

# Consultation Response

## Making work better

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This is Age UK's response to the Smith Institute's *Making Work Better Inquiry*. The inquiry aims to identify what can be done by different parties to improve job quality, and to help the UK move towards a high-skills, high-productivity, high-wage economy.

## Key points and recommendations

- To improve job quality, more must be done to tackle age discrimination in the workplace. This can be done through educating employers and managers to avoid discriminating and to challenge stereotypes; and by improving access to redress where people are treated illegally.
- Flexible working is important for many older workers and helps people balance personal responsibilities with work, as well as providing well-documented benefits for employers such as increased productivity.
- Many people have a positive experience of flexible working, and have successfully agreed with their employer to alter their working pattern. However, many people have also encountered difficulties, and have had requests rejected or been allowed to work flexibly but subsequently mistreated.
- Age UK believes all jobs should be 'flexible by default' by 2020, in particular to help ensure more workers are available to care for older relatives.
- Managers are often lacking in skills to manage older workers and action is needed to help raise management standards.
- Older workers need improved access to high quality training programmes, and the Government urgently needs to look at how funding can be changed to deliver improved outcomes.
- How people who are unemployed can access decent work is another important issue that needs considering as part of this inquiry. Older jobseekers are often disadvantaged in the labour market and action is needed to help the over 50s get back to work.
- The 'wage scarring' effects of unemployment are greatest for those aged 50+. After six months out of work, older workers suffer an 8 per cent reduction in future wages, which is higher than for any other age group.
- Older workers are at least as productive as younger workers, and if employers were to take additional steps, such as making reasonable adjustments to the workplace or offering genuinely flexible working, productivity among older workers is likely to be improved further.

## 1. Introduction

The increase in employment rates among older workers over the past few years is welcome but does not tell the full story of working life for the over 50s.

While more older workers than ever before are working longer, with many continuing to enjoy fulfilling careers and successfully balance their work and personal lives, there are many others who are consigned to the scrap heap, unable to fulfil their potential for a variety of reasons.

Perceptions and stereotypes of older workers – usually negative – are still firmly held, and challenging these is of great importance for individuals, employers and the Government.

Meanwhile, ensuring that older workers are not forced out of the labour market, and providing appropriate support to those who do find themselves unemployed, remains crucial if we are to avoid storing up social problems for the future.

Age UK believes that everyone should be able to remain in work as long as they desire and are capable of doing so, and that no-one should be disadvantaged because of their age. Tackling prejudice and discrimination is an essential part of making work better.

## 2. Improving work for older workers

Older workers are not a homogenous group, and it is not possible to draw inference of someone's ability or capability based on their age. There are, however, various challenges that are particularly relevant to workers aged 50 and above that impact upon life in the workplace and the quality of jobs.

Age UK broadly agrees that the factors outlined in the consultation document are relevant for whether a particular job could be considered 'good' or 'bad'. We would, however, add 'freedom from discrimination' and 'flexibility' to the list. See sections 2.1 and 2.2 respectively.

### ***2.1 Tackling age discrimination***

Age discrimination has been illegal since the introduction of the Employment Equality (age) Regulations 2006, which were subsequently transposed into the Equality Act 2010.

Discrimination is necessarily disadvantageous to the individual, and being exposed to it is likely to compromise job quality.

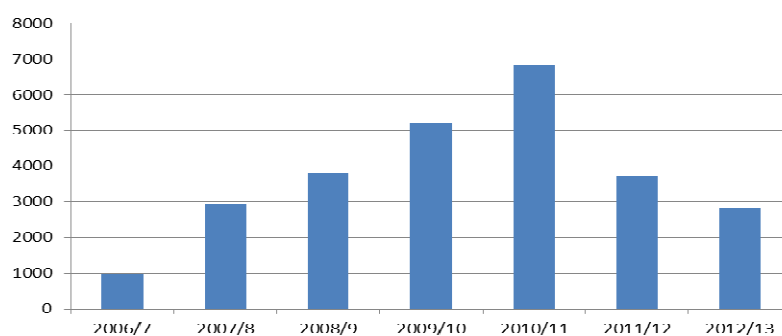
Age discrimination can, however, be objectively justified by the employer. So although this is difficult to do and should happen only rarely, is not certain to be illegal – the employer's interest can effectively be deemed to outweigh that of the employee in some circumstances.

Statistics from the Employment Tribunal Service shows the number of age discrimination claims accepted each year, shown in Figure 1. This peaked in 2010-11, before falling off following the abolition of the Default Retirement Age (DRA) in 2011 because many claims arose from procedural breaches of the DRA.

In addition, the early indications are that the changes made to the Employment Tribunal system in July 2014, most notably the introduction of fees, are preventing many people from seeking redress as a result of illegal behaviour.

The number of age discrimination claims accepted in the October-December quarter fell from 673 in 2012 to 248 in 2013, a fall of 63%, that mirrors the general decline across all jurisdictions.

**Figure 1, Age discrimination claims accepted 2006/7 to 2012/13**



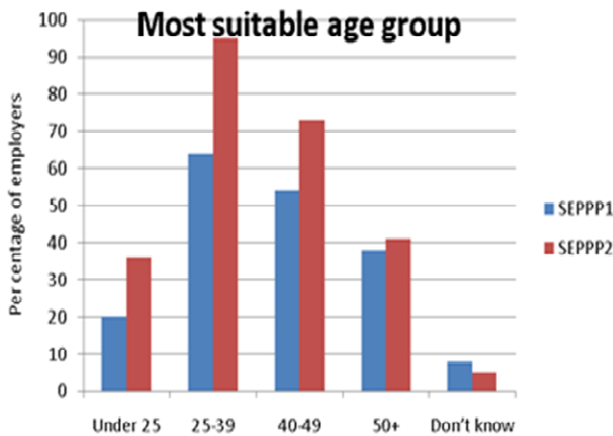
However, in spite of it usually being illegal, age discrimination is rife in workplaces across the country. 40 per cent of workers aged 50+ believe they have been discriminated against because of their age.<sup>1</sup> Those who are actively seeking redress through the Tribunal system therefore represent a tiny proportion of all discrimination.

There is evidence that employer policies and practice became more age-friendly between the introduction of the Age Regulations in 2006 and the end of the DRA, as shown by the two Government surveys of employers' policies, practices and preferences relating to age (SEPPP1<sup>2</sup>, conducted in 2006, and SEPPP2<sup>3</sup> conducted in 2010). This development is explored in more detail in Age UK's briefing, *The impact of the age regulations five years on*.<sup>4</sup>

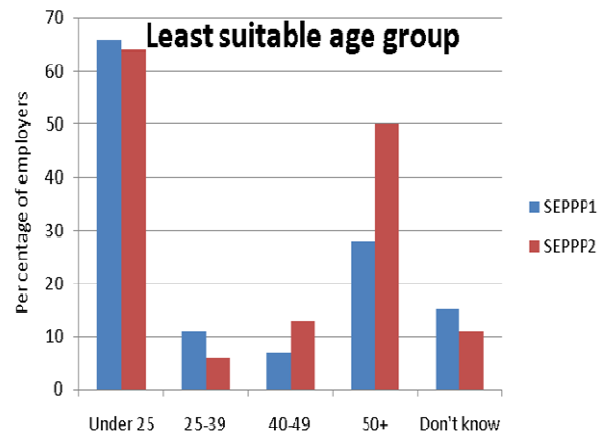
However, employer attitudes showed no sign of improving over this period. Figures 2 and 3 show that, among employers who admit to having preferred or less preferred age groups of employees, older workers consistently come out less favourably (as do younger workers).

Most worryingly for older workers, the proportion of employers who believe they are the least suitable has nearly doubled between 2006 and 2010, demonstrating there is much work needing to be done to help educate employers about the business case for employing people aged 50+.

**Figure 2, Employer views on most suitable age group for main occupational role**



**Figure 3, Employer views on least suitable age group for main occupational role**



Such discrimination can have a substantial negative effect on individuals' work and personal lives, sometimes leaving people financially worse off, as well as seriously compromising job quality.

Discrimination can be tackled through public awareness campaigns to address stereotypes, and providing training on how to manage unconscious bias.

## 2.2 Flexible working

We consider flexible working to be a concept and a tool with which to manage operational and workforce need. In addition, to be truly flexible, arrangements should be negotiated and implemented with the willing agreement of the employee (rather than imposed by the employer).

Older workers need access to flexible working for various reasons, for example to care for relatives or to wind down to retirement. The proportion of older workers utilising flexible arrangements has risen from the mid-2000s, in spite of a slight decline between 2010-12, see figure 4.

**Figure 4, proportion of people aged 50+ working flexibly, 2005-12<sup>5</sup>**



Mutually agreed flexible working is beneficial for individuals as it allows people to balance their work with personal responsibilities. It is also beneficial for employers, because it encourages employees to be more productive and loyal.

Many older workers do have access to genuine opportunities to work flexibly, and have had a positive experience of arranging this with their employer. People almost always find it to be an important workplace benefit. Age UK's research has found that, for example:

*"The company knows you are reliable and trusty, you never let them down, and you are sincere about your work and they appreciate these sort of people, and if they need any help or anything they are willing to help you, you know?"*

*"For the whole staff he likes them to have this workload that they can deal with and it's the way we look at it in our company that if you have problems... he will review it and he will talk to us about it. He is a good guy like that. He knows that to get the best out of the workforce they've got to be happy where they are."*

Where flexible working requests can not be agreed because of business reasons, older workers are generally understanding and happy to compromise.

However, there are also many instances of employers forcing 'flexibility' on their employees. Flexible working is often at the employer's discretion and used primarily as a workforce management tool, paying little regard to the individuals' needs. Employers are often likely to consider 'flexible working' differently from employees, hence much of the public debate around 'workforce flexibility' is really a euphemism for reducing employment rights.

*"[In this industry] flexibility tends to be governed by the workforce [requirements] rather than by the needs of the individuals. So it tends to be very one-sided. In other words they want the flexibility to move people around departments and change their work hours if it suits them."*

This is illustrated in a survey conducted by the telecommunications firm O2 in 2013, which found that 77 per cent of employers said they actively encouraged flexible working but only 19 per cent of employees agreed.<sup>6</sup>

Age UK's research has uncovered many instances of employers mis-using flexible working. Examples include:

*"Calling in sick is one thing, they don't seem so worried. Refusing to work a shift would be the wrong thing to do, absolutely wrong. Refuse a shift and they take you off the rota for two months to teach you. Flexibility is for them, only."*

For further detail on flexible working and how it can help improve work for older workers see our report 'A means to many ends: older workers' experiences of flexible working' is available on our website.<sup>7</sup>

Recent Age UK analysis found that the proportion of people working flexibly actually fell between 2010 and 2012 – if this trend continues it must be investigated and additional measures taken to correct any problems identified.<sup>8</sup>

An additional factor to consider is the ‘family care gap’, as identified by the Institute for Public Policy Research<sup>9</sup>. By 2017 there will be more people needing care than the number of adult children able to provide it. This additional strain on relatives’ time and resources emphasises the importance of ensuring that everyone has access to flexible working.

It emphasises the importance of Age UK’s headline policy aim – that all jobs should be ‘flexible by default’ by 2020. This means that employees could assume they can work flexibly unless the employer can justify otherwise, using the existing business reasons for rejecting requests for flexibility. We believe this would change attitudes towards flexible work.

### **2.3 Productivity**

Age UK recently conducted a literature review of age and productivity, which found that in spite of the common stereotype, older workers are at least as productive as their younger colleagues. This is available on the Age UK website.<sup>10</sup>

It also raised the question of what would happen to productivity if older workers had equal opportunities and were treated fairly. For example, with appropriate workplace adjustments made to offset health conditions, and no longer being subjected to age discrimination or poor management, older workers’ productivity could be increased still further.

As described earlier in this response, initiatives like offering flexible working and age management can help improve productivity.

Other issues, for example making reasonable adjustments can also be helpful. At one of their Bavarian factories, BMW staffed a production line with only over 45s and made some minor adjustments to the workplace, for example providing stools to sit on between tasks, and adjusting the lighting. At the end of the first year, productivity had increased by seven per cent and was equal to the factory average.<sup>xi</sup>

It is simply common sense to suggest that if someone is experiencing a decline in vision, for example, then providing a more appropriate computer screen will enable them to work more effectively.

In addition, making such workplace adjustments not only has a benefit for older workers, but has “major spillover effects on the productivity of young employees” making such measures a good investment all round.<sup>xii</sup> This is reinforced by more recent research.<sup>xiii</sup>

A further strategy that can be used to raise productivity of older workers (and younger workers too) is employing a mixed-age workforce.

The best known study was commissioned by McDonalds, who found that customer satisfaction rates (which, according to the University of Lancaster, directly drive the bottom line in such a service-led industry) were 20 per cent higher in restaurants that employed workers aged over 60 than in those which didn’t employ anyone aged over 50.<sup>xiv</sup> The thrust of this finding is borne out by other studies.

## **2.4 Age management**

Good management, at both organisational and line manager levels, is important for ensuring that older workers can fulfil their potential and ambitions in work.

Organisation level age-friendly management policies have improved since 2006,<sup>xv</sup> but there is still significant improvement needed, for example in 2010 about 40 per cent of employers still asked for age during the recruitment process – down from about 70 per cent in 2006 but nonetheless still significant.

This is in spite of most employers recognising that there are benefits from employing older workers.<sup>xvi</sup>

Line managers are in the vanguard of change, and their views are crucial. They can often be the difference between, for example, older workers being allowed to attend a training course or not; or between being pressured to retire or given a new role within an organisation.

Improving managerial skills remains an important issue, and helping managers avoid treating their older staff unfavourably would help improve the quality of work, as well as benefitting the employer.

There are several guides on how to manage older workers more effectively, for example *Managing age* published by the Trades Union Congress and the CIPD, but these are not well publicised among managers.

## **2.5 Self-employment**

Older workers are more likely to be self-employed than other age groups – one third of people working past SPA are self-employed compared to 13 per cent of those under SPA<sup>xvii</sup>.

The recent research by the Resolution Foundation provided some detail on the nature of self-employment, and also raised the ageing workforce as one of the key issues. The over 50s make up the bulk of the recent rise in self-employment, although this is partly because of the ageing workforce as well as the higher propensity for older workers to work for themselves. The proportion of total self-employment that held by people aged 50 and over rose from 38 per cent in 2005 to 42 per cent in 2013.<sup>xviii</sup>

It identifies the rise in self-employment as being partly due to structural changes in the economy, and partly because of the economic climate driving people to self-employment.

The lack of pension saving by self-employed workers of all ages also warrants attention.



## **2.6 Access to training**

As the State Pension age rises and people work for longer, keeping skills and knowledge up to date will become increasingly important for older workers. However, older workers are less likely to receive training than younger employees.

Following the end of the Train to Gain programme in 2010, there is little publicly funded training available for older workers who have pre-existing Level two qualifications. Government investment in apprenticeships, which is to be applauded, has allowed many older workers to access high quality training, but this is not sufficient as the sole means of updating technical skills at a population level.

The 24+ Advanced Learning Loans have failed to generate demand for learning among the over 50s.

How training and learning are funded is an issue of huge significance for individuals, employers and the Government. Making sure everyone has access to good quality provision is directly related to improving job quality.

We recommend that this inquiry looks into how to engage employees of all ages, in particular those with lower level or no qualifications, in high quality and meaningful training.

## **2.7 Dignity**

The Supreme Court ruling in *Seldon v. Clarkson, Wright and Jakes*<sup>xix</sup>, highlighted the concept of dignity in work. It dismissed the argument that forced retirement preserved the dignity of older workers as it avoided the need to dismiss them on grounds of incapacity or underperformance, as often contended by business groups and ruled accordingly in the prior judgement by the Court of Appeal.

It stated that this objective “looks suspiciously like stereotyping” (Para 57). While the Court accepted that the European Court has “held the avoidance of unseemly debates about capacity is capable of being a legitimate aim ... the focus must turn to whether it is a legitimate aim in the particular circumstances of the case” (Para 58).

Maintaining dignity in work and retirement is an important issue for many older workers, and can only be achieved through the avoidance of discrimination and not making assumptions about people’s capabilities or future ambitions.

## **2.8 Unemployment and redundancy**

Unemployed people aged over 50 often find it very difficult to return to work. While this may not be the main focus of this inquiry, helping older jobseekers access good quality employment is nonetheless an important issue that needs to be considered alongside broader concerns about job quality.

Once out of work, older workers typically suffer from longer spells of unemployment than do younger workers.<sup>xx</sup> There are various barriers, for example age

discrimination, outdated qualifications, and inappropriate back-to-work support, that hinder efforts to return to work.

We believe that any attempts to improve job quality must also include the recruitment phase, and ensure that disadvantaged groups in the labour market have equal access to vacancies.

This includes ensuring that Work Programme providers increase their efforts to provide good quality jobs for their older clients – UK analysis of the Work Programme found that the under 55s are nearly twice as likely to find a sustainable job than are the over 55s. We believe changes should be made to the payment groups to ensure providers receive adequate funding for supporting their older clients, and that best practice specific to older jobseekers should be identified and promoted among providers.

Later this summer Age UK will publish research, undertaken by the Centre for Economic and Social Inclusion, looking in more detail at the support on offer to older jobseekers, as well as the experiences of the long-term unemployed in looking for work.

Age UK analysis of the Labour Force Survey conducted in 2012 showed that older workers were slightly more likely to be made redundant than 25-49 year olds.<sup>xxi</sup> 6.6 people aged over 50 were laid off for every thousand in work in the previous three months. This compares with 5.1 workers aged 35-49 and 5.2 aged between 25 and 34. It should be noted that it is not clear whether redundancies are voluntary or compulsory.

In addition, only 23 per cent of those made redundant were back in work within three months, compared to 36.2 per cent of 35-49s and 38.8 per cent of 25-34s<sup>xxii</sup>. The longer term 'wage scarring' effects incurred by an older worker being unemployed for six months are estimated as an 8 per cent reduction in future wages, which is higher than for any other age group.<sup>xxiii</sup>

The implied message here is that because the cost of losing your job is much greater for people aged 50+ than for younger people, job security is even more important for older workers.

Reductions in employment protection, while showing no evidence of improving the prospects of finding work for the unemployed,<sup>xxiv</sup> have made work less secure – in particular for lower paid employees.

We believe that as job security is regularly identified as an indicator of 'good work' and the consequences of being out of work are so great, such moves have a direct effect on how older workers perceive their employment.

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- <sup>1</sup> CIPD/CMI (2010), Managing an ageing workforce
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- <sup>5</sup> Age UK analysis based on the Labour Force Survey. See Age UK (2012), A means to many ends: older workers' experiences of flexible working for more details on the definition of flexible working
- <sup>6</sup> <http://news.o2.co.uk/?press-release=businesses-missing-out-on-the-benefits-of-modern-workforce>
- <sup>7</sup> [http://www.ageuk.org.uk/PageFiles/12808/A%20means%20to%20many%20ends%20-%20older%20workers'%20experiences%20of%20flexible%20working%20\(Sept%202012\).pdf?dtrk=true](http://www.ageuk.org.uk/PageFiles/12808/A%20means%20to%20many%20ends%20-%20older%20workers'%20experiences%20of%20flexible%20working%20(Sept%202012).pdf?dtrk=true)
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- <sup>xi</sup> See <http://ageingininnovators.org/2013/04/11/bmw-heute-fur-morgen-today-for-tomorrow/>
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- <sup>xvii</sup> ONS (2012), Older workers in the labour market
- <sup>xviii</sup> Resolution Foundation (2014), Just the job or a working compromise? The changing nature of self-employment in the UK
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- <sup>xxii</sup> Also Age UK analysis of the Labour Force Survey, available at <http://www.ageuk.org.uk/latest-press/archive/older-workers-at-high-redundancy-risk/>
- <sup>xxiii</sup> Policy Exchange (2012), Too much to lose: Understanding and supporting Britain's older workers
- <sup>xxiv</sup> Aleksynka M (2014), Deregulating labour markets: How robust is the analysis of recent IMF working papers? International Labour Organisation