



**Elaine Dewhurst,
Gary Lynch-Wood,
Sheena Johnson
and David Horton**

Compulsory Retirement: An Interdisciplinary Perspective

University of Manchester /
University of Liverpool
Project on Ageing and
Retirement

Overview

- Overview of Project
- Overview of Thematic Results

Overview of Project



Study Overview

- Greater Manchester Area
- Interviews with law firms and retail firms on compulsory retirement practices
- Methodology:
 - **Doctrinal analysis:** of legal provisions and academic literature.
 - **7 semi-structured interviews:** 4 legal firms and 3 retailers in the Greater Manchester area.



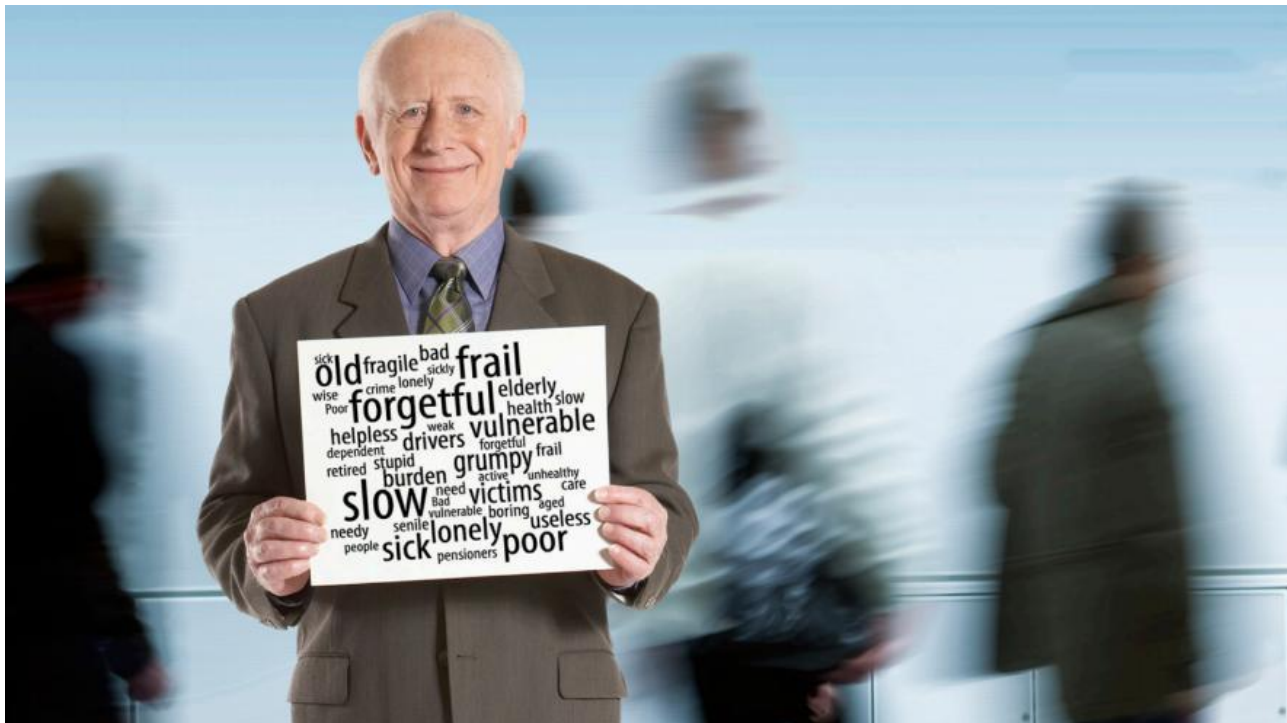
Research Questions

- How do the existing legal norms on compulsory retirement operate in the UK and how are they being implemented?
- What organisational responses arise from the operation of these norms, do organisational responses differ, and how do they differ?
- What are the attitudes of senior management / workers to such norms?

Results: Common Themes and Organisational Differences



Theme 1: Perceptions of Older Workers



sick old fragile bad frail
wise poor crime lonely sickly elderly health slow
helpless drivers forgetful vulnerable
dependent stupid grumpy frail
retired burden need active unhealthy care
slow victims aged
needy senile lonely useless
people sick pensioners poor

Let's hire a pilot...



A



B



C

Positive Perceptions of Older Workers



Negative Perceptions of Older Workers



- “with a few exceptions, it is impossible to generalise about older employees. Their individual differences are at least as great as those of any other age group...they include the wise and the foolish, the bitter and the cheerful, the dedicated and the clock-watchers, the slipshod and the careful workers” (Hagen, 1983)



Common Theme

- Overall perception was negative
 - **Costly:** “financial disadvantage”
 - **Poor performers:** could not “do the same number of hours”
 - **Lacking in enthusiasm:** don’t have “the same enthusiasm”
 - **Lack of ability to adapt and change:** “We have partners who have always [done] things in a particular way which aren’t now relevant”
 - **Inflexible:** “One of the difficulties is that a lot of them are full-time and a lot of them do the hours that don’t suit the shopping patterns of our customers”

Common Theme

- Some positive perceptions:
 - **High level of experience:** *“We’ve got people who have sustainable skills and practices. I think that rather than the past thinking “they will begin to naturally wind down”, I think because of our American influence now, begin to think how long they extend their practice, to continue to extract benefit from it”*
 - **Improved customer service:** *“Some of our best people here, because it’s all generated around service and how they interact with customers, some of our best people will be in the bracket of being 50+.”*

Organisational Differences?

- None
- Both retail and legal firms had similar perceptions of older workers



Theme 2: Impact of Default Retirement Age Abolition



Legal Position

- Default Retirement age abolished in 2009
- Equality Act 2010: direct discrimination on grounds of age can be justified by reference to legitimate aims which are proportionate
- *Seldon v Clarkson, Wright and James* (2009-2014)
 - Dead men's shoes aims
 - Collegiality aims



Common Themes

- **More difficult to manage**
- **Potential for age discrimination claims:** *“I think the age legislation has made people scared of talking about age, especially if you’re knowledge of it is a bit woolly”*
- **Law more favourable to employee:** Law has been *“resolved too much in favour of the employee than is has the firm and the client”*

Common Themes

- **Alternatives, such as severance payments, performance management or redundancy were becoming more prevalent.**
- *if the organisation was going “through some form of rationalisation where redundancies were an issue I think we would look at it and possibly discuss with the older generation category that they’re at risk. I suspect we would look at it. It would be difficult legally I suspect to find a way to say “you’re better off doing one or the other because you’re going to retire” but a discussion would ensue.*
- *“It has to be on performance. Psychologically and physiologically you may not be able to do the job.”*

Organisational Differences

- Retail: No compulsory retirement age
- Legal: Depended on the level (more senior roles e.g. partnerships tended to have compulsory retirement ages between 62-65 years)



Theme 3: Business Case



Common Theme

- Business Case depended on task
- If the task was perceived to be **flexible, substitutable**, the business case for retaining older workers was stronger
- If the task was perceived to be **fixed and conflicting with business expectations**, the business case for retaining older workers was weak



Organisational Differences



Legal Sector:

- *inherent tension between “what they [older workers] want and what we want and what the clients want.”*
- *“where the person is here half the time, the client doesn’t know who the hell is acting for them” , therefore essentially creating a “conflict between the rights of the people and the expectations of clients, particularly running a business in 2014”.*

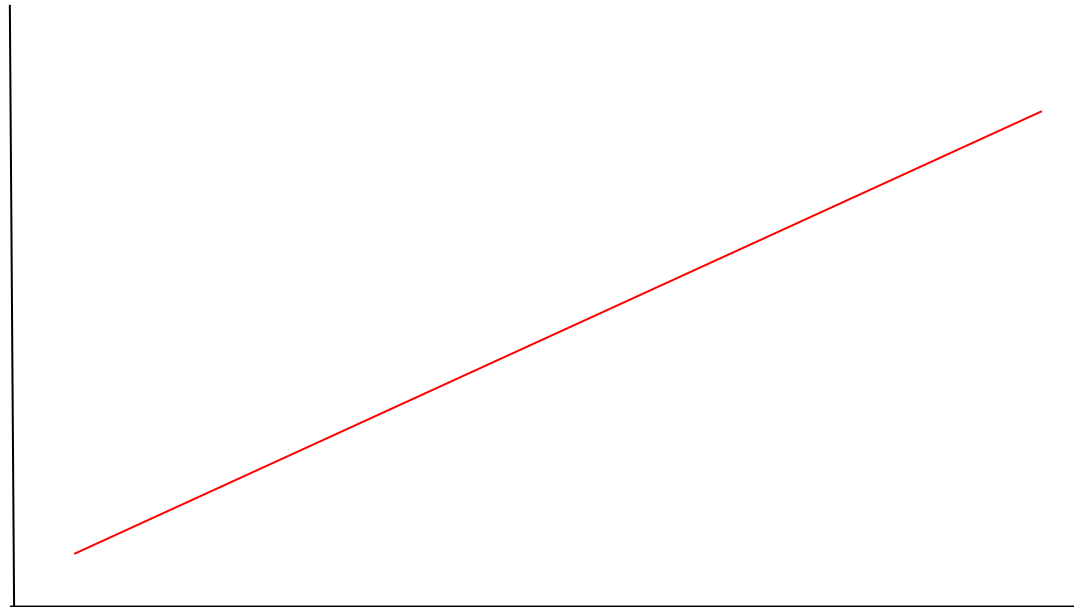


Retail sector:

- *“..as someone gets older and starts to do less, they might change department, do less physical roles, and do a few less hours. Labour turnover in here is really low.”*
- *We launched something around flexible working 5 years ago where we heavily promote unpaid time from work. As long as it's mutually agreeable. And to reduce absence as well. To really encourage saying yes, because it reduces your absence percentages”*

High Retirement flexibility

Low Retirement flexibility



Low job role flexibility

High job role Flexibility

Theme 4: Intergenerational Equity



Common Theme

Both aware of the needs to share opportunities between generations

Benefits of intergenerational working acknowledged

Organisational Differences

- **Legal:**

- “[clogging] up the system”
“blocking age diversity in the senior roles further down”
- making “a business organisation unattractive to younger people”
- selfish for older workers to remain in work in order to “maximise [their] own pension fund and enjoyment for [their] own working life and [they] don’t care about our current graduate employees”

- **Retail:**

- intergenerational equity was not an issue



Theme 5: Workforce Planning



Common Theme and Organisational Response

- Planning for retirement was seen as essential
- Conversations were had with employees
- Options were presented
- “This is so they can plan and the firm can plan and to have a proper discussion about the options



Theme 6: Performance Appraisal



Common Themes

- Informal and formal systems were in place in all organisations
 - Informal: chats, discussions, measurements
 - Formal: Appraisal systems

Organisational Differences

- **Legal firms reluctant to appraise senior staff:** “So, performance management of solicitors, certainly at a senior level, you certainly wouldn’t do” / “harder to performance manage the partner group”
- **Concern for dignity of the senior staff member:** “It’s a question of how do we want to treat people who have given so much service in the past and then put them through the mangle of the last 12 months here. Nobody has an appetite for doing that”
- **Compulsory retirement is used as a proxy for performance appraisal in senior roles :** Legal B confirmed that there was the potential for “sadness” that an older worker “has not retired well” when they do not realise that on a rational assessment of their performance that they are not financially advantageous to the company anymore.



Theme 7: Employee Attitudes to Retirement



Common Themes

- Financial need to remain in work:
 - *“It is economically driven really. So they might not have as much money as they used to, they have children at university...exterior pressures on individual life has changed the outlook of our people”*
 - *“What I’ve seen is a lot of people coming up to 65 will ask for less hours but they don’t want to stop working because they’re worried about their financial position” (Retail E) and “I think it is more on the cards now because of the economic situation and insecurity in jobs. People are staying longer”*

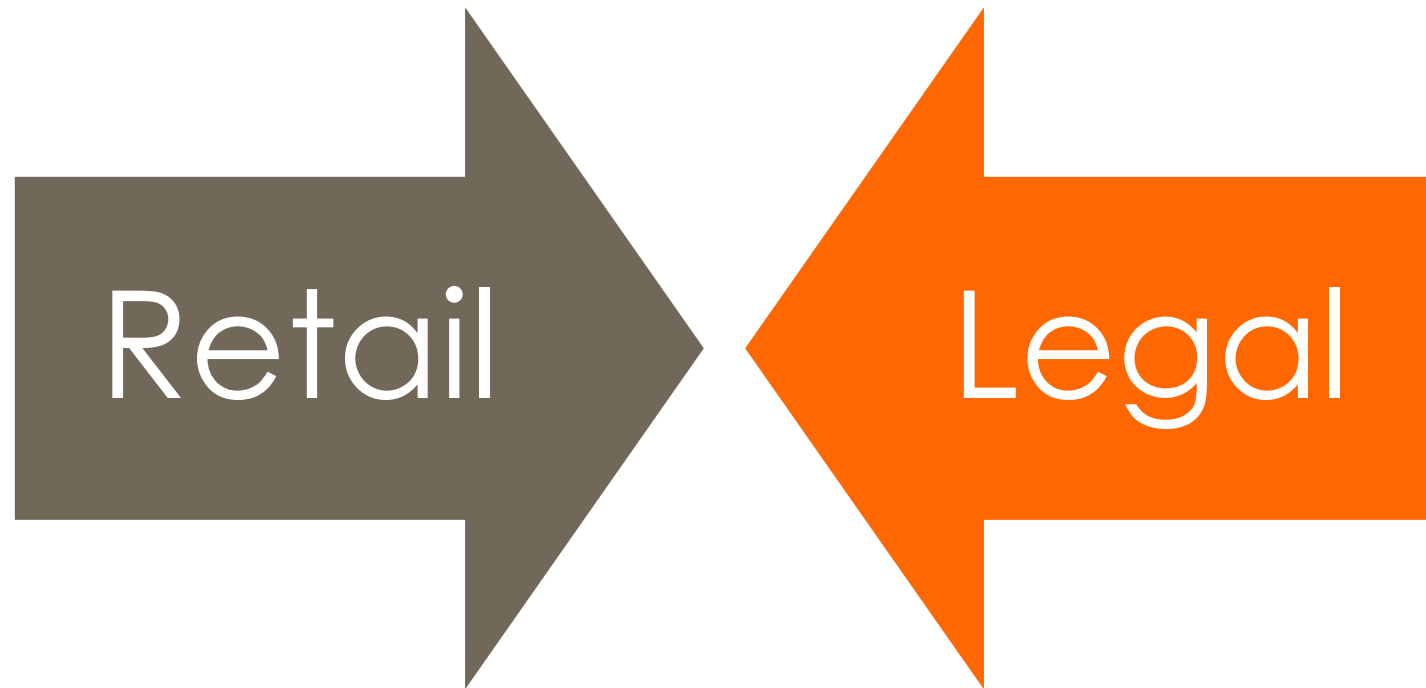


Common Themes

- Maintenance of skills and social network:
 - *“When I think of the number of people who retired when I was a line manager, it was almost a given that that was what people were choosing to do. Whereas now it’s very different with ...I don’t know of anyone in here who we’ve had a conversation with they’ve said “I’d like to retire”. They’re staying on so far”*
 - *“lawyers are very very different. They are much more able to say “I can continue doing this job. I can’t be stopped from continuing to do this job”.*



Organisational Differences?



Conclusion

- Many common themes
- Many differences
 - Legal : more traditional, operating in a hierarchical fashion, retirement as a process which was necessary from a business perspective to remove older, lower-performing, workers.
 - Retail : more flexible and fluid, often offering good business cases for retaining older workers.
- But: it is important to note that we see differences *across* sectors, as well as more subtle differences *within* sectors.

Future Research

- Legal Sector raised interesting issues:
 - Hierarchical nature of the profession
 - Task based approach and impact on retirement
 - Attitudes of workers to retirement
 - The potential for different types of approach across different types of law firm.

