

# Ageism and age discrimination

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## Introduction

This book is about the diversity of older people and the discrimination that results. Older people are often stereotyped according to their age. Age stereotyping is concerned with associating certain characteristics, or the lack of them, with certain ages. It in effect homogenises the particular age group as being all the same, rather than recognising any diversity within that age group (Robinson, Gustafson and Popovich 2008). There is an impression that older people share certain attributes, patterns of behaviour, appearances and beliefs (Ward *et al.* 2008). This stereotyping according to age is not restricted to older people of course and can apply to all ages and age groups. Here is a useful quote that illustrates how the issue of age pervades many aspects of the life course:

Our lives are defined by ageing: the ages at which we can learn to drive, vote, have sex, buy a house, or retire, get a pension, travel by bus for free. More subtle are the implicit boundaries that curtail our lives: the ‘safe’ age to have children, the ‘experience’ needed to fill the boss’s role, the physical strength needed for some jobs. Society is continually making judgments about when you are too old for something – and when you are too old.

(Age Concern 2005)

This book is concerned with the effect on older people of age discrimination and ageism and how age relates to other diverse characteristics to create the potential for multiple discrimination.

## Ageism

Age discrimination is a manifestation of ageism. This latter term, said to have been first used by Robert Butler MD in 1969, concerns the adoption of negative stereotypes of older people and the ageing process. Butler’s

short article was about the strongly negative reaction of white affluent middle-class residents to a proposal for a public housing project for the 'elderly poor' in their district. He described ageism as 'prejudice by one age group against other age groups'. Although he highlighted the issue of ageism, the events that he described were a mixture of prejudice based upon race and class as well as age. Interestingly, he described the age prejudice that was revealed as 'a deep seated uneasiness on the part of the young and middle aged – a personal revulsion to and distaste for growing old, disease, disability; and fear of powerlessness, "uselessness" and death'. There is, however, little evidence generally that societal prejudice against the old is a result of such animosity. Butler was writing at a time, in the USA, when the Age Discrimination in Employment Act 1967 had recently been adopted. In fact a report to Congress entitled *The Older American Worker–Age Discrimination in Employment* in June 1965 stated that 'We find no significant evidence of . . . the kind of dislike or intolerance that sometimes exists in the case of race, color, religion, or national origin, and which is based on considerations entirely unrelated to ability to perform a job.' Professor MacNicol (2006) has further described ageism as the 'application of assumed age-based group characteristics to an individual, regardless of the individual's actual characteristics'. The application of stereotypical images is something that is prevalent in society. Stereotyping refers 'to a set of assumptions held about an individual or situation based on previous experience or cultural norms. Once a stereotype is applied to an individual, it is assumed that they will behave in a certain way, in line with a fixed general idea or set of associated images' (Rake and Lewis 2009). There have been ample studies which illustrate the stereotypical images of older people such as those by Taylor and Walker (1994) and McGregor (2002). These studies illustrate how employers, for example, can hold views about older and younger workers which can influence career decisions affecting those workers. So younger workers are perhaps more IT friendly, more dynamic and enthusiastic, whilst older workers might be seen as more reliable but also more conservative. Many of the stereotypes of older people are negative ones and studies have shown how the media perpetuates these images. One study identified eight negative stereotypes used in the media (Schmidt and Boland 1986). These were those who were (1) eccentrics; (2) curmudgeons (grouchy, angry, uncooperative, nosey/peeping toms); (3) objects of ridicule or the brunt of the joke; (4) unattractive; (5) overly affectionate or sentimental; (6) out of touch with current/modern society; (7) overly conservative; and (8) afflicted

(physically or mentally deficient). A later study (Sargeant 2008) of the national press in the UK found mostly negative stories about older people, which were about elderly criminals, elderly victims, elderly incompetence, eccentric behaviour, older people with animals, older people as record breakers and couples with a significant age difference.

It is not difficult to see how these perceptions lead to negative or less favourable treatment. Stereotypes are, by their nature, untrue. This is because they apply an image or allocate an attribute to a whole class of people but on an individual basis. Thus a statement that says that older people have problems with IT, for example, is actually saying that each individual older person has problems with IT. This is self-evidently not true. It is therefore the purpose of this book to identify the diversity of the older population and perhaps to present an argument that the current approach to age discrimination and ageism is inadequate.

Age discrimination

Age discrimination is widespread within the European Union. This is illustrated in a Eurobarometer survey of opinion in the twenty-seven EU Member States and three candidate countries.<sup>1</sup> One of the questions asked was:

In our country, when a company wants to hire someone and has the choice between two candidates with equal skills and qualifications, which of the following criteria may, in your opinion, put one candidate at a disadvantage?

The responses included the following:

- The candidate's age 48%
- The candidate's skin colour or ethnic origin 48%
- A disability 37%
- The expression of religious belief (e.g. wearing a visible religious symbol) 22%
- The candidate's gender 19%
- The candidate's sexual orientation 18%

The same survey stated that 58% of respondents perceived age discrimination to be widespread (16% very widespread, 42% fairly widespread)

<sup>1</sup> Discrimination in the EU: a special Eurobarometer report 317 (2009), European Commission, [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_317\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_en.pdf).

compared to 37% who believed it to be rare (10% very rare, 27% fairly rare). The majority view in all but six countries (Turkey, Ireland, Luxembourg, Denmark, Malta and Germany) was that it was widespread. Hungary had the most respondents agreeing, with 79% saying that age discrimination was widespread in their country. This was followed by the Czech Republic (74%), France (68%), Latvia (67%) and the Netherlands (66%).

In the USA also, after more than forty years since legislation on age was adopted (Age Discrimination in Employment Act 1967), the Equal Employment Opportunity Commission received almost 23,000 complaints about age discrimination in employment in 2009.<sup>2</sup> Other studies have shown that such age discrimination is still widely perceived as taking place (Neumark 2008).<sup>3</sup>

Of the 20 million people aged 50 or over in Great Britain, almost 9 million are aged between 50 and the State Pension Age (SPA).<sup>4</sup> The proportion of older workers in work has been increasing for some years. For example, in the second quarter of 1999, some 66.5% of the workforce between the ages of 50 and SPA and some 7.9% of those at SPA or above were in employment; by the second quarter of 2010 these figures had increased to 71.2% and 12.2%.

A UK Government consultation on age discrimination in employment (*Towards Equality and Diversity* 2003) confirmed how widespread was discrimination based upon age. Some 50% of respondents either had suffered age discrimination at work or had witnessed others suffering such discrimination. This discrimination took a variety of forms, such as being forced to retire at a certain age (22%), not being given a job they applied for (18%), being prevented from attending training courses (17%), being told age was a barrier to general advancement (17%), assumptions being made about abilities due to age (15%) and being selected for redundancy because of age (13%). Older workers were less likely to be in paid work than younger groups and when they did work they were more likely to be working as self-employed or part-time.

It also stated that there was a greater risk of becoming economically inactive beyond the ages of 50 and 55 years; and that the chances of men

<sup>2</sup> See [www.eeoc.gov](http://www.eeoc.gov).

<sup>3</sup> Neumark (2002) cites a survey in which two thirds of respondents felt that age discrimination in the workplace did exist.

<sup>4</sup> This, in 2010, was 60 years for women and 65 for men; the two retirement ages are to be equalised over the ten years up to 2020.

Table 1.1 *Percentage of unemployed out of work for twelve months or more*

Age	18–24	25–49	50 and over
2008	19.9	28.8	37.6
2009	19.9	23.9	30.3
2010	25.5	36.8	43.3

leaving inactivity for paid work were sharply reduced after the age of 50 and ‘were close to zero for those over 60’. For women the chances of moving out of inactivity were much reduced after the age of 40 and were ‘particularly uncommon for those in their late 50s’ (*Characteristics of Older Workers* 1998). Table 1.1 shows figures for long-term unemployment available from the UK Office for National Statistics.<sup>5</sup>

Younger age groups suffered during the years 2008–10 but the rate for older workers has been consistently high.

Older workers are more likely to be working part-time or in some form of flexible working. The likelihood of part-time working increases with age, so that, for example, whilst 13.4% of the 45–54-year-old population in the UK work part-time, some 22% of those 55 or over work part-time. The older a worker becomes, the more likely he or she is to be self-employed and to work part-time. He or she is less likely to be in a permanent job and will, on average, earn a lower gross hourly wage than younger age groups. The relationship with age is even more pronounced when one breaks down the figures for those aged 50+ into five-year age groups; for example, 20.2% of men aged between 50 and 54 are self-employed. This increases to 22.7% for those aged 55–60; 27.9% for those aged between 60 and 64; and 40.8% between 65 and 69.

Ageing populations

This issue is important because it can affect an increasing proportion of the population. The United Nations Report on *World Population Ageing* (2009) commented that population ageing is unprecedented, pervasive, profound and enduring. It is unprecedented because the increase in the

<sup>5</sup> [www.statistics.gov.uk](http://www.statistics.gov.uk); Labour Market Statistics, August 2010. The figures presented are for the period April to June in each year.

Table 1.2 *Percentage of population aged 60 and over, 65 and over, 80 and over, by region and sex (UN Report on World Population Ageing, 2009).*

Region	60+			65+			80+		
	Total	M	F	Total	M	F	Total	M	F
World	10.8	9.7	11.9	7.5	6.6	8.4	1.5	1.1	1.9
Africa	5.3	4.9	5.8	3.4	3.1	3.7	0.4	0.3	0.5
Asia	9.7	9.0	10.5	6.6	5.9	7.2	1.1	0.9	1.3
Europe	21.6	18.5	24.5	16.2	13.2	18.9	4.1	2.7	5.4
Latin America and Caribbean	9.8	8.9	10.6	6.8	6.0	7.5	1.4	1.1	1.7
Northern America	18.0	16.2	19.7	12.9	11.2	14.5	3.8	2.8	4.8
Oceania	15.1	14.1	16.0	10.6	9.7	11.6	2.8	2.2	3.5

population over the age of 60 accompanied by reductions in the proportion of those under 15 is ‘without parallel in the history of humanity’. By 2045 the number of older persons in the world is expected to exceed the number of children for the first time. It is pervasive because it affects nearly every country in the world. It is profound because it will have major consequences for all aspects of human life. Lastly it is enduring because it is a process that has been continuing since the nineteenth century in the developed world. As fertility levels are unlikely to rise again to the high levels seen in the past, the report forecasts that population ageing is irreversible. The pace of change is greatest in the developed countries, but the change is happening everywhere. It is illustrated by the increase in the median age of the world’s population. According to the UN report the median age<sup>6</sup> for the world’s population is 28 years. The country with the youngest median age is Niger at 15 years; the oldest is Japan with a median age of 44 years. By 2050 the world’s median age is expected to increase by ten years. It will only remain below 25 in nine countries, most of which are African; the oldest population will be in Japan, which is projected to have a median age of over 55 years (see Table 1.2).

It is noticeable how much ‘older’ Europe and Northern America are, when compared to other parts of the world. Oceania follows closely, but this is because Australia and New Zealand have a much older population

<sup>6</sup> Defined as the age when half the population is below it and half above.

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than the rest of the region, so the figures appear much higher than they would be without these countries.

The reasons for the change are, of course, a combination of a declining fertility rate and a lengthening of people's life spans. In the EU, for example, the total fertility rate (i.e. the average number of children per woman) has declined from 2.64 in 1960/64 to 1.50 in 2005 (Europe's Demographic Future 2007). In numerical terms this means, for example, that there were 5.1 million children born in the twenty-seven Member States of the EU in 2005 compared to 7.6 million forty years earlier in 1965 (*Demography Report 2008* 2009). In terms of living longer, the figures are equally clear. In the USA, for example, a person reaching the age of 65 had an average life expectancy of an additional 18.6 years<sup>7</sup> (19.8 years for women and 17.1 years for men). A child born in 2007 could expect therefore to live for about thirty years longer than a child born in 1900 (*A Profile of Older Americans* 2009).

Such a structural change in the demographic makeup of the world's population has consequences. There are many more older people in work, or who wish to work. Retirement ages devised to meet the needs of a different demography become less relevant. There are additional strains on the resources necessary to fund pensions, health care and social care, some of which are illustrated in this book. Mostly, however, there needs to be a new attitude towards age and the older population. Older people need to be given equal treatment with those of other ages. This means the tackling of age discrimination. Below, we consider further what this means in practice.

### Framework for diversity

Age is a characteristic that, if we are fortunate, will come to each of us. The result of this ageing process is not a uniform greying population who share the same identity and appearance. The older population is as diverse as any other age group within the population. It will consist of people from different ethnic backgrounds, different genders, and so on. Age is an extra dimension to the scope of discrimination that people may suffer. It is often the combination of age with another apparent disadvantage that may multiply the discrimination suffered. One study (Tackey *et al.* 2006), for example, highlighted the exceptional difficulties suffered by older Pakistani and Bangladeshi men:

<sup>7</sup> Figure is for 2007.

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Looking first at personal characteristics, it was evident that age represented a significant barrier to work, especially for men in their 40s and 50s. It is striking that at the age where most people of working age in Britain are at the height of their productive capability, a large number of Pakistani and Bangladeshi men had stopped working altogether. Age was linked directly with people's health, and Pakistani and Bangladeshi men were likely to suffer multiple health problems, which also prevented them from working. Age also excluded older men from new forms of skilled employment, particularly because the only skills they possessed were limited, outdated and no longer relevant to the changed industrial economy of Britain.

The Law Commission of Ontario has produced a study called 'Theoretical and economic approaches to understanding ageism' (Spencer 2009). It states that most discussion of ageism has come from the sociological, psychological and gerontological fields. This diversity is reflected in this book. It is perhaps difficult, if not impossible, therefore to devise a theoretical approach that satisfies all these disciplines. The study suggests that there are a number of ways of looking at ageism. It might be an issue specifically related to old age or it might be looked at as having its roots in earlier life when society's perceptions add 'layers creating disadvantage or special burdens'.

The Ontario study examined a number of different theoretical approaches, including feminist legal theory and a disability related theory. The feminist approach might state that a woman's subordination in law results from an assumption that the male adult is the norm and women represent a deviation from that norm. Using a similar approach, one might speculate that the younger adult is the norm and that the lesser regard for the elderly results from their being a deviation from that norm. If, for example, one were to postulate that, in age terms, the ideal employee/customer was an adult aged between 30 and 35, then one can equally postulate that the further an individual strays from this age norm, in either direction, the more likely it is that the individual will suffer detriment. In this approach it is the oldest and the youngest who will suffer most disadvantage, as, for example, in the employment field.

One might then build on this 'ideal age' model by also considering issues related to disability. According to the Law Commission of Ontario's analysis, 'people in the disability community have actively resisted efforts by gerontologists or other to suggest that there may be certain shared interests'. If this is correct, then it is an error. There is a very close link between disability and age which suggests that the approach taken in tackling disability discrimination may be of use

Table 1.3 *Percentage of disabled people for age groups (UK)*

Age group	Percentage of population disabled	Numbers (000s)
16–24	9.7	668
25–34	12.4	850
35–49	34.2	2,353
50–59/64	43.7	3,001
All	100.00	6,871

when considering age discrimination. In all, some 10.8% of the population of Great Britain, for example, have a disability or limiting long-standing illness.<sup>8</sup> Over 60% of these are aged 55+ and over 40% are aged 65+. This is of particular interest when one discusses issues related to mandatory retirement ages, as it is likely that many older workers will suffer both age and disability discrimination.

Almost 80% of disabled people of working age in the United Kingdom are over the age of 35, including some 43.7% of all disabled people of working age<sup>9</sup> who are over 50 years of age. The chances of becoming a disabled worker therefore increase with age (Table 1.3).

Part of the explanation for this is that health problems associated with ageing itself account for a higher proportion of disabled at older ages. It is likely to be independent of social and economic circumstances to a greater extent than the main causes of disability at younger ages. At younger ages, although many fewer people become disabled overall, nearly one quarter are the result of accidents (Burchardt 2003).

In the USA, over 51 million people are reported to have some level of disability (some 18% of the population) and over 32 million are reported to have a severe disability (12% of the population). The link with age is clear, as the same statistics reveal that some 72% of those over the age of 80 have a disability.<sup>10</sup>

The closeness of age and disability as issues is perhaps further illustrated when considering the medical and social models of disability. The

<sup>8</sup> These and subsequent figures, unless otherwise stated, are taken from *Disability Briefing May 2007*, published by the Disability Rights Commission, now absorbed into the Equality and Human Rights Commission.  
<sup>9</sup> Up to 60 years of age for many women and 65 for men.  
<sup>10</sup> See Disability History in America, <http://disabilityhistoryinamerica.wetpaint.com/page/Disability+Statistics+In+America>.

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medical model focuses on the individual and postulates that an individual's inability to work or participate in society is a result of the disability. The individual has an impairment which needs to be paid attention to. In a sense, the problem is the disability and the person who has the disability. It is for the individual to adapt to society's norms. The social model, on the other hand, treats disability as a loss of opportunity to participate in society and work. The problem is not the individual but society. Barriers exist in society which stop people with a disability from fully participating. These barriers can relate to the inaccessibility of the physical environment such as buildings or to the stereotypical attitudes of society about disabled people.

It is possible to apply these models to old age and perhaps build a model which focuses on the limitations of older people (resulting, as with disability, from stereotypical attitudes) in contrast to one which focuses on the barriers that society puts in the way of older people which are similar to those in the disability social model. In such a scenario, a compulsory retirement age becomes a barrier to participation in the workforce imposed by society. One can take this analogy further and argue, because of the close link between age and disability, that there should be an element of positive discrimination such as that of providing a duty of reasonable accommodation to older workers, in the same way as such a duty is owed to the disabled (Sargeant 2005). One of the reasons why one might do this is because of the fear of employers that older recruits will become disabled.

### Regulation

When considering the regulation of age discrimination, it is clear that age is often treated differently, and more negatively, than the other grounds of unlawful discrimination, such as sex, race and disability. Advocate General Mazák stated in the Age Concern case at the European Court of Justice,<sup>11</sup> that 'the possibilities of justifying differences of treatment based on age are more extensive'. Essentially more exceptions to the principle of equal treatment are allowed in respect of age. The requirements of the labour market, for example, may take precedence over the rights of older workers. An illustration of this is Advocate General Geelhoed's statement in *Sonia Chacon Navas*<sup>12</sup> that

<sup>11</sup> Case C-388/07, *The Incorporated Trustees of the National Council on Ageing (Age Concern England) v. Secretary of State for Business, Enterprise and Regulatory Reform*.

<sup>12</sup> Case C-13/05, *Sonia Chacon Navas v. Eures Colectividades SA*.