing, published evidence on international approaches to mandatory retirement. The research will be used to inform the Government's review of the Default Retirement Age (DRA), which is jointly led by DWP and the Department for Business, Innovation and Skills (BIS).

Eight country case studies were selected to represent a broad spectrum of approaches and a range of experiences of age legislation, including countries that have never had specific age legislation; countries that have had age legislation for longer than the UK; and countries that have increased the minimum permitted mandatory retirement age or banned it altogether. The overall aim is to provide useful lessons as to the impact of the different approaches on individuals, businesses and the economy.

If you would like to know more about DWP research, please contact:
Paul Noakes, Commercial Support and Knowledge Management Team,
3rd Floor, Caxton House, Tothill Street, London SW1H 9NA

<http://research.dwp.gov.uk/asd/asd5/rrs-index.asp>