



Department for
Business, Energy
& Industrial Strategy

Removal of the Default Retirement
Age

Post-Implementation Review

SEPTEMBER 2018

Title: Post-Implementation Review of the Removal of the Default Retirement Age PIR No: BEIS031(PIR)-17-LM Original IA/RPC No: BIS0119 Lead department or agency: BEIS Other departments or agencies: DWP Contact for enquiries: Rebecca Jones 02072155000	Post Implementation Review
	Date: 09/07/2018
	Type of regulation: Domestic
	Type of review: Non-statutory
	Date measure came into force: 06/04/2011
	Recommendation: Keep
RPC Opinion: Green	

1. What were the policy objectives of the measure? (Maximum 5 lines)

The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 prohibited compulsory retirement taking place after 5th October 2012 unless objectively justified. The aims of the phasing out of the Default Retirement Age were to provide greater opportunities for people to participate in the labour market at age 65 and beyond, who would otherwise be forced to retire. As the majority of requests to remain in work were accepted, the DRA retirement procedure was perceived to represent a regulatory failure. At the same time by removing the administrative burden of the former DRA retirement procedure and right to request, employers would avoid the unnecessary costs associated with this.

2. What evidence has informed the PIR? (Maximum 5 lines)

Findings from an in-house evidence review have informed this Post-Implementation Review. Primary survey data was also collected from the 2016 British Social Attitudes Survey on retirement expectations among employees in Britain. Secondary analysis of survey data and official statistics explored labour market participation, changing attitudes of employers and employees, as well as disputes and discrimination complaints over time. Finally, semi-structured interviews and discussions with stakeholders took place to capture general attitudes towards the de-regulation and explore any unintended consequences.

3. To what extent have the policy objectives been achieved? (Maximum 5 lines)

The removal of the Default Retirement Age has achieved its original policy objectives. Greater opportunities have been provided for people age 65 and beyond to participate in the labour market and more over-65s are in employment than previously. Those employees who would have been subjected to a set retirement procedure will have benefitted from increased earnings as they continue in work. Many employees are also expecting to retire later than they did five years ago. Employers have also reported changes in the age profile of their workforce since the removal of the DRA. Modest positive employment outcomes have been reported since the de-regulatory measure and it is likely that removing barriers to stay on in work such as the DRA retirement procedure have had a small yet important contribution to these trends.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed:

 17th September 2018

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions? (Maximum 5 lines)

It was anticipated that the de-regulation would have a positive effect on labour supply and earnings among the over 65s. Employers were assumed to benefit from direct savings as a result of no longer administering the retirement notice and right to request to stay on in work procedure. Fewer employers were expected to operate an Employer-Justified Retirement Age. It was also thought that costs may be incurred by employers in implementing and conducting performance appraisals as a direct result of the removal of the DRA. Further handling costs were anticipated as more employees were thought to seek redress via Employment Tribunal claims. We have found no evidence of these costs, however, as a result of the de-regulation.

5. Were there any unintended consequences? (Maximum 5 lines)

Following the removal of the Default Retirement Age, qualitative interviews with some employers indicate that in the absence of a set retirement procedure, there may be uncertainty in interpreting the legislation in this area. Some employers have reported being fearful of talking to staff about retirement plans and monitoring the age profile of their workforce.

Some employers may therefore benefit from specific guidance on age discrimination legislation and best practice in having conversations with older workers.

6. Has the evidence identified any opportunities for reducing the burden on business? (Maximum 5 lines)

As the Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 was a de-regulatory policy measure, no further opportunities for reducing burden on business were identified.

7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business? (Maximum 5 lines)

N/A

1. Introduction

The removal of the Default Retirement Age aimed to provide greater opportunities for people to participate in the Labour Market at age 65 and beyond and to remove the administrative costs associated with the right to request retirement procedure. The original impact assessment committed to reviewing the extent to which the aims of the policy are being met five years from policy implementation.¹

This document first discusses the policy background surrounding the abolition of the Default Retirement Age, setting out the methodology for reviewing the de-regulation in terms of meeting its policy aims. The subsequent sections detail the findings of this Post-Implementation Review, informed by an in-house evidence review, carrying out survey research using the British Social Attitudes Survey and analysis of survey and administrative data. We also interviewed three employer representative organisations using semi-structured interview questions and consulted with an individual representative organisation to explore perspectives on the removal of the Default Retirement Age.

We are grateful to all of the participants in this study and colleagues at Department for Work and Pensions for their comments and suggestions on this Post-Implementation Review.

Policy background

The Employment Equality (Age) Regulations (2006) provided for a national default retirement age of 65 and prohibited compulsory retirement below 65 unless objectively justified. Employers could compulsorily retire employees at age 65 or above, without that being deemed to be unfair dismissal or age discrimination, provided they followed a set retirement procedure. The procedure meant that employees had a statutory right to six months' notice of retirement and a right to request to work beyond their retirement date, which the employer had a duty to consider. Employers were under no obligation to agree to such requests.²

A 2010 Review of the Default Retirement Age (DRA) found that the majority of employers did not use a compulsory retirement age, and those that did, had not introduced it as a result of the introduction of the DRA.³ Less than half of employers felt that it was important to be able to compulsorily retire employees. In addition, the majority of employee requests to remain in work were accepted.

¹ BIS (2011) *Phasing out the Default Retirement Age: Government Response to Consultation – impact assessment*, Department for Business, Innovation and Skills, Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79304/11-634-phasing-out-default-retirement-age-impact-assessment.pdf

² Acas (2006) *Age and the workplace: putting the Employment Equality (Age) regulations 2006 into practice*, Acas. Available: http://www.acas.org.uk/media/pdf/d/t/6683_Age_and_the_Workplace_AWK.pdf

³ BIS (2010) *Review of the Default Retirement Age: Summary of Research Evidence*, BIS URN 10/1080. Available: www.bis.gov.uk/assets/biscore/employment-matters/docs/r/10-1080-retirement-age-summary-research

This suggested that the DRA wasn't necessary and needed to be corrected by being phased out; indeed that it represented a regulatory failure since for most employers the Right to Request procedure was an unnecessary cost.

What were the policy objectives and the intended effects?

The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 began the process of phasing out the Default Retirement Age (DRA) from 6th April 2011, prohibiting compulsory retirement taking place after 5 October 2012 unless objectively justified.⁴ Retirements notified on or before 5 April 2011 could continue through to completion provided the DRA procedure was followed correctly (including that the employee's right to request to stay on be given serious consideration by the employer); and the person retiring had reached 65 before 1 October 2011. Phasing was required to allow for any extensions of the period of notice of retirement.

The aims of the phasing out of the DRA were:

- To provide greater opportunities for people to participate in the labour market at age 65 and beyond;
- To remove the administrative burden of the DRA right to request retirement procedure and costs associated with this.

It was anticipated that providing greater opportunities for people aged 65 and over to participate in the labour market would increase the labour supply and hence productive potential in the economy. Benefits in terms of equity and fairness were also noted since older employees would no longer be forced to retire at 65. At the same time, employers would be saved the costs associated with the administrative processes surrounding the DRA 'right to request to work longer' procedure.

Even without the national Default Retirement Age, it would still be possible to retire an employee lawfully at a set age provided that the retirement age could be objectively justified, i.e. a proportionate response to a legitimate aim (Employer Justified Retirement Age (EJRA)).⁵ A compulsory retirement age would otherwise be discriminatory, as per section 13(2) of the Equality Act.

⁴ Acas (2011) *Working without the default retirement age*, Acas. Available: http://www.acas.org.uk/media/pdf/d/4/Working_without_the_DRA_Employer_guidance_-_MARCH_2011.pdf

⁵ For example posts in the emergency services which require a significant level of physical fitness.

2. Methodology

The review articulates the rationale for the deregulatory measure, the assumptions underpinning the analysis and put forward evidence to test these assumptions and the outcomes (in 2016) that were anticipated, relative to the 'before' state (2011), consistent with a non-attributional review.⁶

The expected scale of the impact of the removal of the regulations

Table 2.1 shows the cost-benefit analysis from the original impact assessment. The present value of the differences between costs and benefits (the net benefit) is £2.89 billion for the deregulatory measure, to be accrued over 10 years. The recurring impacts described above all rest on three sets of assumptions: first, in relation to the effect of the measure on the labour supply; second, in relation to employer use of a compulsory retirement age and the number of employees who would otherwise submit a request to work longer; and third, in relation to changes made to performance management systems and appraisals.

For the first set of assumptions, the original Impact Assessment used:

- Data on the share of employers that reported having a Compulsory Retirement Age in 2010 and the ages at which they operate; and
- Data on the percentage of employee requests to stay on in work, and the proportion of these that were rejected.

Applying these to ONS population projections, the impact assessment estimated an increase in the labour supply of 6,200 older employees in the first year, rising to 10,600 employees by 2020. This represented less than 0.05 per cent of total employment at the time and around 0.1 per cent of those aged 50+ who were in work.⁷ In the decade preceding the policy total employment levels of individuals aged State Pension age and above rose by 600,000. Changes to the State Pension age were expected to result in an additional 310,000 people working in 2031.⁸ The expected additional labour supply resulting from the removal of the DRA was thus relatively small in comparison with overall levels and trends.

⁶ Coglianese, C. (2012) *Measuring Regulatory Performance: Evaluating the impact of regulation and regulatory policy*, Organisation for Economic Cooperation and Development, pp. 15. Available: https://www.oecd.org/gov/regulatory-policy/1_coglianese%20web.pdf

⁷ BIS (2011) *Phasing out the Default Retirement Age: Government response to consultation – impact assessment*, Department for Business, Innovation and Skills, pp. 19, available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79304/11-634-phasing-out-default-retirement-age-impact-assessment.pdf

⁸ DWP (2013) *Long-term State Pension Sustainability: increasing the state pension age to 67: impact assessment*, Department for Work and Pensions. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181469/state-pension-age-67-impact-assessment.pdf

Table 2.1: Cost-benefit analysis from the original Impact Assessment

	2010-11 (£, million) ⁹
Costs	
<i>Employer Costs</i>	
One-off familiarisation with the changes in legislation (year 1 only)	18.1
One-off costs of introducing a performance management system (year 1 only)	33.2
Annual costs in conducting performance appraisals for employees aged 64 and over	3.6
Annual costs as a result of an increase in employment tribunal claims for unfair dismissal	3.3
<i>Exchequer costs</i>	
Annual costs as a result of an increase in employment tribunal claims for unfair dismissal	2.0
Benefits	
<i>Employee benefits</i>	
Annual individual benefits through increased earnings as older workers stay on in work, in the first year since implementation	102.8
<i>Employer benefits</i>	
Annual administrative burden savings resulting from the removal of the right to request procedure	5.4
Annual increases in operating surplus resulting from the increase in labour supply	38.6
<i>Exchequer benefits</i>	
Annual benefits resulting from increases in tax receipts.	76.1
Annual reduction in the costs of administration and operational costs of tribunal hearings	0.9

The second set of assumptions form the basis of estimates of administrative and employment tribunal savings associated with the removal of the right to request to stay on in work procedure. A third (32%)¹⁰ of firms had a Compulsory Retirement Age for at least some employees in 2009. Benefits would accrue to these firms and to the cohort of affected employees approaching retirement age who would otherwise submit requests to stay on in work; an estimated 33% of the 73,000 affected by the Compulsory Retirement Age each year.¹¹

The third set of assumptions relate to the extent to which some employers may have introduced a performance management system for employees who might otherwise have been subject to compulsory retirement.

⁹ Costs and benefits estimated in Year 1 under baseline case scenario, Table A2 of the original impact assessment (pp. 47). Ongoing costs and benefits estimated to accrue over 10 years.

BIS (2011) *Phasing out the Default Retirement Age: Government Response to Consultation – impact assessment*, Department for Business, Innovation and Skills, Available:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79304/11-634-phasing-out-default-retirement-age-impact-assessment.pdf

¹⁰ Metcalf H and Meadows P (2010) *Second Survey of Employers Policies, Practices and Preferences Relating to Age*, BIS URN 1008, DWP Research Report No 682, pp. 87; www.bis.gov.uk/assets/biscore/employment-matters/docs/s/10-1008-second-survey-employers-age

¹¹ Estimate of cohort size for 2009, from page 18 of the impact assessment: BIS (2011) *Phasing out the Default Retirement Age: Government response to consultation – impact assessment*, Department for Business, Innovation and Skills, available:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79304/11-634-phasing-out-default-retirement-age-impact-assessment.pdf

Ongoing increases in operating surplus were assumed, resulting from the increase in labour supply. Operating surplus or profit share was calculated as a percentage of Gross Domestic Product (GDP).

Assessing whether outcomes can be directly attributed to the removal of the DRA and establishing such causality will be problematic due to the absence of a clean counterfactual (as discussed later in this document). This Review will therefore test the validity of the assumptions made in the economic appraisal and whether anticipated outcomes were achieved.

Policy objectives and intended outcomes: testing the assumptions

The removal of the Default Retirement Age policy aimed to provide greater opportunities for people to participate in the labour market at age 65 and beyond. Policy intervention was deemed to be justified on equity grounds to reduce the number of older employees forced to retire against their will. The administrative burden associated with the Default Retirement Age was reported to represent a regulatory failure which would be corrected by phasing out the DRA and its associated retirement procedure.

Figure 2.1 outlines a logic model to explain how the intended effects of the policy lead to their associated outcomes, outlined in the impact assessment as underpinning assumptions. It is this model that will be tested during the Review. It must first be acknowledged, however, that it will be very difficult to isolate the effects of removing the Default Retirement Age on the labour market participation of older workers given wider economic factors and the increases in State Pension age that took place at the same time. It is also likely that the changes to the Employment Tribunal system (including the introduction of fees and the advent of Acas Early Conciliation) will mean that it is difficult to isolate the effects of the removal of the Default Retirement Age legislation on age discrimination claims.

As demonstrated in Figure 2.1, the policy aimed to remove the legal barriers associated with continuing to work beyond the age of 65. Employees would no longer be required to submit a request to stay on in work 6 months before they reached 65. It was anticipated that more individuals aged 65 and over would participate in the labour market, more employees would expect to retire later in life and that earnings would likely increase among the 65+ age cohort.

The policy also aimed to remove the administrative burden of a right to request procedure. Employers would no longer be required to issue 6 months' notice of retirement to employees, or process a right to request for employees who wished to stay on in work. As a result, it was expected that employers would benefit from cost savings from no longer processing requests and fewer employers would make use of a compulsory retirement age (or employer-justified retirement age which was permissible under the law). This would also remove any employment tribunal costs associated with the right to request procedure (though the net effect on employment tribunal costs from removing the DRA was estimated to be positive because of anticipated greater use of performance management systems (see below). Employers might also see changes in the age profile of their workforce following changes to the legislation. It could also be foreseen that employer attitudes towards retaining older, skilled workers would change over time.

The phasing out of the Default Retirement Age may result in benefits to the Exchequer and the British economy overall. As a result of more individuals aged over 65 participating in the labour market, increased GDP and operating surplus, as well as reduced cost to the Exchequer in funding the State Pension could be anticipated as a result of an increased labour supply.

Unintended consequences

The original impact assessment review plan¹² identified and costed potential unintended consequences arising from the removal of the Default Retirement Age. In the absence of a set retirement age, possible unintended consequences could be that employers are perceived to use performance management processes in order to ‘manage out’ older employees. It was thought that this may lead to increases in claims of unlawful age discrimination. Unintended consequences therefore specifically include:

- the assumption that some employers may introduce a performance management system for employees who might otherwise have been subject to compulsory retirement;
- increased levels of dismissal disputes;
- ongoing use of an employer-justified retirement age;
- changes in levels of age discrimination in the workplace.

We investigate whether these unintended consequences have materialised. We have also updated the literature review presented in the original impact assessment on:

- Whether labour market participation of older workers affects the employment or progression opportunities of younger workers;
- Productivity assumptions.

In addition, stakeholders expressed concern about a risk that insured benefits (income protection, life assurance and sickness and accident insurance, including private medical cover) and employee share schemes might be reduced or removed.¹³

¹² BIS (2011) *Phasing out the Default Retirement Age: Government response to consultation – impact assessment*, Department for Business, Innovation and Skills, pp. 44, available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79304/11-634-phasing-out-default-retirement-age-impact-assessment.pdf

¹³ BIS (2011) *Phasing out the Default Retirement Age: Government response to consultation*, Department for Business, Innovation and Skills. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79303/11-536-phasing-out-default-retirement-age-government-response.pdf

Figure 2.1: Analytical framework for the removal of the DRA



Resources/Inputs	Activities	Outputs	Outcomes	Impact
<ul style="list-style-type: none"> - Legal barriers restricting individuals working longer removed; - Administration associated with a compulsory retirement age removed from employers; - Employers can still use a CRA if deemed proportionate means of achieving a legitimate aim (under the 2010 Equality Act) 	<ul style="list-style-type: none"> - Employees are no longer required to submit a request to stay on in work once they reach the age of 65; - Employers are no longer required to issue 6 months' notice of retirement to employees, or process a right to request for employees who wish to stay on in work. - Employers can still use a CRA if justified. 	<ul style="list-style-type: none"> - More people aged 65+ are participating in the labour market; - Employers perceive changes in the age profile of the workforce; - Economic benefit to employers through reduced costs in processing administration; - Fewer employers make use of a compulsory retirement age (or employer-justified retirement age); - Introduction and increased use of performance management systems. 	<ul style="list-style-type: none"> - Economic benefit to individuals through opportunity to work longer; - More employees expect to retire later in life and changes in employee attitudes; - Changing employer attitudes towards retaining older, skilled staff; - Use of Employment Tribunals set to increase. 	<ul style="list-style-type: none"> - Increased operating surplus as a result of increased labour supply; - Benefits to the Exchequer in increased tax receipts among individuals aged 65 and over.

Aims of this review

The aim of this Post-Implementation Review was to develop a better understanding of the effects of the phasing out of the DRA on the labour market participation of those age 65 and beyond as well as the effects on employers of the removal of administration associated with a compulsory retirement age.

Second, the review looks at specific assumptions underpinning costs and benefits to individuals, employers and the Exchequer resulting from the de-regulation.

The review also explores whether the posited unintended effects outlined above have materialised.

Our approach will be limited in its ability to reliably attribute labour market outcomes to the removal of the DRA. This is because it will be difficult to isolate the effects of the removal of the DRA from wider economic impacts on participation resulting from factors such as the financial crisis and changes in the State Pension age.

Research Questions

The research questions to be included in the review are as follows.

Section 3 - Among individuals:

1. To what extent are people aged 65 and beyond participating in the labour market? How has this changed since the removal of the DRA?
2. Have average earnings among older workers changed over time? How have earnings changed since the removal of the DRA?
3. Have effective retirement ages changed over time?
4. To what extent have retirement expectations changed over time, and why?
5. Have levels of age discrimination in the workplace changed since the removal of the DRA?
6. To what extent are individuals lodging complaints of unfair dismissal or age discrimination to Acas and Employment Tribunals since the removal of the DRA?

Section 4 - Among employers:

7. To what extent are employers using an employer-justified retirement age?
8. Have performance management systems been introduced, extended or changed by employers following the removal of the DRA? It was assumed in the original impact assessment that the removal of a fixed retirement age would act as a 'trigger' for some firms to put in place a performance appraisal system.
9. Has there been a change in the age profile of the workforce since the removal of the DRA?

10. Have employers' attitudes towards older workers changed since the removal of the DRA?
11. From an employer perspective, have levels of workplace discrimination in relation to age changed since the removal of the DRA? The original impact assessment presumed that employees whose requests to stay on in work were rejected might go on to pursue an Employment Tribunal claim on the basis of unfair dismissal.
12. Have employers made savings from no longer administering the right to request retirement procedure?
13. Can refinements be made to the policy?

Section 5 - Exchequer:

14. Since the removal of the DRA, have tax receipts increased among individuals aged over 65?

Section 6 - Economic review: Testing the assumptions

15. To what extent have the assumptions underpinning the original impact assessment been realised?

The review seeks to establish, where possible, the extent to which any changes may be attributed to the removal of the DRA.

Data collection methods

- Stage 1: An in-house rapid evidence review was carried out around the removal of the DRA. The evidence review establishes what evidence already exists in relation to retirement ages, the DRA and the potential and actual impact of its removal.
- Stage 2: Collecting primary data from the British Social Attitudes Survey series on retirement expectations among employees in Great Britain. This builds on previous evidence on retirement expectations collected via BSAS to provide a time-series. We investigate retirement expectations, whether expectations have changed since the removal of the default retirement age in 2011-2012 and why.
- Stage 3: Examining survey and admin data to explore:
- A. Trends in the nature of participation in the labour market of this age group
 - i) Labour Force Survey
 - ii) Annual Survey of Hours and Earnings
 - iii) ONS data/DWP analysis on average real retirement ages over time.

- B. Changing attitudes and practices of employers and employees in relation to this age group
 - i) Fourth Work-life Balance employer survey
 - ii) British Social Attitudes Survey series
- C. Employment Tribunal Statistics on dismissal disputes and age discrimination complaints over time
 - i) MoJ Employment Tribunal release
 - ii) Eurofound Sixth European Survey of Working Conditions
 - iii) Acas Early Conciliation data.
- D. Effects of the policy on performance management systems
 - i) Employer Skills Survey. Share of workplaces that report all staff have an annual performance review over time.

Stage 4: Semi-structured interviews with employer representative organisations capturing attitudes towards the de-regulation; any changes to performance management systems; administrative savings made from the removal of the right to request procedure; and changes in attitudes towards older workers. We also spoke with organisations representing individuals to explore individual perspectives on the removal of the Default Retirement Age.

Identifying a counterfactual

A robust evaluation of the impacts of a policy change requires a comparison of the outcomes after the introduction of a policy with the unobserved or “counterfactual” outcome – the outcome that would have occurred in the absence of the policy being introduced. As the removal of the DRA was introduced universally across the UK, it is difficult to construct a counterfactual and observe what would have happened if the regulation had not been implemented.

It is unlikely that outcomes in other countries could be used to construct a counterfactual for the UK. Due to the numerous and complex differences between countries, it would be extremely difficult to reliably attribute any divergence in outcomes between the UK and any comparison country to the removal of the DRA. It is also problematic to isolate the effects of the Default Retirement Age on employment outcomes due to confounding factors such as increases in the State Pension age.

The review therefore does not attempt to determine the precise causal impact the removal of the Default Retirement Age has had on people’s working lives. The review articulates the rationale for the deregulatory measure, the assumptions underpinning the analysis and put

forward evidence to test these assumptions and the outcomes (in 2016) that were anticipated, relative to the 'before' state (2010), consistent with a non-attributorial review.¹⁴

Collecting robust survey data on changing retirement expectations over time, and why these expectations might have changed, nevertheless to a certain extent helps us disentangle the effects of the removal of the Default Retirement Age from other economic factors, such as increases in the State Pension age.

Similarly, gathering qualitative evidence from stakeholders enables us to gain insights into how the removal of the Default Retirement Age might have had an effect on use of a Compulsory Retirement Age, any changes to performance management processes and levels of discrimination in the workplace.

It may have been possible to construct a counterfactual beyond a 'before and after' analysis of employment outcomes, using quasi-experimental methods. This would involve applying an age 'cut-off' to an existing data set to replicate those affected and not affected by the removal of the Default Retirement Age. By creating a control and treatment group from the data the experimental design has the potential to explore relationships and infer causality between the policy and employment outcomes.

In considering the use of quasi-experimental methods, there remained a risk that despite commitment of public money, there could be no meaningful or significant data as a result of any exploratory analysis. There is no definitive data source that confirms whether employees were subject to the DRA retirement procedure or not. It is complex to identify who was and who was not affected by the removal of the DRA in an existing dataset as the policy was phased over a period of 18 months in the UK. Employers were no longer able to issue notifications of retirement from 5th April 2011 and employees were able to retire under the DRA procedure until 5th October 2012.¹⁵ Poor identification of a counterfactual could contribute to a weak research design, making it difficult to establish clear differences in employment outcomes between groups. It is therefore unlikely that we will be able to reliably attribute any differences to the policy.¹⁶ Previous studies using econometric methods have found little evidence of positive and significant employment effects from ending mandatory retirement policies.¹⁷ The analysis was deemed to be methodologically incompatible for this post-implementation review.

Collecting robust quantitative data on employer use of a compulsory retirement age and performance appraisals since the removal of the DRA, using a random probability survey, would improve the quality of the evidence on the net business benefits associated with the de-

¹⁴ Coglianese, C. (2012) *Measuring Regulatory Performance: Evaluating the impact of regulation and regulatory policy*, Organisation for Economic Cooperation and Development, pp. 15. Available: https://www.oecd.org/gov/regulatory-policy/1_coglianese%20web.pdf

¹⁵ Acas (2011) *Working without the default retirement age*, Acas. Available: http://www.acas.org.uk/media/pdf/d/4/Working_without_the_DRA_Employer_guidance_-_MARCH_2011.pdf

¹⁶ HMT (2011) *The Magenta Book: Guidance for Evaluation*, HM Treasury, pp. 109. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220542/magenta_book_combined.pdf

¹⁷ Neumark, D., and W. Stock (1999) 'Age discrimination laws and labour market efficiency,' *Journal of Political Economy* 107, 1081–125; Shannon, M., Grierson, D. (2004) Mandatory retirement and older worker employment, *Canadian Journal of Economics*, Vol. 37, No. 3

regulation. Such data collection would however, be burdensome on business and would not necessarily provide proof of causality. We are confident that the qualitative interviews with businesses and business representatives give us a sufficient picture of change here in a manner proportionate to this Review. The full economic effects of the removal of the Default Retirement Age policy cannot be captured, however, as it is difficult to attribute changes in labour supply among individuals aged 65 and over to the removal of the DRA.

Given that we are limited in our ability to reliably attribute labour market outcomes to the removal of the DRA, it is therefore disproportionate to collect a wide range of primary data for the sole purposes of the post-implementation review. We therefore rely on existing data sources and attempt to test the extent to which original underlying assumptions of the costs and benefits of this policy from the impact assessment are still valid.

Analysis and reporting

This report draws on findings from academic and policy literature, secondary analysis of survey data and Employment Tribunal statistics, as well as interviews with stakeholders. Where survey data has been analysed and comparisons have been made, for example between two points in time, the results have been tested for statistical significance at the 5 per cent level. We can therefore be confident that the estimates represent true differences in the population.

The remainder of this report is structured as follows:

Section 3 explores the effects of the removal of the Default Retirement Age on individuals;
Section 4 reviews the effects of the removal of the DRA on employers;
Section 5 examines the effects of the removal of the DRA on the Exchequer;
Section 6 investigates the assumptions underpinning the original impact assessment;
Section 7 provides a conclusion to the review, namely, whether, and to what extent the measure has achieved its original objectives; whether there have been any unintended consequences; whether assumptions underpinning the original impact assessment been realised; whether the objectives are still valid and if the measure is still required.

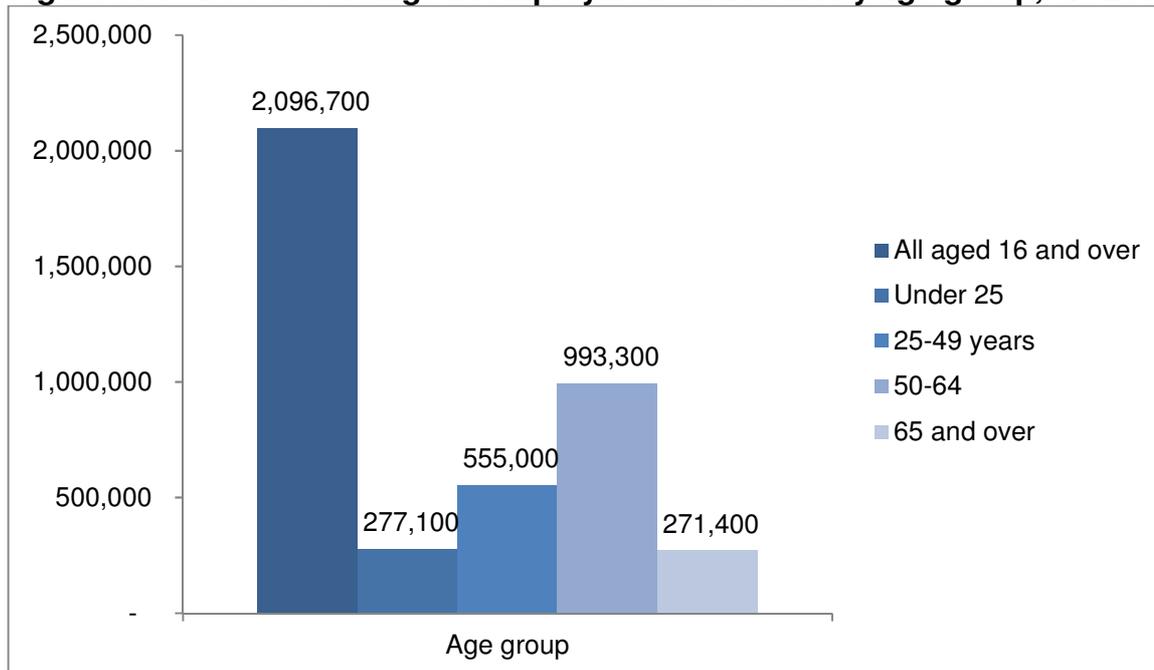
3. The effects of the removal of the Default Retirement Age on individuals

1. To what extent are people aged 65 and beyond participating in the labour market? How has this changed since the removal of the Default Retirement Age?

It was anticipated that the abolition of a fixed retirement age would provide greater opportunities for people aged 65 and over to continue working. Whether people are choosing to work longer is of increasing importance to the economy in the context of pensions. Greater numbers of people working for longer enables them to generate savings and pensions contributions to fund their retirement. Employment also builds entitlement to state pension provision.¹⁸ In addition, many people enjoy their work and employment can be beneficial for people in terms of their health and wellbeing.¹⁹

It is well documented that prior to publication, the labour market continues to benefit from high employment rates.²⁰ The number of people aged 16 and over in employment has risen from 28.6 million January to March 2011 to 30.7 million January to March 2016 in Britain. Figure 3.1 shows that employment has risen among all age groups.

Figure 3.1: Absolute change in employment in Britain by age group, Q1 2011-Q1 2016



Source: BEIS analysis of the Labour Force Survey
Base: All workers in Great Britain

¹⁸ ONS (2013) *Pension Trends – Chapter 4: The Labour Market and Retirement, 2013 Edition*, Office for National Statistics. Available: http://www.ons.gov.uk/ons/dcp171766_297899.pdf

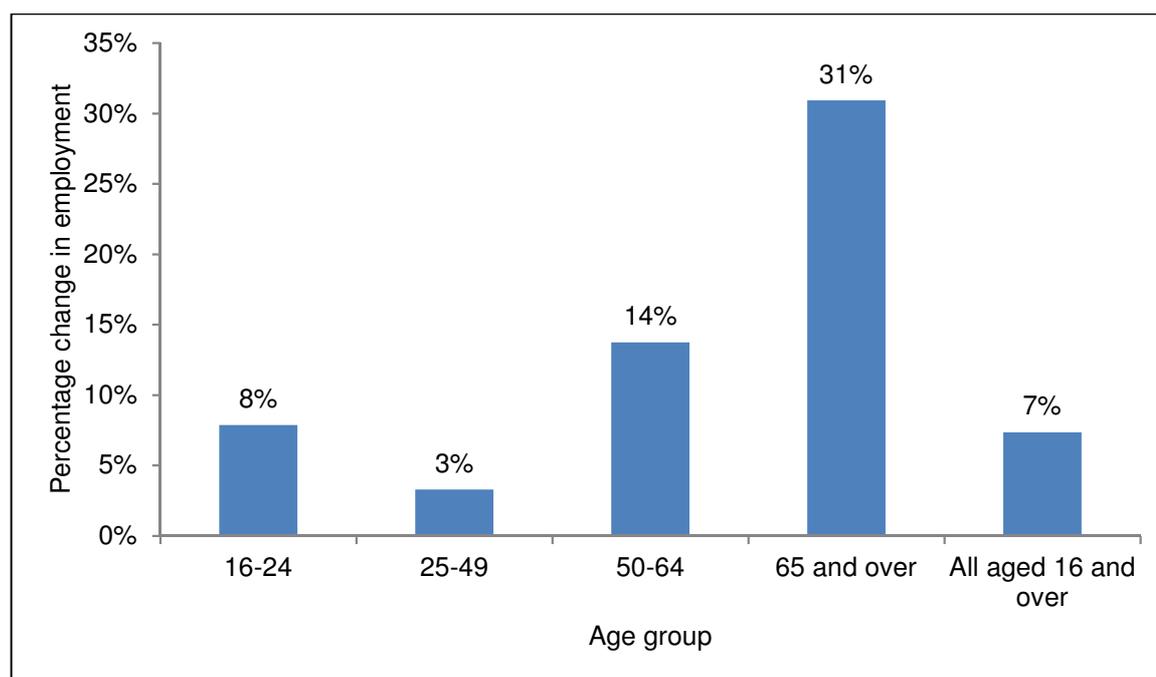
¹⁹ DWP (2017) *Fuller Working Lives: Evidence Base 2017*, Department for Work and Pensions. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/600620/fuller-working-lives-evidence-base-2017.pdf

²⁰ ONS (2017) *Statistical Bulletin: UK Labour Market*, Office for National Statistics. Available: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/previousReleases>

The number of workers aged 65 and over in employment has grown, from 877,900 in Q1 2011 to 1,149,300 in Q1 2016 which represents an increase of 31% among this age group. The share of workers aged 65 and over has risen substantially compared with younger age groups. Overall, the number of workers aged 16 and over grew by 7% (see Figure 3.2 below).

Many studies show no evidence of an adverse effect of increasing employment among older workers on youth employment. We discuss later on (in section 6) the evidence in relation to labour market participation of older workers and younger workers.

Figure 3.2: Percentage change in employment in Britain by age group, Q1 2011-Q1 2016

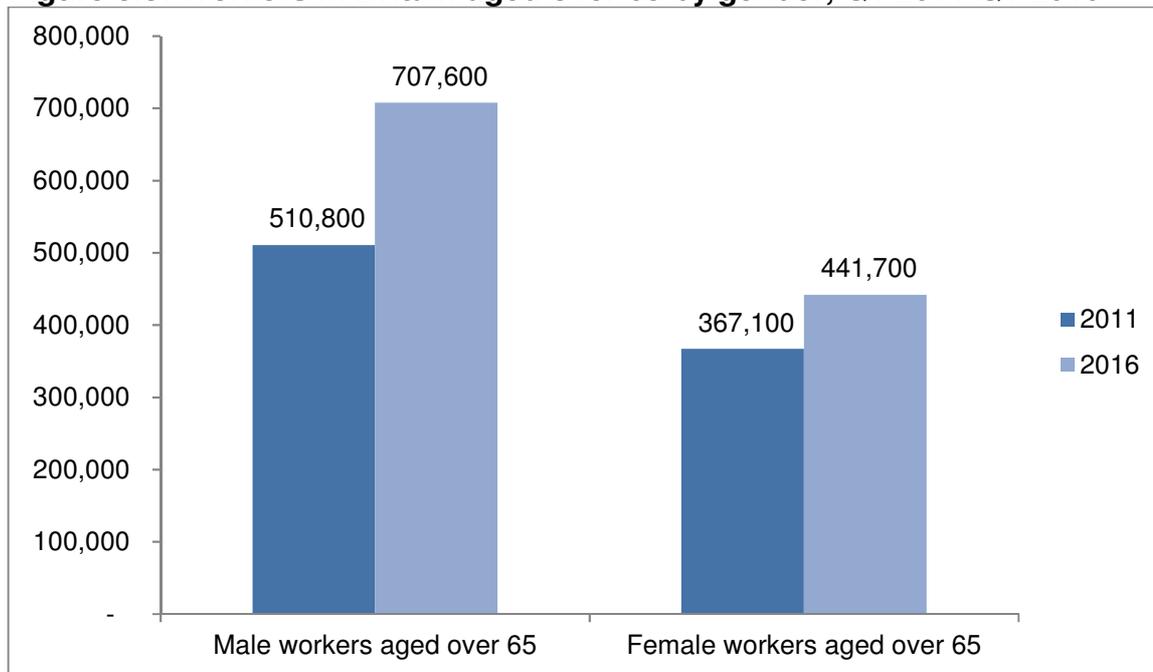


Source: BEIS analysis of the Labour Force Survey
Base: All workers in Great Britain

Trends in employment by gender show that more men aged over 65 reported being in work than women between 2011 and 2016. Figure 3.3 shows that male employment increased by nearly two fifths (39%); almost double the rise seen among females aged 65 and over (20%). This may be explained in part by increases in the State Pension age which results in the inclusion of females who are more likely to be inactive in these categories during the reporting period.²¹

²¹ ONS (2015) *Participation rates in the UK- older people 2014*, ONS, available: <http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/rel/lmac/participation-rates-in-the-uk-labour-market/2014/art-3-older.html>

Figure 3.3: Workers in Britain aged over 65 by gender, Q1 2011-Q1 2016



Source: BEIS analysis of the Labour Force Survey
Base: all workers aged over 65 in Great Britain

Employment rates since the removal of the Default Retirement Age

Total employment is comprised mainly of employees and the self-employed. The employment rate²² among workers aged over 65 in Britain was slightly higher in January to March 2016 (10%) than in January to March 2011 (9%) prior to the phasing out of the Default Retirement Age. Available data from the UK shows that employment rates among older workers aged 65 and over have effectively doubled since the early 2000s (see Figure 3.4).

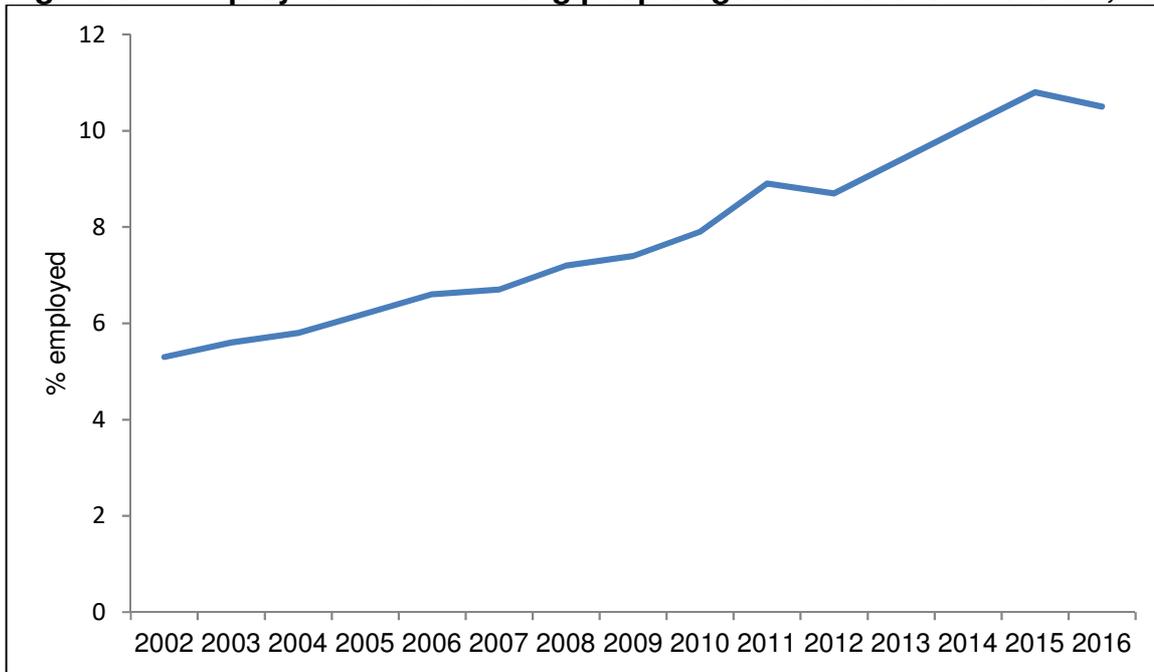
A rise in employment rates can also be seen among workers aged 16-64 in Britain, from 70.4% in the first quarter of 2011 to 74% in the first quarter of 2016. Broader trend in employment rates for the UK have risen steadily since the early 2000s by around two percentage points.²³

²² Employment rate is total workers by age divided by total population by age.

²³ See longer term trends reported by the ONS for the UK:

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/timeseries/lfk4/lms>;

Figure 3.4: Employment rates among people aged 65 and over in the UK, 2002-2016



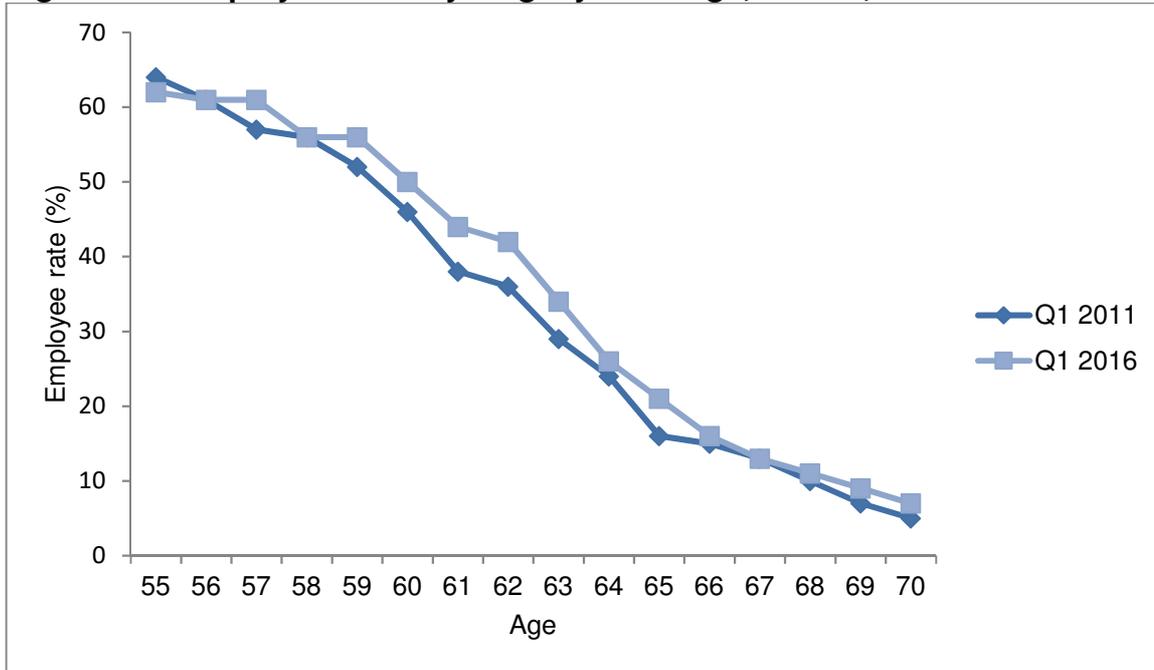
Source: Labour Force Survey data
Base: All aged 16 and over in the UK

The Default Retirement Age directly affected employees rather than all those in employment. In contrast with total employment which includes employees and the self-employed, an employee rate is simply total employees by age divided by total population by age. Looking at employee rates²⁴ over time, the data shows employee rates have risen since before the abolition of the Default Retirement Age, continuing an existing trend observed since 1999.²⁵ The number of employees aged 65 and over has increased by over 139,000, which is discussed in more detail in section 6. The scale of these observed rises far outstrips the increases forecast in the original impact assessment for the removal of DRA (up to 10,600 by 2020) - perhaps pointing to the significance of other contemporaneous policy changes.

²⁴ Employee rate is total employees by age divided by total population by age.

²⁵ BIS (2011) *Phasing out the Default Retirement Age: Impact Assessment*, Department for Business, Innovation and Skills, pp. 13-14. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79304/11-634-phasing-out-default-retirement-age-impact-assessment.pdf

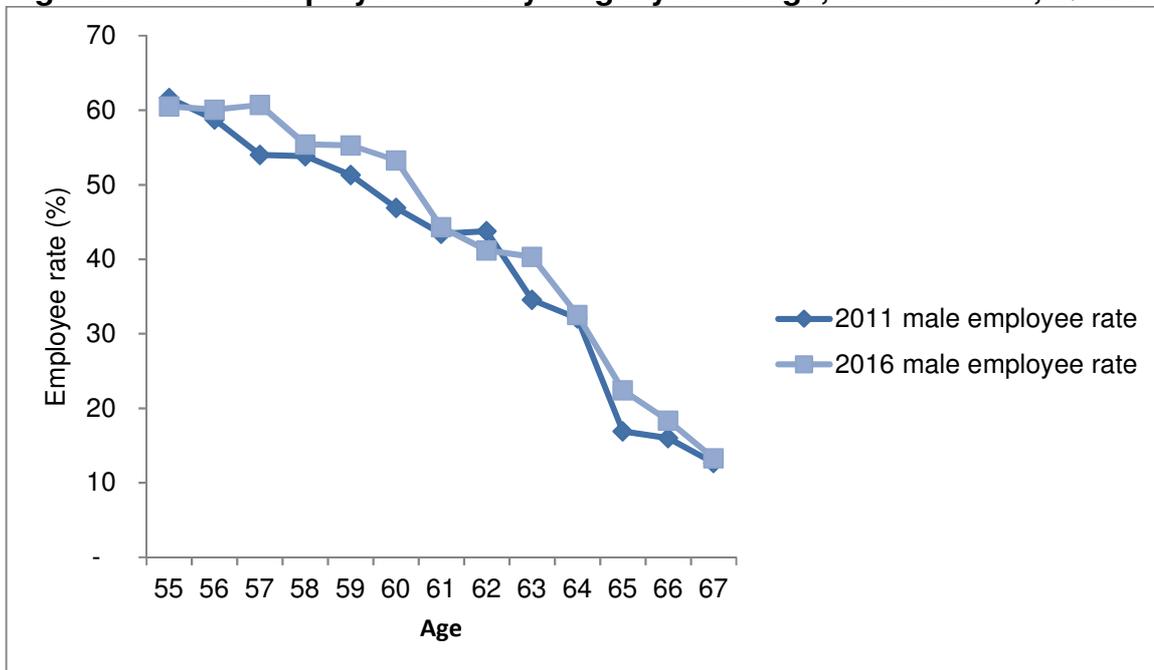
Figure 3.5: Employee rates by single year of age, Britain, Q1 2011 and Q1 2016



Source: BEIS analysis of the Labour Force Survey

Looking at employee rates by gender and single age (as seen in Figures 3.6 and 3.7), male employee rates have largely increased up to the age of 67 between 2011 and 2016. Considerable rises in female employee rates can be seen between 2011 and 2016 at each single year of age from the age of 59 up until the age of 65.

Figure 3.6: Male employee rates by single year of age, Great Britain, Q1 2011 and Q1 2016



Source: BEIS analysis of the Labour Force Survey

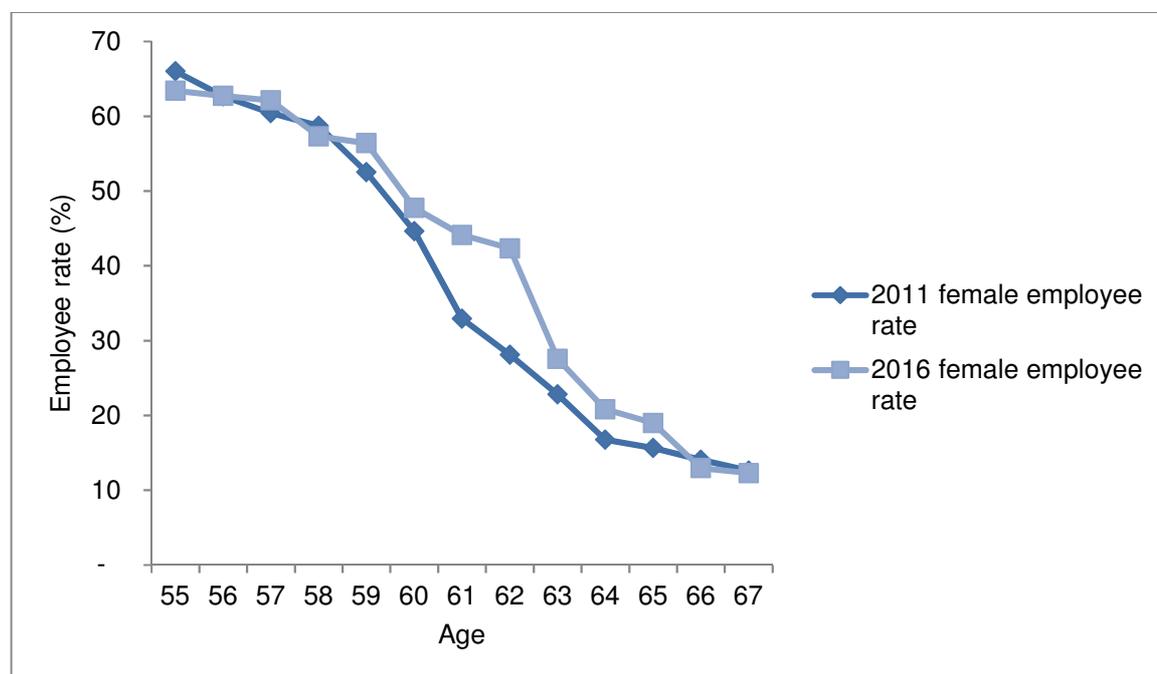
N.B. Data not presented for single year of age for 68 onwards due to low base sizes.

Employee rates in 2016 fall fastest for women around the age of 62 which is higher than that reported in the original impact assessment in 2011 (60 years).²⁶ In 2016 employee rates reduce

²⁶ Ibid.

around the age of 65 for men, which is consistent with that seen in 2011. Employee rates for men and women aged 59 were 55% and 56% in 2016, compared with 51% and 53% in 2011.

Figure 3.7: Female employee rates by single year of age, Great Britain, Q1 2011 and Q1 2016



Source: BEIS analysis of the Labour Force Survey

N.B. Data not presented for single year of age for 68 onwards due to low base sizes.

According to the published timetable²⁷ for changes to State Pension age, women born after 6th May 1950 would have been affected both by the removal of the Default Retirement Age and changes to the State Pension age made between 2010 and 2016. Male employees that would have been affected by the removal of the Default Retirement Age will not be affected by changes to the State Pension age (as the first male cohort with a State Pension age of greater than 65 is due to reach State Pension age on 6th March 2019). It is therefore reasonable to assume that the increases in employee rates seen among men since 2010 more closely represent how you would expect employee rates to change before and after the removal of the Default Retirement Age.

The Default Retirement Age represented a barrier to some employees from continuing employment. The removal of this barrier may have contributed to some employees choosing to stay on in work longer than they would have done so if the right to request to stay on in work was still in place. A couple of international studies have attempted to explore this relationship,

²⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310231/spa-timetable.pdf. For a summary of changes to State Pension Age, please see: ONS (2013) *Pension Trends – Chapter 4: The Labour Market and Retirement, 2013 Edition*, Office for National Statistics. Available: http://www.ons.gov.uk/ons/dcp171766_297899.pdf

however they did not find statistically significant employment effects associated with ending mandatory retirement.²⁸

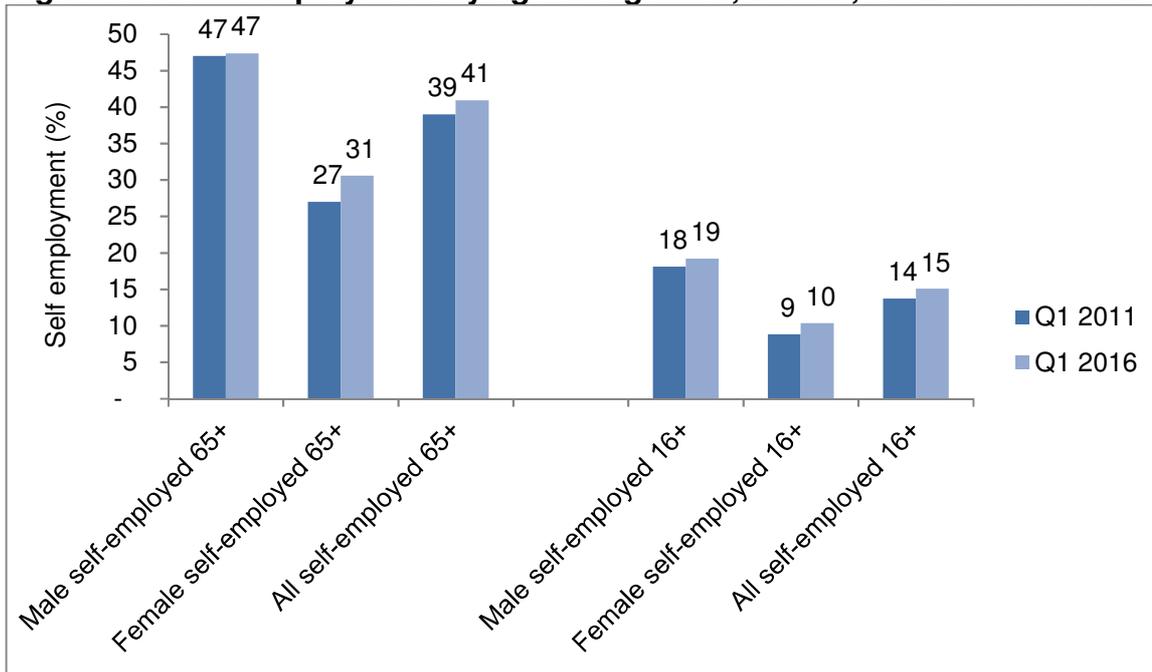
The ONS highlighted in 2013 that people are working longer than they used to and that key factors may include: increased life expectancy over time, the removal of compulsory retirement age, the increase in flexible working patterns, and economic pressures leading to rising living costs.²⁹

Due to potential confounding factors such as changes in the State Pension age, this review cannot attribute positive employment outcomes seen in Britain directly to the removal of the Default Retirement Age.

Self-employment and part-time working

Self-employment and part-time working are more common among older workers aged 65 and over compared with the working-age population overall. Figure 3.8 shows that of all individuals in employment in 2016, workers aged over 65 were more commonly self-employed (41%) compared with workers aged 16+ overall (15%). Self-employment among individuals aged over 65 is more commonly reported among male workers. It is interesting to note that much of the growth in self-employment appears to be driven by female workers aged over 65 in recent years, from 27% January-to March 2011 to 31% in the same quarter of 2016.

Figure 3.8: Self-employment by age and gender, Britain, Q1 2011 and Q1 2016



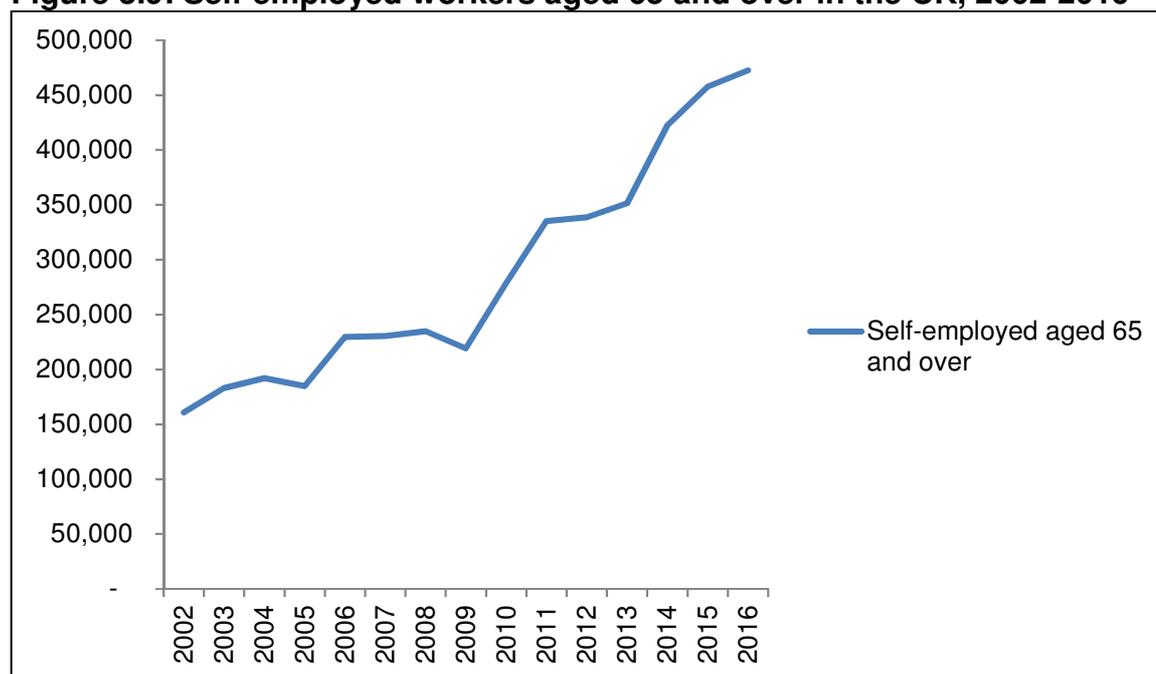
Source: BEIS analysis of the Labour Force Survey
 Base: All individuals in employment

²⁸ Neumark, D., and W. Stock (1999) 'Age discrimination laws and labour market efficiency,' *Journal of Political Economy* 107, 1081–125; Shannon, M., Grierson, D. (2004) Mandatory retirement and older worker employment, *Canadian Journal of Economics*, Vol. 37, No. 3

²⁹ ONS (2013) *What does the 2011 Census tell us about older people?* Office for National Statistics. Available: http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/dcp171776_325486.pdf

Self-employment³⁰ has grown slightly in recent years among men and women aged 65 and over by around two percentage points. The numbers of people self-employed aged over 65 in Britain rose from 331,500 January to March 2011 to 456,800 January to March 2016. The self-employed were not affected by the removal of the Default Retirement Age and Figure 3.9 shows that self-employment has been rising among older workers in the UK overall since the early 2000s, forming part of a continuing trend. This provides further evidence that the removal of the Default Retirement Age (for employees) took place against a broader trend of backdrop of increasing participation amongst older workers.

Figure 3.9: Self-employed workers aged 65 and over in the UK, 2002-2016



Source: BEIS analysis of the Labour Force Survey

The majority of workers aged over 65 work part-time (65% in 2016) compared with workers aged 16, the majority of which tend to work full-time (73% in 2016). Full-time employment is reportedly rising among workers aged 65 and over however, from 30% in Q1 2011 to 35% in Q1 2016. There was little variation by gender, both male and female employment saw an increase in full-time working by around 2-3 percentage points between the first calendar quarters of 2011 and 2016. As one parliamentary briefing explains, the closure of generous defined benefit pension schemes and planned pension reforms may provide strong financial reasons against early retirement. Many workers face lengthy periods of retirement with proportionally less pension provision, unless they stay economically active for longer.³¹ This could influence people's decision to stay in work full-time for longer.

Figures released by DWP show that older workers, defined as people aged 50 and over are more likely than 25-49 year-olds to be working part-time or have flexible working arrangements. Over 50s in work are two-and-a-half times less likely than 18-24 year-olds however, to be in

³⁰ Self-employment is calculated as total self-employed by age divided by total employment by age.

³¹ *An Ageing Workforce*. October 2011, POST report 391. Available: <http://researchbriefings.files.parliament.uk/documents/POST-PN-391/POST-PN-391.pdf>

temporary work. Individuals aged 65 and over are as likely as 18-24 year-olds to work as temporary employees, highlighting the importance of flexibility for those still in work over State Pension age.³²

Older workers are also more likely to wish to reduce their hours.³³ Most recent data available from the European Quality of Life Survey (2011-12) show that on average, UK workers aged 50+ in employment would prefer to work around seven fewer hours per week than they currently work.³⁴

Summary

Overall, evidence confirms that more people aged 65 and over are participating in the labour market since the abolition of the Default Retirement Age. Employment rates among older workers have risen and the share of workers aged 65 and over has increased since 2011, prior to the de-regulation being introduced.

Older workers are also more likely to be working full-time than previously. These positive increases in employment outcomes all form part of broader trends in continuing employment among older workers observed since the early 2000s and beyond. The scale of these observed rises far outstrips the increases forecast in the original impact assessment for the removal of DRA – perhaps pointing to the significance of other contemporaneous policy changes.

People are working longer than they used to and that key factors may include: increased life expectancy over time, the removal of compulsory retirement age, the increase in flexible working patterns, and economic pressures leading to rising living costs. So whilst there appears to be an employment rate and employee rate effect following the removal of the DRA, it remains difficult to isolate the effects specifically of the DRA abolition from the impact of wider economic factors such as the increases in the State Pension age.

2. Have average earnings among older workers changed over time? How have earnings changed since the removal of the Default Retirement Age?

The original impact assessment assumed that individual earnings among workers aged over 65 would increase by virtue of the fact that it was projected they would stay on in employment for longer.

The number of employees aged 65 and over increased by over 139,000 between 2011 when the DRA was removed and 2016. Individuals previously subject to a DRA will clearly benefit

³² DWP (2013) *Older Workers Statistical Information Booklet 2013: Official Statistics*, Department for Work and Pensions. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264899/older-workers-statistical-information-booklet-2013.pdf

³³ Ibid.

³⁴ Eurofound (2014) *Work preferences after 50*, Publications Office of the European Union, Luxembourg. Available: http://eurofound.europa.eu/sites/default/files/ef_files/pubdocs/2014/03/en/1/EF1403EN.pdf

directly from an increase in earnings as they stay on in work. Median hourly earnings have also risen slightly among employees aged 65 and over since the removal of the Default Retirement Age, after adjusting for inflation.³⁵ BEIS analysis of the Annual Survey of Hours and Earnings shows that in 2011, the median hourly wage (excluding overtime) among employees aged 65 and over in Britain was £9.38 (in 2016-17 prices). By 2016 the median wage had risen among those aged 65 and over to £10.11.

By comparison, median hourly earnings excluding overtime among all employees aged 16 and over in Britain rose from £12.05 (in 2016-2017 prices) in 2011 to £12.15 in 2016.

Nominal hourly earnings growth excluding overtime was greater among over 65s between 2011 and 2016 compared with all employees. Nominal earnings grew by 17% for over 65s compared with 9% among all employees over the review period; this may be due to the tendency for older workers to be employed in occupations (Education, Health and Social Work, Transport and Storage and Public Administration)³⁶ which have seen rises in wages over the review period.

The ONS report that up until 2008, growth in average earnings among workers of all ages was fairly steady, averaging around 4% each year. However, since the start of the economic downturn growth has been slower, with the annual increase averaging around 1.5% per year between 2009 and 2016.³⁷

Section 6 on Benefits outlines in more detail the complexities around calculating employee benefits through increased earnings and any association with the de-regulation.

Summary

Individuals previously subject to a national Default Retirement Age will have benefitted from increased earnings since it was abolished as they stay on in work. Median earnings among over 65s have also risen slightly. Removing barriers such as the DRA is likely to have played a role in influencing some employees to remain in work.

3. Have effective retirement ages changed over time?

The Decision to Retire

Over the last 10-15 years average retirement ages have been increasing but remain low by historical standards, at just under 65 years for men and just over 63 years for women.³⁸ The

³⁵ Earnings adjusted to 2016-17 equivalent using GDP deflators: <https://www.gov.uk/government/collections/gdp-deflators-at-market-prices-and-money-gdp>

³⁶ DWP. (2015). *Statistics on older workers by sector*, Department for Work and Pensions.

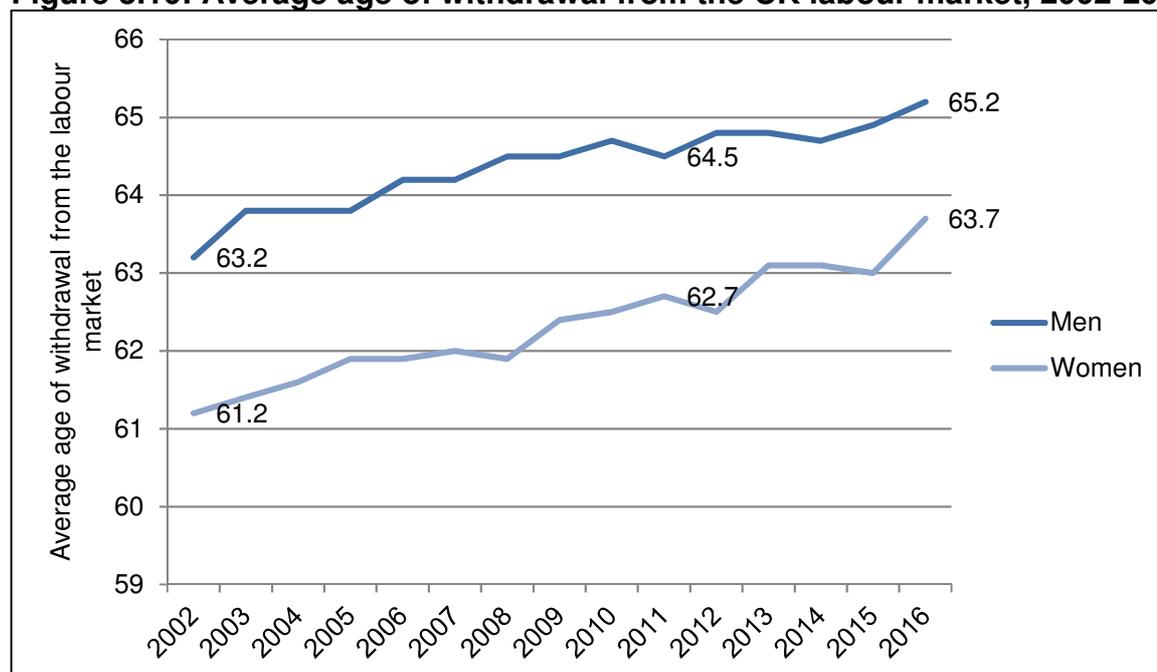
³⁷ ONS (2016) *Annual Survey of Hours and Earnings: 2016 Provisional Results*, Office for National Statistics. Available:

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2016provisionalresults>

³⁸ DWP (2014) *Fuller Working Lives – Background Evidence*, Department For Work and Pensions, Available: <https://www.gov.uk/government/statistics/fuller-working-lives-background-evidence>

Department for Work and Pensions report that in 2016, the average age men stopped working was 65.2 for men and 63.7 for women (see Figure 3.10). This represents an increase in retirement ages since 2011, where the average age of labour market exit was 64.5 for men and 62.7 for women. The evidence on average retirement ages suggests that people are working longer and that this is a longer term trend that can be observed prior to the phasing out of the Default Retirement Age. The gap between male and female retirement ages has also narrowed slightly since 2002. This is consistent with other evidence of a growth in employment among older women since the early 1990s.³⁹

Figure 3.10: Average age of withdrawal from the UK labour market, 2002-2016



Source: DWP analysis. <https://www.gov.uk/government/statistics/economic-labour-market-status-of-individuals-aged-50-and-over-trends-over-time-september-2017>

Summary

Rising trends in effective retirement ages have continued over time, since prior to the removal of the Default Retirement Age. People are working longer and the gap in average age of withdrawal from the labour market has narrowed between men and women.

4. To what extent have retirement expectations changed over time? Why?

Table 3.1 shows that retirement expectations are changing among employees in Britain. The vast majority of employees continue to expect to retire in their sixties. However, since 2011, fewer employees expect to retire in their fifties and sixties and more employees expect to retire in their seventies. The proportion of employees anticipating retiring in their sixties has fallen by

³⁹ ONS (2013) *Pension Trends – Chapter 4: The Labour Market and Retirement, 2013 Edition*, Office for National Statistics. Available: http://www.ons.gov.uk/ons/dcp171766_297899.pdf

five percentage points since 2011. The share of employees expecting to retire in their seventies has almost doubled, from 11% in 2011 to over a fifth of employees in 2016.

Table 3.1: Age at which employees expect to retire from their main job, 2011 and 2016

	2011	2016
40s	**	**
50s	9%	8%
60s	68%	63%
70s	11%	21%
80s	**	**

Source: British Social Attitudes Survey 2011 and 2016

Base: All employees in Great Britain 1,473 un-weighted 2011; 1,260 un-weighted 2016

** Base size too low to report.

In 2016, younger employees aged 25-34 were less likely to say they will retire in their sixties (54%) and more likely to report anticipating retirement in their seventies (25%) compared with employees aged 35-49 (69% and 17% respectively).

The 2016 British Social Attitudes survey introduced a new question on whether respondents felt that their retirement expectations had changed in the last five years, when the Default Retirement Age was abolished.

Over half of all employees (55%) said that their expectations relating to retirement had changed over the last five years. Half of all employees said that they now expect to retire later than they did five years ago. A further 5% of employees expect to retire earlier.

Table 3.2: Change in retirement expectations in the last five years, 2016

Has the age at which you expect to retire changed in the last five years?	
Yes, I now expect to retire earlier	5%
Yes, I now expect to retire between 1 and 5 years later	30%
Yes, I now expect to retire more than 5 years later	20%
No	44%

Source: British Social Attitudes Survey 2016

Base: All employees in Great Britain 2016, 1,260 un-weighted.

Table does not sum to 100 due to 'don't know' response.

Looking at why employees expect to retire later than they did five years ago (Table 3.3), changes to the State Pension age was the most commonly reported reason given for postponing retirement, cited by over three quarters of employee respondents. Nearly two fifths (39%) of employees said that they could no longer afford to retire at the age they planned and a further one in eight (12%) said that their employer has/will extend their organisation's retirement age. It is likely that respondents answered this question in relation to their employer's occupational pension scheme, as opposed to a fixed retirement age per se.

In terms of no longer having a fixed retirement age at the workplace, 7% of employees indicated this as a reason for expecting to retire later. This result is based on a low number of respondents and strongly suggests that fixed or default retirement ages do not currently affect

many individual decisions to retire and that ultimately, financial motivations are more likely to determine retirement behaviour.

Table 3.3: Reasons given for expecting to retire later, 2016

Reasons why respondents expect to retire later	%
I can no longer afford to retire at the age I planned	39%
Because of changes to State Pension age	76%
My employer has or will extend my organisation's retirement age	12%
My organisation no longer has a fixed retirement age	7%*

Source: *British Social Attitudes Survey, 2016*

Base: All employees in Great Britain who now expect to retire later, un-weighted 631

*Indicative result only, fewer than 50 respondents.

As seen previously, people are tending to work longer. Many factors have been put forward to explain why people are postponing their decision to retire. Wilson et. al (2014) projected that participation rates are expected to rise between 2012 and 2022 which may be due to planned rises in the State Pension age.⁴⁰ Changes in the area of pensions may well provide strong financial reasons against early retirement.

There has been some suggestion in the literature that losses in wealth and/or income specifically since the financial crisis of 2008 may have had an effect on the decisions of individuals to remain in work. Early evidence from the UK and the US does not suggest that changes in wealth experienced by individuals following the financial crisis have had any substantial effects on retirement behaviour.⁴¹

Rising levels of education is an important factor in people staying in work longer, among new birth cohorts with higher levels of education attainment. Education increases the returns to work and can also improve the intrinsic value of work.

Another possible explanation is that older workers are staying healthier for longer, particularly as the demand for jobs shifts from physically-demanding work in primary industries to services.⁴²

⁴⁰ Wilson, R., Beaven, R. et. al (2014) *Working Futures 2012-2022: Evidence Report 83*, UK Commission for Employment and Skills, Wath-upon-Deane, Available: <https://www.gov.uk/government/publications/working-futures-2012-to-2022>

⁴¹ Gustman, A.L., T.L. Steinmeier and N. Tabatahai (2011), "How Did the Recession of 2007-2009 Affect the Wealth and Retirement of the Near Retirement Age Population in the Health and Retirement Study?", *NBER Working Paper Series*, No. 17547, Cambridge, United States; McFall, B.H. (2011), "Crash and Wait? The Impact of the Great Recession on the Retirement Plans of Older Americans", *American Economic Review*, Vol. 101, No. 3, pp. 40-44; OECD (2013) "All in it together? The experience of different labour market groups following the crisis," in *OECD Employment Outlook 2013*, OECD Publishing. Available: <http://www.oecd.org/els/emp/Employment-Outlook-2013-chap1.pdf>; Crawford, R. (2013) 'The effect of the financial crisis on the retirement plans of older workers in England,' *Economic Letters*, Volume 121 Issue 2 pp. 156-159. Available: <http://www.sciencedirect.com/science/article/pii/S0165176513003571>

⁴² OECD (2013) "All in it together? The experience of different labour market groups following the crisis," in *OECD Employment Outlook 2013*, OECD Publishing. Available: <http://www.oecd.org/els/emp/Employment-Outlook-2013-chap1.pdf>

The ONS note that the increasing use of flexible working patterns may contribute to people working longer. Finally, trends in workers postponing retirement may also reflect changes in administrative rules such as the abolition of the Default Retirement Age.⁴³

Summary

Retirement expectations are changing in Britain. Over half of employees in 2016 expect to retire later than they did five years previously. State Pension age changes and affordability are the most common reasons for expecting to retire later. A minority of employees anticipated retiring later as a result of no longer having a fixed retirement age at their organisation.

5. Have levels of age discrimination in the workplace changed since the removal of the Default Retirement Age?

Perceived discrimination and unfair treatment

The European Working Conditions Survey measures the extent to which individuals have experienced discrimination at work. The survey includes questions on discrimination on the grounds of sex, race, religion, age, nationality, disability or sexual orientation.

In 2015, 7% of respondents in the UK reported that they had been subjected to any form of discrimination at work in the last 12 months. Age discrimination is reported by 3% of workers across nations surveyed in 2015. This figure has remained consistent since the survey snapshot taken in 2010.⁴⁴ There were too few cases of respondents reporting age discrimination at work to report in the UK in terms of statistical reliability.

Summary

A low percentage of workers surveyed across Europe reported that they had been subjected to age discrimination in 2015. This figure has remained consistent since 2010, prior to the removal of the Default Retirement Age.

⁴³ Cited in ONS (2013) *What Does the 2011 Census Tell Us About Older People?* Office for National Statistics. Available:

http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/dcp171776_325486.pdf

⁴⁴ Eurofound (2016), *Sixth European Working Conditions Survey – Overview report*, Publications Office of the European Union, Luxembourg, pp. 70;

http://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1634en.pdf

EWCS data tool: [http://www.eurofound.europa.eu/surveys/data-visualisation/sixth-european-working-conditions-survey-](http://www.eurofound.europa.eu/surveys/data-visualisation/sixth-european-working-conditions-survey-2015?locale=EN&dataSource=EWCS2016&media=png&width=740&question=y15_Q88&plot=euBars&countryGroup=linear&subset=agecat_3&subsetValue=All)

[2015?locale=EN&dataSource=EWCS2016&media=png&width=740&question=y15_Q88&plot=euBars&countryGroup=linear&subset=agecat_3&subsetValue=All](http://www.eurofound.europa.eu/surveys/data-visualisation/sixth-european-working-conditions-survey-2015?locale=EN&dataSource=EWCS2016&media=png&width=740&question=y15_Q88&plot=euBars&countryGroup=linear&subset=agecat_3&subsetValue=All)

http://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1634en.pdf

6. *To what extent are individuals lodging complaints of unfair dismissal or age discrimination to Acas and Employment Tribunals since the removal of the DRA?*

One possible unintended consequence of the de-regulation identified in the original impact assessment was that older employees who were dismissed in the absence of a Default Retirement Age may perceive this to be unfair and hence seek redress through the Employment Tribunal system. There remains the possibility that if employers can no longer retire staff at a certain age, some firms could be perceived to use performance management processes in order to ‘manage out’ older employees, resulting in increased claims of unlawful age discrimination. Employment Tribunal cases are discussed here in the context of wider changes that have taken place in relation to the justice system such as Employment Tribunal fees and Early Conciliation service during the review period,

Based on the types of discrimination discussed here, employees could lodge a complaint under either Age discrimination or Unfair dismissal jurisdictions. The data shows that the number of cases received by Acas from the Employment Tribunals service (ET1) for Age discrimination and Unfair dismissal (among workers of all age groups) has fallen between 2010-11 and 2015-16.⁴⁵

Since the removal of the Default Retirement Age the amount of jurisdictional claims disposed of (cases closed) by HMCTS has reduced overall. The share of claims disposed of for Unfair dismissal (among workers of all age groups) and Age discrimination have also fallen. Of the 49,529 jurisdictional claims disposed of in 2015-16, 29% were for Unfair dismissal and 2% of claims were for Age discrimination. In the year 2010-11 there were 122,792 disposals, of which 40% were for Unfair dismissal and 3% of disposals were for Age discrimination. Table 3.4 presents the total number of employment tribunal disposals (the closure of a case) relating to age discrimination over time.

Table 3.4: Total number of Employment Tribunal disposals by jurisdiction: age discrimination, 2007/08 to 2015/16

Financial Year	Age discrimination
2007/08	1,778
2008/09 ³	2,472
2009/10	3,873
2010/11	3,651
2011/12	3,820
2012/13	2,674
2013/14	4,259
2014/15	1,528
2015/16	865

Source: MoJ Employment Tribunal Statistics, available: <https://www.gov.uk/government/statistics/tribunals-and-gender-recognition-certificate-statistics-quarterly-april-to-june-2016>

⁴⁵ Acas (2011) *ACAS Annual reports and accounts 2010-11*, Advisory, Conciliation and Arbitration Service, pp. 38. Available:

http://www.acas.org.uk/media/pdf/p/0/Acas_Annual_Report_Accounts_2010-11_colour.pdf;

Acas 2016) *ACAS Annual reports and accounts 2015-16*, Advisory, Conciliation and Arbitration Service, pp. 39.

Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/545193/2015-16-acas-annual-report-accounts-accessible.pdf

Between 2010-11 and 2015-16, there was a decrease in the number of disposals with age discrimination jurisdiction.

The number of disposals relating to unfair dismissal has decreased since 2010-2011 (see Table 3.5), consistent with the downward trend observed among employment tribunal disposals overall.

Table 3.5: Total number of Employment Tribunal disposals by jurisdiction: unfair dismissal, 2007/08 to 2015/16

Financial Year	Unfair dismissal
2007/08	37,004
2008/09 ³	39,247
2009/10	50,892
2010/11	49,649
2011/12	46,107
2012/13	43,956
2013/14	46,947
2014/15	18,387
2015/16	14,549

Source: MoJ Employment Tribunal Statistics, available: <https://www.gov.uk/government/statistics/tribunals-and-gender-recognition-certificate-statistics-quarterly-april-to-june-2016>

The reduced volumes in Employment Tribunal cases between 2011 and 2016 can be observed across jurisdictional complaints and it is possible they resulted in part from wider changes to the judicial system such as: a) the level of Employment Tribunal fees set across the review period; and/or b) the new early conciliation process that the Government introduced in 2014. Government is committed to encouraging people to resolve their workplace disputes without the need for the stress and cost of an Employment Tribunal through Acas Early Conciliation service.⁴⁶

Summary

Fewer individuals are seeking redress through the Employment Tribunal system, particularly for Age discrimination and Unfair dismissal jurisdictions. This may be explained in part by changes to the Employment Tribunal system taking place during the review period.

We have found no systematic evidence that employees increasingly sought redress through the employment tribunal system as an unintended consequence of removing the Default Retirement age and right to request to stay on in work procedure.

⁴⁶ For more information please see Acas website: <http://www.acas.org.uk/index.aspx?articleid=4028>

4. The effects of the removal of the DRA on employers

7. Are employers using an employer-justified retirement age?

Use of an employer-justified retirement age

Prior to the removal of the Default Retirement Age, just under a third (32%)⁴⁷ of all establishments were reported to operate a compulsory retirement age for some or all staff. Just under a quarter of all establishments had received a right to request to stay on in work from an employee. The original impact assessment for the de-regulatory measure commented that there may be a minority of employers who wish to set an employer-justified retirement age (EJRA) for some or all staff, for example on the basis of health and safety concerns. The number of firms setting an EJRA was not estimated, however.

It is highly likely that in the absence of a fixed retirement age the proportion of employers setting an employer-justified retirement age has reduced given the cost and time required to justify objective criteria in the event of being taken to an Employment Tribunal. There are, of course, occupations such as the Fire Service where there continues to be an age limit set by law.⁴⁸

Indicative results from an informal survey of 323 members show that 6% of employers continue to retire employees using an Employer-Justified Retirement Age.⁴⁹

Summary

Informal survey research suggests that a fixed retirement age is now only used among a small minority of employers.

8. Have performance management systems being introduced/extended/changed following the removal of the Default Retirement Age?

Performance management and appraisals

Following the removal of the DRA, the original impact assessment assumed that some employers are likely to consider implementing a performance management or appraisal system

⁴⁷ Metcalf H and Meadows P (2010) *Second Survey of Employers Policies, Practices and Preferences Relating to Age*, BIS URN 1008, DWP Research Report No 682. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32183/10-1008-second-survey-employers-age.pdf

⁴⁸ <http://www.legislation.gov.uk/ukxi/1992/129/schedule/2/made>

⁴⁹ Horrocks-Burns, F. et. al (2014) *Growth for Everyone CBI/ACCENTURE Employment Trends Survey 2014*, Confederation of British Industry. Available: <http://cbi.binarydev.net/index.cfm?LinkServID=C2B85C33-822D-436C-ACBB14A0A895F9B8>

in the absence of compulsory retirement. This was assumed to represent a transitional cost attributable to the DRA's removal.⁵⁰

Trend data published from a survey snapshot indicates that the share of employers of two or more employees providing an annual performance review for all staff has increased in recent years in Britain.⁵¹

Interviews with stakeholders showed that generally speaking, businesses are recognising that it is good practice to have regular performance reviews and appraisals regardless of employee age or whether employees are seeking to retire. Ongoing improvements to performance management systems are reported to be taking place among businesses; however these developments are not necessarily specific to older workers or as a result of the phasing out of the Default Retirement Age.

Qualitative interviews with 50 businesses employing older workers suggest that many interviewees thought conversations about age; productivity and performance were sensitive and difficult to initiate.⁵² Prior to the removal of the Default Retirement Age, employers could use a set retirement procedure which initiated dialogue between employees and their employers at the age of 64 and a half. Since this legislative procedure has been removed, some employers acknowledged that line managers may not always have the skills required to ensure older workers feel comfortable discussing issues relating to ageing. Age awareness training would give line managers the skills and confidence to handle conversations about potentially sensitive issues.

Stakeholders did note that they were not aware of any evidence of employers using performance management processes to 'manage out' older employees since the removal of the DRA. Businesses had expressed sentiment that it is regrettable those instances where careers are ended by a performance management process. It is therefore unlikely that performance management processes are actively sought out as a systematic management tool in the absence of the Default Retirement Age.

⁵⁰ BIS (2011) *Phasing out the Default Retirement Age: Government Response to Consultation – impact assessment*, Department for Business, Innovation and Skills, Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79304/11-634-phasing-out-default-retirement-age-impact-assessment.pdf

⁵¹ UKCES (2011) *Employer Skills Survey*, UK Commission for Employment and Skills, Wath-upon-Deane. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306473/ess2011-uk.xlsx; UKCES (2015) *Employer Skills Survey*, UK Commission for Employment and Skills, Wath-upon-Deane. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525458/ESS_2015_UK_Data_Table_s__May__.xlsx

⁵² IFF research (2017) *Employer experiences of recruiting, retaining and retraining older workers: Qualitative research*, Department for Work and Pensions, available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/584448/employer-experiences-of-recruiting-retaining-and-retraining-older-workers.pdf

Summary

In talking to employer representative organisations, employers are implementing performance management processes and appraisals as part of general improvements to their management practices. We did not find any evidence of employers implementing a performance management or appraisal system as a result of the absence of a default or compulsory retirement age.

9. Has there been a change in the age profile of the workforce since the removal of the Default Retirement Age?

Following the removal of the DRA, 17 per cent of employers in 2013 have had at least one employee retire.⁵³ Employers who had experienced at least one retirement among their workforce since the removal of DRA were asked to provide an estimate of the average age of employees that had retired.⁵⁴ The mean average age of these retirees was 64 years, irrespective of gender.

In terms of sector differences, the survey of employers found that average age of retirees in the private and third sectors (65 years and 66 years respectively) was greater than the average age of retirees in public sector establishments (62 years).

When grouped into specific age ranges, most employers (59 per cent) stated an average age of retirement to be between 60 to 65 years, and a quarter (24 per cent) said the average age was over 65 years. This did not differ by the size of establishment. Five per cent of employers who had at least one retiree since the removal of DRA indicated that the average age of the retirees was between 50 and 59 years.

Consistent with evidence of increasing labour force participation presented earlier on in section 3, around one in six employers (17%) had noticed a change in the age profile of their workforce since the removal of DRA, with the majority of these noting that there has been an increase in the proportion of employees aged 60 or over. Almost a third (30 per cent) of establishments who had experienced at least one employee retire since the removal of DRA said that they had noticed a change to the age profile of their workplace.

Of those establishments who had noticed a change in the age profile of their workforce, just under half (47 per cent) reported that the change in the age profile was at least partly due to the removal of DRA (nine per cent said the change was due to a 'major extent' from the removal of DRA and 38 per cent said a 'minor extent'). Overall, this represents around eight per cent of all

⁵³ BIS (2013) The Fourth Work-life Balance Employer Survey, Department for Business, Innovation and Skills. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398557/bis-14-1027-fourth-work-life-balance-employer-survey-2013.pdf

WLB4 held telephone interviews with 2,011 establishments in Great Britain with at least five employees on the payroll.

⁵⁴ It should be noted that respondents were asked to estimate the average age of the employees that had retired since the removal of DRA. Respondents were not required to provide figures based on HR records.

employers that considered the removal of DRA had led to a change in the age profile of their workforce.

By 2013, one in 20 employers (five per cent) reported an increase in the proportion of their workforce aged over 60 as a result of the removal of the DRA.

Summary

One in six employers noted an increase in the age profile of their workforce since the removal of the Default Retirement Age. A minority of employers attributed this change directly to the de-regulatory measure.

10. Have employers' attitudes towards older workers changed since the removal of the Default Retirement Age?

Retaining and recruiting older workers is likely to be increasingly important for employers. DWP estimate that by 2022, there will be 700,000 fewer people aged 16 to 49 in the UK, but 3.7 million more people aged between 50 and State Pension age. If the over 50s continue to leave the workforce in line with previous norms, labour and skills shortages could be anticipated.⁵⁵ Another study estimates that between 2014 and 2024 13.1 million jobs will be opened up through people leaving the work force and 1.8 million new jobs will also be created.⁵⁶

Recent qualitative research found that employers have largely positive views of older workers. Older workers were found to have more experience and knowledge of the industry, their job role and the company's ways of working. Other beneficial behaviours commonly attributed to older workers included people skills, remaining calm under pressure or when facing challenges, and being committed and conscientious. Some employers recognised flexible working as an effective way to improve retention rates.⁵⁷

Stakeholder interviews found that since the removal of the Default Retirement Age, employers are generally happy that people are choosing to stay on in work and that this is perceived to be a 'win-win' situation for both employers and employees alike.

⁵⁵ Altmann, R. (2015) *A new vision for older workers: Retain, Retrain Recruit*, Department for Work and Pensions. Available:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411420/a-new-vision-for-older-workers.pdf

⁵⁶ Wilson et al. (2016) *Working Futures 2014-2024: Evidence Report 100*, UK commission for Employment and Skills, pp.66. Available:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/513801/Working_Futures_final_evidence_report.pdf

⁵⁷ IFF research (2017) *Employer experiences of recruiting, retaining and retraining older workers: Qualitative research*, Department for Work and Pensions, available:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/584448/employer-experiences-of-recruiting-retaining-and-retraining-older-workers.pdf

Among individuals working beyond State Pension age in 2014, the vast majority (80 per cent) were already working for their employer prior to 2010.⁵⁸ NIESR note this suggests employers are more likely to retain older workers and perhaps less willing to recruit 'new' older workers.⁵⁹

Summary

Employer attitudes are generally positive of older workers and value their contribution in the workplace. Employers tend to recognise the importance of retaining experienced staff and are appreciative that more people are choosing to stay on in work.

11. From an employer perspective, have levels of workplace discrimination in relation to age changed since the de-regulation?

Perceived levels of discrimination in the workplace

Qualitative interviews with employers found that many employers said that they are fearful of contravening equal opportunities legislation and perceived as being discriminatory. This often prevents them from collecting information on age or monitoring the age profile of their workforce or new applicants.

In terms of recruitment, employers interviewed did not consider that there was any age-related bias in their recruitment approaches. However, using hypothetical recruitment scenarios with employers, some of their responses illustrated that they would have concerns about recruiting workers who presented with situations more likely to affect older workers, such as health conditions and caring responsibilities.⁶⁰

Findings from a recent ESRC-funded qualitative study suggested that there is a belief among some employers that they could not talk to their staff about retirement plans for fear of being accused of ageism.⁶¹ The employees interviewed for this work did want to talk about their retirement options but were not clear how to go about it.⁶²

There was also a feeling reported that the law is being interpreted cautiously in some instances, with informal adjustments no longer being made for older workers. For example, one company had been advised on legal grounds to scrap a phased retirement policy because it was

⁵⁸ ONS (2015) *Participation rates in the UK 2014: 3. Older people*, Office for National Statistics.

⁵⁹ NIESR (2017) *Older workers and the workplace: Evidence from the Employment Relations Survey*, Department for Work and Pensions. Available: <https://www.gov.uk/government/publications/older-workers-and-the-workplace-evidence-from-the-workplace-employment-relations-survey>

⁶⁰ IFF research (2017) *Employer experiences of recruiting, retaining and retraining older workers: Qualitative research*, Department for Work and Pensions, available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/584448/employer-experiences-of-recruiting-retaining-and-retraining-older-workers.pdf

⁶¹ Vickerstaff, S. et. al (2017) *Consequences of abolishing mandatory retirement*, IAGG conference San Francisco 2017 presentation. Available: <https://www.kent.ac.uk/extendingworkinglives/Conferences.html>

⁶² Reported in an article for the Independent: <http://www.independent.co.uk/life-style/health-and-families/the-question-employers-are-wary-to-ask-when-are-you-going-to-retire-a7570751.html>

considered discriminatory. This was found not to be helpful for either the employee or the employer.⁶³

Summary

Some employers are reporting nervousness and uncertainty in interpreting the legislation on age discrimination. In these instances where employers are fearful of talking to their staff about retirement plans, better communication could improve employer/employee relations and aid managers in thinking through succession planning and implications for their workforce. This issue is discussed further in the conclusion section (7).

12. Have employers made savings from no longer administering the right to request retirement procedure?

We do not have any evidence that employers have made savings from no longer administering the right to request retirement procedure. However, it is reasonable to assume that employer handling costs have reduced as employees are no longer given a retirement notice and that formal requests to stay on in work are no longer made. One business stakeholder mentioned that some employers report that justifying the retirement age makes it expensive to 'retire people' as a result of this de-regulatory measure.

Summary

It is likely that employers have made savings by no longer administering the right to request retirement procedure since the removal of the Default Retirement Age legislation.

13. Can refinements be made to the policy?

The removal of the Default Retirement Age also means that employers no longer have to follow a set retirement procedure. Qualitative research carried out for DWP noted that businesses generally did not have processes in place for discussing retirement plans with older workers. If plans for retirement were discussed this was seen to be sensitive and many employers felt that they preferred to wait for the employee to raise the issue of retirement planning informally.

Some employers felt that the removal of the Default Retirement Age had created increased uncertainty about when employees were likely to retire making succession planning and replacement recruitment difficult.⁶⁴

Interviews with stakeholders also suggest that some employers remain uncertain about how best to manage the retirement of older workers following the abolition of the Default Retirement

⁶³ Vickerstaff, S. et. al (2017) *Consequences of abolishing mandatory retirement*, IAGG conference San Francisco 2017 presentation. Available: <https://www.kent.ac.uk/extendingworkinglives/Conferences.html>

⁶⁴ IFF research (2017) *Employer experiences of recruiting, retaining and retraining older workers: Qualitative research*, Department for Work and Pensions, available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/584448/employer-experiences-of-recruiting-retaining-and-retraining-older-workers.pdf

Age in 2011. There is anecdotal evidence of nervousness among employers around interpreting the legislation in this area and having discussions with employees about retirement. There could be workforce implications of this for succession planning.

Senior career conversations in mid-life are common in some European countries such as Denmark.⁶⁵ They may enable individuals to clarify future aspirations for work, and to better understand the options open to them in terms of job and career change, training opportunities, promotion, flexible working and phased retirement.

Findings from a Mid-Life Career Review pilot project funded by the former Department for Business, Innovation and Skills and operated by NIACE published in 2015 illustrated some interest from participants in holding mid-life career conversations. Respondents in the qualitative evaluation reported that they appreciated the opportunity to step back and gain a better understanding of opportunities to change job, move to self-employment, or negotiate more appropriate working conditions.⁶⁶

The independent Review of the State Pension age published in 2017, described how a 'mid-life MOT' could potentially act as a useful trigger to encourage people to take stock of their lives and plan for the future at a time of longer life expectancy, increasing state pension ages and where people can expect to work later in life.⁶⁷ DWP is developing understanding of user demand for the range of interventions that could potentially be classed as a 'mid-life MOT' by engaging with stakeholders. Some businesses have adjusted HR practices to incorporate mid-life MOT's. Further evidence is required on the effectiveness of these management/staff conversations in helping people to extend their working lives.

Summary

In the absence of a set retirement procedure, some employers have mentioned that they are unsure of how to have conversations with their staff about their retirement plans. There could be implications of avoiding such conversations on workforce planning. We are strengthening the advice and guidance material on having conversations with older workers to provide best practice in this area.

⁶⁵ CIPD/IES (2017) *Creating longer, more fulfilling working lives: Employer practice in five European countries*. CIPD.

⁶⁶ NIACE(2015) *Mid Life Career Review: Pilot Project Outcomes Phases 1, 2 and 3 (2013-15) Final Report to the Department for Business Innovation & Skills*, (BIS).

⁶⁷ Cridland, J. (2017) [Independent review of the State Pension age: Smoothing the transition](#), DWP.

5. The effects of the removal of the Default Retirement Age on the Exchequer

14. *Since the removal of the DRA, have tax receipts increased among individuals aged over 65?*

The impact assessment assumed that the phasing out of the Default Retirement Age would result in benefits to the Exchequer and the British economy overall. As a result of more individuals aged over 65 participating in the labour market, increased tax receipts among older workers were anticipated as a result of an increased labour supply.

HM Revenue and Customs reported an increase in the number of UK taxpayers over the age of 65 since the removal of the Default Retirement Age⁶⁸. Data from the Survey of Personal Incomes shows that there were 6,330,000 individual income taxpayers over the age of 65 in 2014-15, compared with 4,910,000 in 2010-11. This represents an increase of over a fifth of income taxpayers in this age group.

Employees aged over State Pension age do not pay National Insurance Contributions.⁶⁹ Data on National Insurance Contributions by age is not readily available from HMRC, however figures show that contributions have increased among all age groups since 2010-11.⁷⁰ It is reasonable to assume that as the State Pension age rises in Great Britain, the amount of employees paying National Insurance Contributions is set to gradually increase.

Summary

An increase in the number of UK taxpayers aged over 65 can be observed since the removal of the DRA. It is difficult to attribute the effects of the abolition of the Default Retirement Age on income tax receipts and National Insurance Contributions given wider economic factors and increases in the State Pension age.

⁶⁸ HMRC (2016) *Survey of Personal Incomes*, HM Revenue and Customs. Available: <https://www.gov.uk/government/statistics/number-of-individual-income-taxpayers-by-marginal-rate-gender-and-age>

⁶⁹ <https://www.gov.uk/tax-national-insurance-after-state-pension-age/overview>

⁷⁰ <https://www.gov.uk/government/statistics/hmrc-tax-and-nics-receipts-for-the-uk>

6. Have the assumptions underpinning the original impact assessment been realised?

Please provide a brief recap of the original assumptions about the costs and benefits of the regulation and its effects on business (e.g. as set out in the IA).

Table 6.1 presents a breakdown of the original costs and benefits calculated for the removal of the Default Retirement Age in 2010, as well as estimates based on 2015-16 prices adjusting for inflation. The total Net Present Benefit of this de-regulation to the economy was estimated to be £2,890 million.

The main costs to employers include: one-off introduction of performance and appraisal systems, one-off familiarisation costs with the changes in the law, as well as ongoing costs of running performance and appraisal systems; and additional ongoing costs of carrying out appraisals with employees nearing retirement. Employers and the Government were assumed to incur ongoing costs as a result of an increase in Employment Tribunal claims for unfair dismissal and/or age discrimination.

Benefits to individuals were estimated in terms of increased earnings. Employers were expected to gain in terms of operating surplus resulting from an increased labour supply, as well as making savings from the removal of the right to request to stay on in work procedure. Finally, the Exchequer was estimated to benefit from increased tax receipts and from reduced Employment Tribunal administration and hearings.

The Net Present Value is then estimated to account for direct costs and benefits that occur over the appraisal period. A discount rate of 3.5% is applied to the figures so that they can be compared over time, accounting for the 'time preference' principle whereby society is seen to prefer to receive goods and services sooner rather than later.⁷¹

⁷¹ HM Treasury (2011) *The Green Book: Appraisal and Evaluation in Central Government*, TSO London. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220541/green_book_complete.pdf

Table 6.1: Original cost-benefit analysis of the removal of the Default Retirement Age

Cost-benefit analysis from the original Impact Assessment	2010-11 prices (£, million)	2015-16 prices (£, million)
Costs		
<i>Employer Costs</i>		
One-off familiarisation with the changes in legislation (year 1 only)	18.1	-
One-off costs of introducing a performance management system (year 1 only)	33.2	-
Annual costs in conducting performance appraisals for employees aged 64 and over	3.6	3.9
Annual costs as a result of an increase in employment tribunal claims for unfair dismissal	3.3	3.5
<i>Exchequer costs</i>		
Annual costs as a result of an increase in employment tribunal claims for unfair dismissal	2.0	2.1
Benefits		
<i>Employee benefits</i>		
Annual individual benefits through increased earnings as older workers stay on in work, in the first year since implementation	102.8	109.1
<i>Employer benefits</i>		
Annual administrative burden savings resulting from the removal of the right to request procedure	5.4	5.8
Annual increases in operating surplus resulting from the increase in labour supply	38.6	41.3
<i>Exchequer benefits</i>		
Annual benefits resulting from increases in tax receipts.	76.1	81.4
Annual reduction in the costs of administration and operational costs of tribunal hearings	0.9	1.0
Net Present Value (accrued over 10 years)	2,890.0	3,091.0

15. To what extent have the assumptions underpinning the original impact assessment been realised?

The effect on labour supply

The cost-benefit analysis set out in the original impact assessment in 2011 assesses the number of employees affected by a compulsory retirement age and the number of employees who requested to stay on in work under the previous right to request procedure. The potential labour supply effect was then derived from the estimated number of requests to stay on in work that were rejected prior to the legislative change.

There is potentially another cohort of people approaching compulsory retirement age before the de-regulatory change in 2011 who wanted to carry on working but did not submit a request to stay on in work. These individuals would presumably have subsequently stayed on in work since the DRA removal. It is therefore reasonable to assume that the labour supply effect of the de-regulation is likely to be slightly larger than the 6-10,600 extra employees in work over the period 2011-2020 noted in the original impact assessment. This figure would be greater if people were deterred from making a request to stay on in work prior to the DRA removal.

It is not possible to precisely quantify the labour supply effect of the removal of the Default Retirement Age in the same way, however, as there is no longer a right to request procedure to stay on in work.

The number of employees aged 65 and over more generally has increased by over 139,000 between 2011 and 2016 in Great Britain, representing a rise of 27% (see Table 6.2).

Table 6.2: Employees aged 65 and over in Great Britain, January-March 2011 and January-March 2016

	Q1 2011	Q1 2016	Absolute change (n)	Percentage change 2011-2016	+/-
Employees aged 65 and over	520,200	659,500	139,300	27%	+

Source: BEIS analysis based on the Labour Force Survey

Attributing the changes in employment and earnings outcomes noted in this review specifically to the removal of the Default Retirement Age is problematic. Overall, general trends noted earlier in this paper show that more people are retiring later, and extending working lives is increasing the supply of labour.

Does labour market participation of older workers affect the employment of younger workers?

This review investigates recent literature exploring whether older workers affect the employment of younger workers, updating the evidence presented in 2011. It is not possible to specifically analyse the effects of the DRA abolition on labour market participation of older and younger workers.

In the 1970s, it was believed that offering increased incentives for workers to retire early would have an effect on reducing unemployment. The Job Release Scheme (1978) explicitly aimed to allow older workers to retire to release jobs for the unemployed.⁷² It is widely acknowledged that these effects were not realised, however.⁷³

The belief that reducing the labour supply among older workers could help mitigate unemployment is unfounded. It is based on the assumptions that: a) there are a fixed number of jobs in the labour market; and b) younger and older workers can be substitutes in terms of employment as opposed to complements.⁷⁴

It is unlikely that there are a fixed number of jobs in the labour market, for example population increases or rising trends in female participation seen in recent decades illustrate this. Vestad (2013) notes that the number of jobs in the labour market is not fixed; this theory has found little

⁷² Banks, J. et al (2008) *Releasing jobs for the young? Early retirement and youth unemployment in the United Kingdom: IFS working paper W10/02*, Institute for Fiscal Studies. Available: <https://www.ifs.org.uk/wps/wp1002.pdf>

⁷³ OECD (2013) "All in it together? The experience of different labour market groups following the crisis," in *OECD Employment Outlook 2013*, OECD Publishing. Available: <http://www.oecd.org/els/emp/Employment-Outlook-2013-chap1.pdf>

⁷⁴ Ibid.

support.⁷⁵ Younger and older workers are also not substitutes as they are likely to be employed in different job roles doing different tasks.⁷⁶

The literature on the interactions between retirement and youth employment is limited.⁷⁷ Many studies that have been undertaken found no evidence of an adverse effect of increasing employment among older workers on youth employment.⁷⁸ Moreover, there is no systematic evidence of increasing employment among older workers having an effect on youth employment.

Some working papers found small substitution effects between older and younger workers to a certain extent;⁷⁹ however other authors found little evidence of substitution effects.⁸⁰ As rapid technological advances change the demand for skills in the labour market, this may also reduce the extent to which workers of different age cohorts can be 'substituted'.⁸¹

OECD (2013) examines the relationship between employment of youth and older workers using data across 25 countries between 1997 and 2011. The results suggest that a 1 percentage point increase in the employment rate for older workers gives rise in the long-run to an increase in the youth employment rate by 0.3 percentage points. On average across the OECD increases in the employment rate of older workers are either associated with increases in the

⁷⁵ Vestad, O. (2013) Early Retirement and Youth Employment in Norway, working paper, statistics Norway. Available:

http://conference.iza.org/conference_files/older_workers_2013/vestad_o7177.pdf

⁷⁶ OECD (2013) "All in it together? The experience of different labour market groups following the crisis," in *OECD Employment Outlook 2013*, OECD Publishing. Available:

<http://www.oecd.org/els/emp/Employment-Outlook-2013-chap1.pdf>

⁷⁷ Tito Boeri, Pietro Garibaldi, Espen R Moen (2016) *A clash of generations? Increase in Retirement Age and Labor Demand for Youth*, Centre for Economic Performance Research. Available:

http://cepr.org/active/publications/discussion_papers/dp.php?dpno=11422

⁷⁸ Gruber and Wise (2010) *Social Security programs and retirement around the world: The relationship to youth employment*, University of Chicago Press;

Munnell, A. and A. Yanyuan Wu (2012), "Will Delayed Retirement by the Baby Boomers Lead to Higher Unemployment Among Younger Workers?", *Working Paper 2012-22*, Center for Retirement Research at Boston College, Boston;

Mannell, A., Wu, A. (2012) *Are ageing baby boomers squeezing young workers out of jobs?* Centre for Retirement Research at Boston College

Banks, J. et al (2008) *Releasing jobs for the young? Early retirement and youth unemployment in the United Kingdom: IFS working paper W10/02*, Institute for Fiscal Studies. Available:

<https://www.ifs.org.uk/wps/wp1002.pdf>

⁷⁹ Tito Boeri, Pietro Garibaldi, Espen R Moen (2016) *A clash of generations? Increase in Retirement Age and Labor Demand for Youth*, Centre for Economic Performance Research.

Available:http://cepr.org/active/publications/discussion_papers/dp.php?dpno=11422;

Vestad, O. (2013) Early Retirement and Youth Employment in Norway, working paper, statistics Norway.

Available: http://conference.iza.org/conference_files/older_workers_2013/vestad_o7177.pdf

⁸⁰ Kalwij, A., A. Kapteyn and K. de Vos (2010), "Retirement of Older Workers and Employment of the Young", *De Economist*, Vol. 158, No. 4, pp. 341-359;

Gruber, J. and K. Milligan (2010), "Do Elderly Workers Substitute for Younger Workers in the United States?", *Social Security Programs and Retirement around the World: The Relationship to Youth Employment*, National Bureau of Economic Research (NBER), pp. 345-360;

Munnell, A. and A. YanyuanWu (2012), "Will Delayed Retirement by the Baby Boomers Lead to Higher Unemployment Among Younger Workers?", *Working Paper 2012-22*, Center for Retirement Research at Boston College, Boston.

⁸¹ Boheim, R (2014) *The effect of early retirement schemes on youth employment*. IZA World of Labor 2014: 70. Available: <http://wol.iza.org/articles/effect-of-early-retirement-schemes-on-youth-employment.pdf>

youth employment rate or have no impact at all. A study using data from China also suggests that the employment rates of young workers are positively associated with the employment rates of older workers.⁸² The OECD also note that there is no evidence that the relationship between older worker employment and youth employment is significantly different during periods of recession, or that it has changed since the onset of the financial crisis.⁸³

Is there a perception that retaining older workers will have an effect on the hiring of younger workers?

Findings from stakeholder interviews indicate that many employers see retaining older workers as complementary to hiring younger workers. Older workers often coach and mentor people in more junior positions, helping to encourage people to move up among the younger workforce.

Recent qualitative evidence from interviews with workers over 50 suggest that some individuals continue to believe that there are a finite number of jobs in the labour market and they expressed the need to give up a job in order to provide work for younger people.⁸⁴

Productivity assumptions

A recent literature review confirms that there is no systematic evidence that older workers are less productive. Overall, the literature review summarises that existing studies have not found older average age to be negatively associated with workplace productivity.⁸⁵

Costs

Introducing, running performance and appraisal systems and conducting performance appraisals for older employees

The original impact assessment (BIS 2011) assumed that some employers are likely to consider implementing a performance management or appraisal system as a result of the removal of the Default Retirement Age.

⁸² Zhang, C. *The Relationship between Elderly Employment and Youth Employment: Evidence from China*. University Library of Munich, MPRA Paper 37221, 2012.

⁸³ Sonnet, A., Olsen, H., Manfredi, T. (2014) *Towards More Inclusive Ageing and Employment Policies: The Lessons from France, The Netherlands, Norway and Switzerland*, Organisation for Economic Cooperation and Development. Available: <http://www.oecd.org/els/emp/Towards-More-Inclusive-Ageing-and-Employment-Policies.pdf>

⁸⁴ Vickerstaff, S (Forthcoming) "Uncertain Futures: Managing Late Career Transitions and Extended Working Life," Economic and Social Research Council, University of Kent. Presentation available: http://www.taen.org.uk/uploads/resources/Presentation_Sarah_Vickerstaff_-_How_to_Think_About_the_Lump_of_Labour_Fallacy.pdf

⁸⁵ NIESR (2017) *Older workers and the workplace: Evidence from the Employment Relations Survey*, Department for Work and Pensions. Available: <https://www.gov.uk/government/publications/older-workers-and-the-workplace-evidence-from-the-workplace-employment-relations-survey>

As noted previously, there are indications that more employers are making use of performance and appraisal systems over the past few years. We have found no evidence however that employers have set up performance and appraisal systems directly as a result of the removal of the Default Retirement Age. It is also unlikely that businesses have experienced increased costs in conducting performance appraisals for older employees, because higher labour costs more generally tend to reduce employment.⁸⁶ Higher costs have not been realised because there are increasing numbers of older workers in the labour market.

Increased employment tribunal claims for unfair dismissal or age discrimination

It was originally envisaged that Employment Tribunal claims could potentially increase as an unintended consequence of the removal of the Default Retirement Age and associated right to request to stay on in work procedure. Around 400-800 additional employment tribunal claims for unfair dismissal or age discrimination were estimated to occur per year as a result of the abolition of the Default Retirement Age, at a cost of £3.3 million and £2 million to employers and the Government respectively.

Since the removal of the Default Retirement Age, fewer employees have sought redress through the Employment Tribunal system in terms of the number of disposals. In the five years following implementation of the policy, these additional costs have not been realised. This may be the result of other changes to the Employment Tribunal system such as the level of fees for Employment Tribunals introduced and Early Conciliation to encourage early dispute resolution during the review period.

Benefits

Increase in earnings as older workers stay on in work

As a result of the removal of the Default Retirement Age, individuals were estimated to benefit by around £103 million in increased earnings in the first year of implementation, rising to £166 million in year 10. This was calculated based on the effect of the de-regulation on labour supply.

Table 6.2 shows that there were nearly 140,000 additional employees aged over 65 in the labour market at the beginning of 2016 compared with the year prior to the phasing out of the Default Retirement Age. As noted previously, the assumed labour supply effect of the de-regulation is likely to be larger than 6-10,000 employees because there will have been some who wanted to carry on working, did not submit a right to request to stay on in work but subsequently remained in work. Although it is problematic to precisely quantify how many employees this directly affected, it is plausible however to assume that the removal of the Default Retirement Age could be partly responsible for the net increase in labour supply. Given

⁸⁶ Hamermash, H. (2014) *Do labor costs affect companies' demand for labor? The effect of overtime, payroll taxes, and labor policies and costs on companies' product output and countries' GDP*, IZA World of Labour: <http://wol.iza.org/articles/do-labor-costs-affect-companies-demand-for-labor.pdf>

this uncertainty around the labour supply effect, it is not feasible to attempt to re-calculate the benefits of the policy in earnings accrued to individuals.

Direct employer savings as a result of removal of right to request procedure and fewer employment tribunal claims

Following the removal of the Default Retirement Age, qualitative interviews have shown some employers have no set retirement procedure or an informal retirement process at best whereby managers wait for the employee to raise the subject of planned retirement decisions.

As stated earlier, fewer employees are going to Acas and an Employment Tribunal since the abolition of the Default Retirement age and right to request to stay on in work procedure.

Employers experiencing increases in operating surplus

In recent years the employment rate has risen among workers aged 65 and over since 2011, by around one percentage point. Employee rates have also risen among older workers in Britain since the abolition of the Default Retirement Age. Overall, people are retiring later thus contributing to an increase in the supply of labour in the economy.

The original impact assessment assumed annual increases in operating surplus, resulting from the increase in labour supply as a result of the removal of the Default Retirement Age. Operating surplus or profit share was calculated as a percentage of Gross Domestic Product (GDP).

As more individuals seek to extend their working lives it is reasonable to assume that this will have a positive contribution to economic growth. The full economic effects of the removal of the Default Retirement Age policy cannot be captured, however, as the extent to which trends can be reliably attributed to the de-regulation is limited.

Increases in tax revenues and savings from fewer Employment Tribunal applications

As mentioned previously, there have been increasing numbers of UK taxpayers over the age of 65 since the removal of the Default Retirement Age, suggesting that tax revenues have risen more generally among this age group. It could be assumed that tax revenues rise as the supply of labour increases over time. It is difficult to isolate tax revenues that have increased as a direct result of the removal of the Default Retirement Age. As the labour supply effect of the de-regulation may be greater than that stated in the original impact assessment, it could be assumed that the effect on income tax revenues is likely to be larger.

Employees aged over State Pension age do not pay National Insurance Contributions. Data on National Insurance Contributions by age is not readily available; however figures show that contributions have increased among all age groups since 2010-11.⁸⁷ It is reasonable to assume that as the State Pension age rises in Great Britain, the amount of employees paying National Insurance Contributions is set to gradually increase.

⁸⁷ <https://www.gov.uk/government/statistics/hmrc-tax-and-nics-receipts-for-the-uk>

Fewer Employment Tribunal cases can be observed between 2011 and 2016 across jurisdictional complaints, including Age discrimination and Unfair dismissal. It is difficult to isolate the effects of the removal of the Default Retirement Age on reductions in Employment Tribunal claims, particularly given wider factors such as the level of Employment Tribunal fees set and the new early conciliation process that the Government introduced in 2014.

Non-monetised costs and benefits: Insured benefits

Prior to the legislative change, stakeholders raised concerns that the de-regulation could mean employers cease to provide benefits such as health insurance, life insurance and enhanced sick pay. Through discussions with stakeholders, we have found no evidence of adverse effects of the removal of the DRA on insurance benefits.

Summary

As seen in previous sections, more employees aged over 65 are remaining in work since the removal of the DRA. General trends show that as more people are retiring later, extended working lives are increasing the supply of labour. We have found no systematic evidence that increases in employment of older workers have any adverse effects on youth employment, nor have we found any systematic evidence that older average age is negatively associated with workplace productivity.

It is unlikely that higher business costs relating to implementing performance appraisals or handling Employment Tribunal claims have been realised and we cannot find evidence of such costs. It is likely, however, that individuals have benefitted from increased earnings as a result of working longer; that employers have experienced savings as a result of no longer having a set retirement procedure; and the Exchequer has benefitted from greater tax receipts and fewer Employment Tribunal claims over the review period. The extent to which these changes can be attributed directly to the de-regulation is limited.

7. Conclusion

Whether, and to what extent the measure has achieved its original objectives?

The removal of the Default Retirement Age has achieved its original objectives, in that greater opportunities have been provided for people at age 65 and beyond to participate in the labour market. More people aged over 65 are in employment and they are also more likely to be working full-time than previously. These positive employment outcomes form part of existing trends observed prior to the removal of the DRA. Many factors may contribute to people working longer than they used to and removing barriers such as the DRA may have played a role in this, however attributing these employment effects directly to the policy is problematic.

Analysis of survey data shows earnings have grown among over 65s since the abolition of the Default Retirement Age. Employees who would have been subjected to a Default Retirement Age will have benefitted from increased earnings following the abolition of the set retirement procedure.

Over half of employees are also expecting to retire later than they did five years ago, mainly due to changes in the State Pension age and other financial considerations. Indicative results suggest that a minority of employees who expect to retire later attribute this to their employer no longer having a fixed retirement age.

A small share of employers also said that the proportion of their workforce aged over 60 has increased as a result of the removal of the Default Retirement Age. Many employers are recognising the importance of retaining experienced staff. In this way, attitudes of employers and employees towards working longer are starting to shift and a small minority report that the removal of the Default Retirement age has made a contribution to this change.

It is very difficult to determine the precise causal effects the deregulatory measure has had on people's working lives, however, given wider trends such as changes in State Pension age, economic conditions and other financial considerations. These factors are likely to be critical in driving overall trends. Modest positive trends in employment rates, earnings and retirement expectations have been demonstrated since the removal of the Default Retirement Age and it is likely that removing these barriers has played a small yet important role in continuing employment.

Have there been any unintended consequences?

The original impact assessment identified potential unintended consequences arising from the removal of the Default Retirement Age, including changes in levels of age discrimination in the workplace; increased levels of dismissal disputes; ongoing use of an employer-justified retirement age; and the assumption that some employers may introduce a performance management system for employees who might otherwise have been subject to compulsory retirement.

A low share of workers reported experiencing age discrimination in 2015 and this has remained consistent over time. There have also been fewer Employment Tribunal cases for Age discrimination and Unfair dismissal over the past few years. It is likely that wider factors including changes to the Tribunal system have contributed to trends in Employment Tribunal cases across jurisdictional complaints between 2011 and 2016.

Indicative research suggests that employer use of an Employer-Justified Retirement Age (EJRA) has reduced since the abolition of a fixed retirement age and is now only used among a minority of employers.

Performance appraisals are increasingly recognised among employers as good managerial practice; however, we found no evidence that performance management systems were being

implemented in the absence of a retirement procedure as a direct result of the abolition of the DRA.

The evidence available suggests that the unintended effects of the removal of the Default Retirement Age on perceived levels of age discrimination have not been realised.

Where employers no longer have to follow a set retirement procedure, some employers do not have processes in place for discussing planned retirement and there may be some uncertainty among employers in interpreting the legislation in this area. This could potentially hinder succession planning and may have implications for managing the workforce at firm-level. Qualitative interviews also indicate that some employers are prevented from collecting information on age, or monitoring the age profile of their workforce or new applicants. Some employers would benefit from better advice and guidance about age discrimination legislation and having conversations with older workers. DWP is engaging with employers to explain the benefit of Career Conversations and how they can help older workers to stay in work, and benefit from the skills training on offer.

To what extent have the assumptions underpinning the original impact assessment been realised?

More people aged 65 and over are in work and are earning more than at the time this policy was implemented. The Exchequer continues to benefit from increased tax receipts among the over 65s more generally and it is likely that the Exchequer has also benefitted from this de-regulatory measure to a certain degree. Employers are also saving from the removal of the set retirement procedure, including the formal retirement notice and right to request to stay on in work, thus reducing the administrative burden for employers in this area.

Costs incurred from employees increasingly seeking redress through Employment Tribunals and employers conducting performance appraisals specifically for older workers have not been realised; we have found no evidence of these costs as a result of this de-regulation.

We conclude therefore that overall many of the benefits of abolishing the Default Retirement Age have been realised across the economy. It is also a positive finding that costs in relation to this policy have not been felt as keenly by business as anticipated.

Are the objectives still valid? Is the measure still required? What is the best option for achieving those objectives?

Removing barriers restricting individuals from working is still a valid objective and the de-regulation should continue to prevail. In terms of refinements to the policy, DWP is engaging with employers to explain the benefit of Career Conversations, and how they can help older workers to stay in work. Given that many benefits of the de-regulatory measure have been realised and negative consequences are being actively managed, we do not envisage reviewing this legislation in a further five years' time.

At the time of writing, Britain has seen record employment rates. We are also in a period of significant demographic change, with an ageing population. The de-regulatory measure

continues to contribute towards Fuller Working Lives strategy in financing of State Pension provision and maintaining the supply of labour. Actions to support the future economy, such as the removal of the Default Retirement Age, will help more people in work to stay in work should they choose to do so.