

Exploratory Study on Age Discrimination in Employment

- Report -

Prepared for



平等機會委員會
EQUAL OPPORTUNITIES COMMISSION

By

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Table of Contents

Executive Summary.....	1
Chapter 1	Introduction 7
1.1	Background 7
1.2	Objectives..... 8
1.3	Contents of Chapters 8
Chapter 2	Literature Review 9
2.1	Hong Kong 9
2.2	Singapore 11
2.3	Japan..... 12
2.4	Taiwan 13
2.5	United Kingdom..... 13
2.6	Australia 15
2.7	Implications for Current Study 15
Chapter 3	Survey Methodology and Enumeration Results 16
3.1	Questionnaire Survey 16
3.2	In-depth Interviews 17
Chapter 4	Profile of Respondents of Telephone Survey 19
4.1	Gender 19
4.2	Age 19
4.3	Education Level 20
4.4	Industry 20
4.5	Number of Full-time Staff in the Company 21
4.6	Job Position 21
4.7	Monthly Personal Income 22
Chapter 5	Current Situation of Workplace Age Discrimination..... 23
5.1	People Perceived to be Vulnerable to Age Discrimination 23
5.2	Experiences of Workplace Age Discrimination in the Past Five Years..... 25
5.3	Perceived Seriousness of Workplace Age Discrimination in Hong Kong 32
5.4	Impact of Workplace Age Discrimination on Employees..... 35

Chapter 6	Feasibility of Legislating against Age Discrimination	37
6.1	Attitude towards Legislating against Age Discrimination	37
6.2	Perceived Impact of Legislating against Age Discrimination.....	45
6.3	Scope of Legislation against Age Discrimination.....	49
6.4	Retirement Age in Hong Kong.....	54
Chapter 7	Engaging the Mature People in Employment.....	59
7.1	Preferred Modes of Re-Employment after Retirement	59
7.2	Feasibility of Government Provision of Support Measures.....	60
7.3	Employers' Concerns for Hiring Mature Workers	64
Chapter 8	Conclusion and Recommendations	68
Appendix	71

Executive Summary

Background

1. The Equal Opportunities Commission (EOC) commissioned the project “Exploratory Study on Age Discrimination in Employment” (the Study) to the Consumer Search Hong Kong Limited (CSG), with the aims of obtaining a picture of existing age discrimination in the Hong Kong workplace and probing for the feasibility of legislation on age discrimination.
2. The Study included a quantitative telephone survey and some qualitative in-depth interviews. For the telephone survey, the sampling covered employed persons aged 15 or above in Hong Kong (excluding foreign domestic workers) and a total of 401 interviews were completed in November 2014. For the in-depth interviews undertaken from February to July 2015, they covered ten employers / employers’ representatives of small-and-medium enterprises (SMEs) from a wide variety of industries, three SME employees and four Legislative Councillors.

Key Findings

Current Situation of Workplace Age Discrimination

3. Over one-third of the employed persons perceived the problem of age discrimination in the workplace as “serious” (28%) and “very serious” (7%) in Hong Kong. A majority of the working population believed that the mature workers were more vulnerable to age discrimination than young workers. Most of the employed persons viewed that persons aged 60 or above (78%) and aged 50-59 (67%) were vulnerable to age discrimination. Alternatively, young workers aged 15-19 were perceived by 33% of the employed persons to be vulnerable to age discrimination. These findings echo with those of overseas countries that age discrimination in the workplace is usually targeted at two age groups: younger (under 20) and mature workers (above 50).
4. Most SME employers in the in-depth interviews complained that young workers would not stay long and therefore it was too costly to hire and train up the younger generation. They commented that the age structure of their company was biased towards workers in the age range of 30-49.
5. Around 35% of the responded employed persons reported that they had experienced some forms of age discrimination in their workplace in the past five years. The findings provide evidence of age discrimination in Hong Kong workplaces. The most commonly experienced forms of workplace age discrimination include “receiving lower salary than other workers in the same position” (18%), “being denied a job promotion” (14%) and “being targeted for redundancy in organisational restructuring” (14%).
6. Mature employed persons are more likely to have experienced age discrimination. There is a tendency that the mature employed persons, in particular those aged 50 or above, seem to have a higher chance of having experienced certain forms of employment-related age discrimination in the past five years, such as being denied a job promotion.

7. Men and women are equally likely to be subjected to age discrimination in the workplace. About 35% of men and 35% of women indicated that they had experienced one or more forms of workplace age discrimination in the past five years.

8. Workplace age discrimination has negative impact on employed persons. About 40% had experienced various types of impact including “psychological stress” (30%) and “decreased job satisfaction” (28%).

Legislating Against Age Discrimination

9. While 70% of the employed persons were “supportive” (48%) / “very supportive” (22%) of legislating against age discrimination, one-quarter of them were “unsupportive” (19%) or “unsupportive at all” (6%). Employed persons across all age groups were, in general, supportive of introducing an age discrimination legislation. In particular, such proportion tended to be higher among those aged 20-29 (81%, “supportive” (56%) / “very supportive” (25%)).

10. Among those who were supportive of introducing legislation on age discrimination, they mostly held the views that “legislation could prevent different age groups of people from being discriminated because of their age” (47%) and “legislation could help ensure a fairer workplace in Hong Kong” (43%). Among those who were unsupportive of the legislation on age discrimination, they believed that “the problem of age discrimination was not that serious in Hong Kong” (43%), “a diversity of jobs required employment of workers with specific age-related attributes” (19%), and “the impact of legislation on age discrimination would be small” (16%).

11. In the in-depth interviews, some employers and employees agreed that if legislation on age discrimination is introduced, it can protect mature workers from unfair dismissal. However, some employers were unsupportive of the legislation on age discrimination, the reason being that age discrimination was not serious in Hong Kong. In addition, the interviewed employers were concerned that the legislation might pose extra restriction on employers who would then lose flexibility in the recruitment of staff.

12. With regard to perceived impact of legislating on age discrimination, over three-quarters of the employed persons agreed that legislation on age discrimination could “promote equal opportunities for workers of different ages” (77%) and “better safeguard employees’ interests” (76%). Only around one-third agreed that such legislation would “adversely affect the business environment” (34%).

13. Around 60% of the employed persons opined that age discrimination legislation should prohibit the use of age as a criterion for promotion. When they were asked about the job positions that should be given exemption in relation to the legislation on age discrimination, the three most widely mentioned job positions were “professional drivers” (38%), “actors/ actresses matching the age attributes of the roles” (31%) and “fashion models” (26%). Another area that an age discrimination legislation should cover is recruitment advertisements with age preference, specification or limitation. Around one-fifths (21%) of employed persons had encountered job advertisements with age limitation.

14. In addition, around two-thirds (64%) of the employed persons disagreed that employers should have the right to decide employees' retirement age, whereas 33% agreed so. In the in-depth interviews, a few employers commented that there should be a recommended retirement age so that employees could make reference to when they approached the age between 60 and 65 years old. Having said that, they believed that the workers should be allowed to continue working if they were capable of doing the jobs. The retirement age could vary among employees and should be agreed mutually between employers and employees. A Legislative Councillor viewed that the retirement age should depend on the physical condition of individuals.

15. Over 60% of the employed persons disagreed that there should be a mandatory retirement age in Hong Kong. The Government announced on March 23, 2015 that it would adopt a higher retirement age for new recruits with effect from June 1, 2015. In respect of new recruits appointed to the Civil Service on or after June 1, 2015, the retirement age is raised to 65 and in respect of disciplined services grades, the retirement age is raised to 60, regardless of their ranks. In the in-depth interviews, some Legislative Councillors believed, depending on future advancement of medicine, the retirement age could be further extended. All in all, it was believed that the time to retire was related to the capability of the workers rather than their age.

Engaging the Mature People in Employment

16. Over three-quarters (77%) of the employed persons would like to be re-employed in a higher or equivalent position after retirement. Among them, over one-third preferred working "freelance (e.g. piece-rate pay)" (36%) or as a "regular part-time" staff (35%). Only 14% preferred working "full-time" and 13% preferred working as a "casual" staff.

17. The feasibility of providing government support measures (viz. wage subsidies, transport subsidies, employment support centre, and provision of training or re-training) to help motivate the mature people to continue working after retirement was examined. Over three-fifths of the employed persons considered that one or more of the above four support measures, if provided by the Government, would be useful, with "wage subsidies" as the most welcomed support measure (72%). It was noteworthy that those employed persons with a monthly personal income of \$25,000 or above were less likely to consider the above four suggested measures to be useful, compared with those with a lower monthly personal income.

18. Over half of the employed persons believed that employers would be concerned about "a rise in operational cost (e.g. increased insurance fee/ premium)" (67%), "mature workers' resistance to change in work patterns" (56%), "a drop in productivity" (54%), and "conflicts with young employees" (52%) when they considered hiring mature workers.

19. In the in-depth interviews, some employers revealed that they had re-employed retired persons. However, those hired had either worked in their companies before or possessed required skills. Retired persons without required skills would unlikely be considered for re-employment. Most employers opined that there was difficulty in hiring workers. Some of them valued mature workers whose experiences could be passed on to the younger workers. One Legislative Councillor viewed that the prime concern is the physical fitness of the workers. If the retired persons are not physically fit for employment, they will easily get injured. Furthermore, companies have to consider the issues of obtaining working license and insurance for the mature workers.

Conclusion and Recommendations

20. Over one-third of the responded employed persons reported they had experienced various forms of workplace age discrimination in the past five years. The findings suggest there is a reason to believe that age discrimination is occurring in our workplace.

21. Age is not a good indicator of capability and productivity nowadays. Ageist stereotypes of mature people as frail, burdensome and dependent are not supported by evidence. Yet these deep-rooted negative stereotypes resulted in discrimination in the workplace. In general, more than one-third (35%) of the employed persons in this survey perceived that age discrimination was serious in employment. Mature workers were regarded as more vulnerable to age discrimination, whereas young workers were stigmatized to be immature and with no sense of purpose. In the in-depth interviews, most of the SME employers considered that hiring young people would impose high training costs on the companies because they changed jobs frequently.

22. Today's public opinion is divided on many issues, but on age discrimination, a clear majority hold the same view. As much as 70% of the employed persons, across different age groups and educational levels, agreed that there was a need for legislation on age discrimination. Employers and Legislative Councillors, however, have shown their hesitations. In the qualitative in-depth interviews, they expressed their concerns about how to define the meaning of age discrimination and the scope of legislation. The interviewed employers believed that age discrimination legislation would reduce flexibility in decision-making in the employment cycle. They took the view that under the current social and economic circumstances (viz. low unemployment rate and enforcement of minimum wage), employers found great difficulty in recruitment, let alone discriminating mature people.

23. Regarding the retirement age and re-employment of mature workers, some employers believed that there should be a recommended retirement age to which employees could make reference. They also considered that workers reaching the recommended retirement age should be allowed to continue working if they were capable of doing their jobs. The retirement age could vary among employees and should be agreed mutually between employers and employees. However, it seems that employers tend to offer employment only to mature workers who have worked for them before and possessed the required skills. That might imply potential difficulties for mature workers to find a new job once out of work.

24. The Hong Kong population is ageing fast. Government projections indicate that nearly one-third of our population will be 65 or above by 2041. It is high time for us to break the age barriers in our workplace culture. Making employment decisions based on out-dated assumptions on age not only discriminates against the mature people, but also limits employers' choice of the best person for the job in their company and intensifies the problem of a shrinking labour force of Hong Kong as a whole. Based on the research findings, recommendations are proposed below for stakeholders' consideration:

- (i) The Hong Kong Special Administrative Region Government (Government) should start conducting large scale prevalence survey of age discrimination regularly to collect public views on the issue. The last time that the Government conducted similar survey was more than 10 years ago. Regular surveys allows the Government to monitor closely the prevalence and trend of age discrimination and ensures sufficient public discussion of the related issues, so as to start discussion of legislating against age discrimination as soon as possible.
- (ii) In the in-depth interviews, most of the SME employers have not heard about the "Practical Guidelines for Employers on Eliminating Age Discrimination in Employment" issued by the Labour Department. As a start-up, the Labour Department should further promote the Guidelines in order to raise employers' awareness of providing equal opportunities and an inclusive working environment for employees of all ages. The Government should also study the relationship of ageing, health and ability to work, and collect case studies of employers who hire mature workers. Such data and case sharing will help clarify the myths and misconceptions about ageing, and eradicate the deep-rooted stereotypes of mature people.
- (iii) The research findings revealed that more than 60% of the employed persons did not agree that there should be a mandatory retirement age. The Government has recently raised the retirement age of the new recruits of civil servants to the age of 65. Apart from the Government and a small number of industries that have statutory age limits, the private sector does not have a mandatory retirement age as such. However, in practice, private companies have a retirement age under their own company policies and the offering of employment for staff reaching the retirement age is done on a case by case basis. Before the introduction of age discrimination legislation, the Government might consider the experiences of Singapore in implementing phased retirement under the Retirement and Re-employment Act. In Singapore, there is no definite retirement age across the board. The Singaporean Government set the minimum retirement age at 62, but employers are required by law to offer re-employment to eligible employees who turn 62, up to the age of 65, subject to the work performance and medical fitness of employees. Alternatively, employers may re-employ employees on a term contract of at least one year, renewable up to the age of 65.
- (iv) In view of facilitating re-employment of mature people, the Government should review the existing relevant licensing policies and statutory requirements that set an age criterion in some specific industries and examine if the age limit is objectively justified.

- (v) Both the Government and the insurance industry should explore means to overcome the hurdle of high insurance premium for hiring mature workers. First, the insurance companies should provide objective criteria and transparent terms and conditions for high premiums for employees' compensation insurance on the ground of age. In parallel, the Labour Department should join hands with the Office of the Commissioner of Insurance to liaise with the insurance industry, with a view to ensuring the premium for mature workers is set at a reasonable level.
- (vi) To promote the employability of young people, the Government should take the initiative to collaborate with educational institutions and the business sector to provide more internship and trainee programmes for undergraduates / fresh graduates. This will not only provide employment opportunities for young people, but also help them building up positive attitude at work and prove their capabilities to eliminate the negative stereotypes against them.
- (vii) The research findings showed that employed persons preferred to work as regular part-timer and in other non-full time employment if they are engaged in work after retirement. It is not yet a common practice to re-employ mature workers as regular part-timer or job-sharer. The Government may take the initiative to create such posts in government departments as a pilot scheme to accumulate the experience for such new modes of employment for mature workers, and then encourage government contractors, statutory bodies and the private sector to follow.
- (viii) As revealed in the research findings, employed persons considered wage subsidies and transport subsidies as the most preferred modes of motivation, in particular for those with monthly personal income below \$25,000. The Government may consider the feasibility of providing some financial incentives to raise the mature people's labour force participation rate.

Chapter 1 Introduction

1.1 Background

The Equal Opportunities Commission (EOC) is the only statutory body advocating for equal rights in Hong Kong. The public expects the EOC to play a proactive role in advocating human rights issues, even if the issues do not directly fall within the current discrimination laws. In order to fulfil the public expectation and to achieve the mission of creating a pluralistic and inclusive society, the EOC sometimes needs to conduct research on issues relevant to discrimination and equal opportunities that go beyond the current four anti-discrimination ordinances – Sex Discrimination Ordinance (SDO), Disability Discrimination Ordinance (DDO), Family Status Discrimination Ordinance (FSDO) and Race Discrimination Ordinance (RDO).

With an ageing population, one of the areas the public expects the EOC to look into is the issue of age discrimination. In the last Equal Opportunities Awareness Survey conducted by the EOC in 2012, age discrimination was perceived to be serious by 41% of the general public. It was also found that 72% of the general public believed it was important to introduce age discrimination legislation.

In addition, people’s identities are not defined by just one characteristic, such as sex, race, age, etc. The discrimination that a person faced may be aggravated by the factor of age or other characteristics of that person. Concerns about intersectional discrimination in Hong Kong have been raised by the United Nations Committee on Eliminating Discrimination Against Women, in particular about ethnic and religious minority women and women with disabilities who continue to have limited access to health, education and employment.¹ Government statistics show that while young women of the age group 20-29 earned as much as their male counterparts, the gender wage gap widens with age.²

Age discrimination may be manifested in a number of areas, but the key public concern is in employment. The EOC therefore commissioned the project “Exploratory Study on Age Discrimination in Employment” (the Study) so as to obtain a picture of existing age discrimination in the workplace of Hong Kong and probe for the feasibility of legislation on age discrimination.

¹ United Nations Committee on Eliminating Discrimination Against Women (2014) Concluding observations on the combined seventh and eighth periodic reports of China, Hong Kong. http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/CHN/CO/7-8&Lang=En

² Census and Statistics Department, Hong Kong Special Administrative Region. (2015) Women and Men in Hong Kong: Key Statistics. <http://www.statistics.gov.hk/pub/B11303032015AN15B0100.pdf>

1.2 Objectives

The Study is a fact-finding exercise with specific objectives as follows:

- (i) To conduct a literature review of local and overseas policies, preventive measures and mitigation practices relating to age discrimination in employment. Overseas policies in Singapore, Japan, Taiwan, United Kingdom and Australia are examined in detail.
- (ii) To identify the types of age discrimination encountered by stakeholders and how serious the situation is in Hong Kong.
- (iii) To identify how age discrimination impacts employers and employees in the entire employment cycle.
- (iv) To evaluate the feasibility of legislating on age discrimination including pros and cons of legislation, areas of coverage, delineation of official/ mandatory retirement age, and strategies of stepwise rolling out the legislation.
- (v) To solicit views from stakeholders on incentives for the mature employees to be engaged in employment, their preferred modes of employment and employers' concerns about the aged workforce.

1.3 Contents of Chapters

This report is divided into eight chapters. Chapter 1 is the introduction that provides background information and gives an account of research objectives in the Study. Chapter 2 gives a literature review of practices against age discrimination in employment administered locally and in overseas countries / regions. In Chapter 3, a summary of survey methodology and enumeration results is provided. In Chapter 4, a profile of the respondents in relation to their demographic background is shown.

Key findings are presented from Chapter 5 to Chapter 7. The current situation of age discrimination is discussed in Chapter 5. Public views and concerns about legislation on age discrimination are illustrated in Chapter 6. Furthermore, respondents' opinions on retirement age are solicited. In Chapter 7, it shows how the working population consider modes of employment after retirement and viable support measures. In the concluding Chapter 8, views of employers and employees are summarised with respect to age discrimination: its seriousness and the feasibility of introducing a legislation against age discrimination. Recommendations are also proposed for stakeholders in a bid to creating an age-inclusive working environment for all. Lastly, the survey questionnaire and in-depth interview discussion guide are included in the Appendix.

Chapter 2 Literature Review

A review of literature was undertaken in order to provide a picture of the roadmaps adopted by different countries/ regions in addressing the problem of age discrimination in employment. To this end, relevant laws and mitigation measures adopted by Singapore, Japan, Taiwan, the United Kingdom and Australia were examined. Furthermore, previous efforts made by the Hong Kong Government in tackling the problem were compiled and summarised.

2.1 Hong Kong

There have been a number of attempts to investigate the public view on legislating against age discrimination. In 1996, the Government published a consultation paper “Equal Opportunities: A Study on Discrimination in Employment on the Ground of Age” in order to solicit public views on the issue. The consultation paper proposed three possible options for comment: (1) The Government will retain the status quo, and take no particular measures other than to monitor the situation closely; (2) To introduce age discrimination legislation; and (3) To adopt a non-legislative approach that involves a combination of public education and self-regulation.³ Of the 68 submissions, 25 supported age discrimination legislation that should be modelled on its counterparts in Australia and New Zealand, while those opposed the legislative approach considered it prudent to obtain experiences from the operation of the Sex Discrimination Ordinance and Disability Discrimination Ordinance before considering introducing any additional equal opportunity legislation.

The then Education and Manpower Bureau conducted two surveys in 1999 and 2001 to solicit public views on age discrimination in recruitment. The results of the 1999 survey revealed that there was a general perception of and concern over the existence of age discrimination in recruitment in Hong Kong. Actions were taken to raise public awareness of the issue through the media and copies of the “Practical Guidelines for Employers on Eliminating Age Discrimination in Employment” (the Guidelines) were disseminated to employers.⁴

³ Paper for LegCo Panel on Manpower, *Equal Opportunities: Discrimination in Employment on the Ground of Age*. For Discussion on 28 October 1996, CB(1)178/96-97(04).

⁴ Paper for LegCo Panel on Manpower, *Report on Survey on Public Views on Age Discrimination in Recruitment*. For Discussion on 24 June 1999, http://www.legco.gov.hk/yr98-99/english/panels/mp/papers/mp2406_6.htm

As for the 2001 survey, it revealed that a sizeable gap existed between public perception on the severity of age discrimination and their actual experience. While 65% of respondents considered age discrimination serious, 13% claimed to have experience of age discrimination in job application. Only a very small proportion of recruitment advertisements explicitly listed age restrictions. Other major findings included: (1) Majority of the public accepted that some trades had a genuine need to recruit employees of a specific age group; and (2) Although a significant proportion of respondents took legislation as a solution, many deemed it ineffective. The conclusion was consistent with previous surveys: given that the divergent views amongst the public and employers on the need and effectiveness of legislation, the Government doubted whether there was then a genuine need for introducing legislation on age discrimination.⁵

Currently, the Guidelines issued by the Labour Department set forth best practices to prevent age discrimination for employers to follow, on a voluntary basis.⁶ In the Guidelines, various stages of the employment cycle including recruitment, benefits, promotion, redundancy and retirement are covered. Employers are provided with best practices for preventing age-discriminatory practices and information about the benefits for building an equal opportunity working environment. The Hong Kong Flight Attendants Alliance wrote to the Panel on Manpower of Legislative Council in 2006 to lobby for introducing age discrimination legislation. The Alliance took the view that the Guidelines could not safeguard employees because it was not backed by legislation.⁷

A 2006 international workplace survey by Kelly Services⁸, a global staffing provider, sought the views of approximately 70,000 job seekers in 28 countries including more than 300 in Hong Kong. Of the surveyed job seekers, 29% of workers aged 45 or older felt they had been discriminated against on the basis of their age when applying for a job, while 22% of younger workers aged up to 24 also believed they were victims of age discrimination.

Survey findings of 805 employees in 2007⁹ showed that the main reason behind age discrimination was the perceived lower efficiency of mature employees, who were mostly discriminated in the recruitment process. Furthermore, blue-collar or elementary workers encountered more severe age discrimination than managers, administrators and professionals.

In the last Equal Opportunities Awareness Survey conducted by the EOC in 2012, age discrimination was perceived to be serious by 41% of the respondents. It was found that 6% of the general public claimed that they had experienced discrimination in the preceding year, which tended to relate to age in employment (38%). Findings also showed that 72% of the general public believed that it was important to introduce legislation to eliminate age discrimination.

⁵ Paper for LegCo Panel on Manpower, *Opinion Survey on the Public's Views on Age Discrimination in Recruitment*. Discussion on 18 April 2002, CB(2)1577/01-02(04).

⁶ Labour Department, HKSAR (2006). *Practical Guidelines for Employers on Eliminating Age Discrimination in Employment*. <http://www.labour.gov.hk/eng/plan/pdf/eade/Employers/PracticalGuidelines.pdf>

⁷ LC Paper No. CB(2)2783/05-06(02), dated 17 July 2006. *Objection To Compulsory Retirement Age At 45*. <http://www.legco.gov.hk/yr05-06/english/panels/mp/papers/mp0720cb2-2783-2-e.pdf>

⁸ Kelly Services. *The 2006 Kelly Global Workforce Index*. <http://www.chinacsr.com/en/2006/10/19/796-older-employees-face-workplace-discrimination-in-hong-kong/>

⁹ Leung, Kwok and Ip, Olivia (2007). *Employee Confidence, Job Satisfaction and Age Discrimination Survey*. https://www.cb.cityu.edu.hk/mgt/new/ECI_28May2007.ppt

These survey results show that local employees and job seekers are increasingly anxious that they will become victims of their age, especially for mature employees. Over the years, there have been calls for legislation against age discrimination but public opinion is still divided on it. One reason may be that age discrimination legislation is perceived to be double-bladed: protecting mature workers' employment might reduce jobs for the young. In reality, whether this perception holds true depends largely on the characteristics of individual occupations.

2.2 Singapore

Singapore has no anti-age discrimination law. In 2014, 12.4% of the residents of Singapore were aged 65 or above¹⁰.

Working can enhance financial security of the mature employees and add a sense of purpose to their life. The Retirement and Re-employment Act (RRA), enacted in 2012, is the legislation to govern the re-employment of mature workers. Under the RRA, the statutory minimum retirement age is 62. Reaching the age of 62, the employers are required to offer re-employment to eligible employees up to the age of 65, on terms and conditions agreed between the company and workers. The eligibility depends on the work performance and medical fitness of the individual employee. Alternatively, employers may re-employ employees on a term contract of at least one year, renewable up to the age of 65.

The legislation on re-employment only covers the last stage of the employment cycle. For the rest of the cycle, the Singaporean Government addressed the issues by other means. For the recruitment process, the Ministry of Manpower has published a series of guidelines including the Code of Responsible Hiring Practices and Non-discriminatory Job Advertisements. These guidelines provide the message to employers that issues of religion, gender, age and race should generally not to be mentioned in the recruitment process.¹¹

The Singaporean Government has adopted other strategies to cope with the ageing workforce and to prevent discrimination of mature workers. The Skills Development Levy (SDL) Act was introduced in 1979 to encourage employers to upgrade the skills of their employees. Under this Act, employers are required to contribute to the Skills Development Levy (SDL) at 0.25% of the monthly remuneration for each employee, with the minimum payable of S\$2 and a maximum of S\$11.25. All SDL collected are channelled to the Skills Development Fund which is used to provide retraining for mature people in order to encourage them to postpone retirement. In return, the employers may apply for grants from the SDL Fund to recover part of the training costs when they send their employees to attend training under the national Continuing Education and Training system.¹²

¹⁰ 2014 Population in Brief, <http://www.nptd.gov.sg/portals/0/news/population-in-brief-2014.pdf>

¹¹ Foo, S.. (2009). *Singapore Public Policy*. The Sloan Center on Aging & Work at Boston College, Global Policy Brief No.3, October 2009. https://www.bc.edu/content/dam/files/research_sites/agingandwork/pdf/publications/GPB03_Singapore.pdf

¹² Website of the Singapore Workforce Development Agency: <https://sdl.wda.gov.sg/>

2.3 Japan

The customary recruitment practices of Japan are unfavourable to mature job seekers. Some job advertisements set age limits for recruitment. Major recruitment exercises only take place in spring, which is the season of graduation. Job seekers above the age of forty have difficulties in finding new jobs. In other words, mid-career hiring is uncommon in the Japan. This causes great difficulties for dismissed workers to re-enter the job market.

The Employment Measure Act (EMA) in 1966 outlined major policies of labour market in Japan. After the EMA was amended in 2007, the duty of Japanese firms in tackling age discrimination from “duty to endeavour” into a “legal duty”. Article 10 stipulates that firms must provide equal opportunities to workers in relation to recruitment and hiring irrespective of age. This Article suggests that job offers with age limits shall be rejected by recruitment agencies. The discriminated workers also have the right to claim damages in tort suits.¹³

Under the amended EMA, the discriminated workers may seek assistance from the Prefectural Labour Bureau. If a worker goes for a lawsuit, the court may order the firm to pay consolation for non-economic damages. On the other hand, the amendment retained some major exemptions. For example, firms can still recruit new graduates with maximum age limits.

To redress age discrimination, preventive measures are set for both young and mature workers. For young job seekers, one-stop service centres (so-called job cafés), “Trial Employment” and year-round recruitment exercises other than spring recruitment for recent graduates are in place. In order to facilitate the development and improvement of practical occupational skills, employers are required to conduct both on-the-job and off-the-job training for young employees.

With respect to mature workers, the Act Concerning Stabilization of the Employment of Older Persons (OPESA) stipulates that any mandatory retirement age set by employers cannot be below the age of 60. Firms should secure the stable employment for mature workers until the age of 65 by: (i) raising the mandatory retirement age; (ii) introducing a continuous employment system to employ mature persons who would like to keep working; or (iii) abolishing the mandatory retirement age.¹⁴

In essence, OPESA promotes the mutual understanding between job seekers and employers.¹⁵ An active ageing society would provide opportunities for people who are willing and able to work. One of the most well-known job programmes for mature workers is the establishment of “Silver Human Resources Centers”, which offer temporary employment for retired persons aged 60 or over. The centers provide a combination of employment, a small income and community involvement.¹⁶

¹³ Sakuraba, R. (2009). *The Amendment of the Employment Measure Act: Japanese Anti-Age Discrimination Law*. Japan Labor Review, vol.6 no.2: 56-75. http://www.jil.go.jp/english/JLR/documents/2009/JLR22_sakuraba.pdf

¹⁴ Ibid

¹⁵ Ministry of Health, Labour and Welfare, Japan (2008). *Employment Measures for Older People in Japan*. <http://www.globalaging.org/elderrights/world/2008/employmentjapan.pdf>

¹⁶ International Longevity Center, Japan. *Japan's Silver Human Resources Centers: Undertaking an Increasingly Diverse Range of Work*. http://longevity.ilc-japan.org/f_issues/0702.html

2.4 Taiwan

Taiwan is facing the problem of ageing society similar to the developed world, with 11.7% of its population aged 65 or above in 2014.¹⁷ Article 5 of the Employment Service Act (ESA) was revised in 2007 against the backdrop of a relatively high unemployment rate of middle-aged and mature workers. The ESA prohibits discrimination on the grounds of birth place, sexual orientation and age in the workplace. It stipulates that employers shall not discriminate against any job applicant or employee on the basis of age.

Indeed, both younger and mature workers are heavily stigmatized in Taiwan. Younger workers are negatively stereotyped as incompetent and are not willing to work hard.

Taiwan has no statutory body overseeing age discrimination in the workplace. The ESA introduced a key institutional innovation of municipal employment commissions, which play an integral role in providing legal resources for victims, mediating disputes, raising awareness and are indispensable to the courts in their provision of fact-finding services.

The government provides incentives for businesses to hire mature workers in Taiwan. Various kinds of stipends and subsidies including transport subsidies are provided for mature workers so as to motivate them to join the labour force. Other than these, the government has administered case management in order to evaluate the employment needs of individual aged workers.¹⁸

2.5 United Kingdom

Under the Equality Act 2010, it is unlawful to discriminate against a person on the basis of age. Unlike the law of the United States, which gives protection to mature workers only, the Equality Act 2010 of the United Kingdom apply to all age groups. Under the Act, it is unlawful for anyone to treat another person unfavourably because of his/her age in certain contexts, including in employment and vocational training. Exceptions include genuine occupational requirement, positive action, service-related benefits, etc. Two court rulings of age discrimination and harassment are highlighted as shown below.

¹⁷ Taiwan Today (2014). *ROC Cabinet addresses Taiwan's ageing society*. <http://www.taiwantoday.tw/ct.asp?xItem=218531&CtNode=426>

¹⁸ Huang, L. P-S (2008). Lessons from Western Active Labour Market Policies (ALMPs) - Activation of Workers Aged 45+ in Taiwan. EASP Conference - Welfare Reform in East Asia: Meeting the Needs of Social Change, Economic Competitiveness and Social Justice. Presentation paper. http://www.welfareasia.org/5thconference/papers/Huang%20L_active%20labour%20market%20policies.pdf

One significant court ruling in the United Kingdom is *O'Reilly v. BBC & Anor* in 2011. Ms. Miriam O'Reilly, a television personality, was replaced by a significantly younger presenter for the post of host in a peak-time show. The Employment Tribunal ruled that the dismissal from the post was age-discriminatory. The BBC considered it was legitimate to pick younger presenters to capture prime-time younger viewers. However, such a reason was not accepted by the Employment Tribunal because using young presenters had not been established as the way to appeal to such an audience. Even if it was a means of achieving that aim, the Employment Tribunal considered that it would not be proportionate to do away with older presenters simply to pander the assumed prejudice of some younger viewers.¹⁹

The other court ruling was *Roberts v. Cash Zone (Camberley) Limited*, in which Ms. Roberts, aged 18, was proven to be harassed by the employer on the basis of age by the Employment Tribunal. Her performance was poor in Cash Zone and managers kept using “kid”, a “stropky kid” and a “stropky little teenager” to describe her. Although she was a genuine teenager, the description by the managers was ruled to be having a judgmental meaning, instead of a solely factual meaning.

The Advisory, Conciliation and Arbitration Service published a set of guidelines on tackling age discrimination and promoting equality in the employment cycle.²⁰ The core messages are to avoid using any discriminatory wordings in job advertisements, to provide employees with continuous training regardless of age, and to raise the awareness of equality policies in firms.

Regarding the retirement practices, the age of 65 is set as a national default retirement age. However, if employees would like to work beyond the age of 65, employers must comply with a “duty to consider” procedure for the retirement arrangements. In addition, the firms in the United Kingdom need to provide mitigation measures so as to prevent age-discriminatory practices in the workplace. One of the most important measures is phased retirement of workers approaching retirement age. Phased retirement strategies include part-time, flexi-time, seasonal work, home working and annualized hours that will facilitate mature workers to stay in the labour market up to or beyond the retirement age.²¹ Other measures consist of providing coaching and mentoring by mature workers to younger ones in the firms. Good succession management can allow an inclusive environment so that both seasoned and younger workers can work together.

¹⁹ *O'Reilly v BBC & Anor* [2010] ET/2200423/2010.

²⁰ Advisory, Conciliation and Arbitration Service (2014). A guide for employers and employees: Age and the workplace. <http://www.acas.org.uk/media/pdf/e/4/Age-and-the-workplace-guide.pdf>

²¹ Department for Work and Pensions (2013). Employing older workers: An employer's guide to today's multi-generational workforce. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/142751/employing-older-workers.pdf

2.6 Australia

Legislation to prohibit age discrimination was gradually introduced in all Australian states and territories in the 1990s. At national level, the Age Discrimination Act 2004 protects individuals from discrimination on the basis of age in many parts of public life, including employment, education, accommodation and the provision of goods and services. The Australian Human Rights Commission has a particular focus on addressing barriers to equality and participation faced by people of all ages.

Furthermore, the Fair Work Act 2009 protects employees from being discriminated on the ground of age. The Federal Circuit Court in Brisbane made a landmark court ruling on age discrimination in 2014.²² The employment was changed to a part-time basis after the employee reached the age of 65. The employment record had been good since he started working at the Thai restaurants at Broadbeach and Surfers Paradise in 1996. A letter from the employers claimed that they did not employ staff over 65 and this act was ruled to be age-discriminatory by the Court in Brisbane.

As preventive measures, the Australian House of Representatives recommended a number of ways to help mature workers to join the work force. They include education campaign of combating employers' prejudice towards mature workers, providing them with up-to-date skills and career guidance, giving wage subsidies to mature-aged job-seekers for them to re-engage in the labour market.²³

2.7 Implications for Current Study

The above literature review presents a summary of undertakings performed locally and in overseas countries/ regions. For the sake of attaining equality in the society, lawmakers and governments in those jurisdictions tackle the issue of age discrimination by means of legislation as well as provision of mitigation measures. As many developed economies today are facing the problem of an ageing population, re-employment with incentives and alternative working modes may be ways out in order to attract mature workers as valuable human resources in the companies.

Moreover, some significant court rulings of employment-related age discrimination in those jurisdictions (e.g. Australia and the United Kingdom) have provided information for the research team to prepare the questionnaire for telephone survey and guidelines for in-depth interviews with stakeholders.

²² Fair Work Ombudsman, Australian Government (2014). Court rules on age discrimination case. <https://www.fairwork.gov.au/about-us/news-and-media-releases/2014-media-releases/april-2014/20140407-theravanish-penalty>

²³ Human Rights and Equal Opportunity Commission (2000). Age Matters: a report on age discrimination. http://www.humanrights.gov.au/sites/default/files/content/pdf/human_rights/age_report_2000.pdf

Chapter 3 Survey Methodology and Enumeration Results

The Study has employed questionnaire survey and in-depth interviews. A brief summary of each approach is outlined in the paragraphs below.

3.1 Questionnaire Survey

Survey Coverage, Sampling Method, and Data Collection

The questionnaire survey was undertaken in November 2014. Its target population covered all employed persons aged 15 or above in Hong Kong (excluding foreign domestic workers). For the sampling frame, initial telephone numbers were drawn from the Consumer Search Group (CSG) Residential Telephone Directory (a master list of 1,731,000 residential exchange lines representing 80% of the total residential exchange lines in Hong Kong as at September 2014), which were divided into a number of sample replicates (a list of 200 telephone numbers each) in accordance with the distribution proportion of telephone numbers of District Council districts, using systematic sampling method.

Then, in each accessible residential household, only one eligible respondent was interviewed. The interview was carried out via Computer-assisted Telephone Interviewing (CATI) system. The telephone interviews were conducted in Cantonese, English or Putonghua, depending on the language that the interviewees preferred.

Questionnaire Design

The questionnaire survey specifically focused on the following areas of interest:

- (i) The current age discrimination in the workplace of Hong Kong;
- (ii) Feasibility of legislating on age discrimination; and
- (iii) Engaging the mature people in employment.

Taking into account of the findings of the pilot survey conducted in late October 2014, layout and contents of the questionnaire were finalized.

Fieldwork Period and Enumeration Results

A total of 401 interviews were completed between 7 and 29 November 2014, with an overall response rate²⁴ of 19.4%.

²⁴ Response rate is calculated by dividing the number of successfully enumerated cases by total number of eligible cases (including successfully enumerated cases plus partially enumerated, non-contact and refusal cases).

Weighting

To correct the potential bias as introduced by the incidence of non-response and non-contact cases, all information collected was properly weighted by age group (15-19, 20-29, 30-39, 40-49, 50-59, 60 and above) and gender (male and female) in accordance with the corresponding population figures²⁵ in Hong Kong as at the third quarter of 2014.

Limitations

The experiences of age discrimination are reported perceptions of the respondents and are not verifiable in a questionnaire survey.

The estimates of the questionnaire survey were subject to errors, which could be further divided into coverage errors, measurement errors (respondents, questionnaire, collection method, etc.), non-response errors and processing errors. Specific to the questionnaire survey, the non-sampling errors were minimized by executing the entire survey process as required by the ISO9001:2008.

The sample size for specific subgroups might be too small to make reliable generalizations. Thus, the results might not be representative for such subgroups due to large sampling error. As such, estimates which based on only a small number of observations ($n < 30$) were not commented in the main text, and these figures should be interpreted with caution.

3.2 In-depth Interviews

Survey Coverage and Sampling Method

In order to have an in-depth understanding of views from employers, employees and Legislative Councillors, face-to-face interviews encompassing (i) ten employers/ employers' representatives from small-and-medium enterprises (SMEs) of various industries, i.e. human resources managers (hereafter referred to as "employer") and (ii) three employees from SMEs of various industries; and (iii) four Legislative Councillors were conducted. The in-depth interviews focused on their views about legislation on age discrimination and retirement age in Hong Kong.

The ten employers and three SME employees were drawn from CSG Company Database (a master list of around 50,000 companies) or referrals from CSG recruitment network as deemed appropriate. Quota sampling was adopted in order to ensure that these employers and their representatives were from different industries and companies of different employment sizes. The four Legislative Council members were sourced from the Panel on Manpower and the functional constituencies in which relatively higher number of enquiries in respect of workplace age discrimination were received by the EOC. All Legislative Councillors belonging to the Panel on Manpower and the above functional constituencies were invited to take part in the interviews, and finally four of them accepted the invitation.

²⁵ Corresponding population figures were sourced from Quarterly Report on General Household Survey, The Census and Statistics Department, Hong Kong.

Validity and Reliability

The following ways were used to ensure the validity and reliability of the data obtained:

- (i) The in-depth interviews were moderated by experienced interviewers who followed the interview guidelines and possessed the skills to solicit concrete opinions, other than socially desirable responses from the interviewees.
- (ii) When it was deemed necessary, field observation of operating SMEs was undertaken in order to cross-check validity of the information provided by the interviewees.
- (iii) All the in-depth interviews were recorded in anonymity and transcribed verbatim. These textual documents provided the basis for coding and thematic analyses.

Limitations

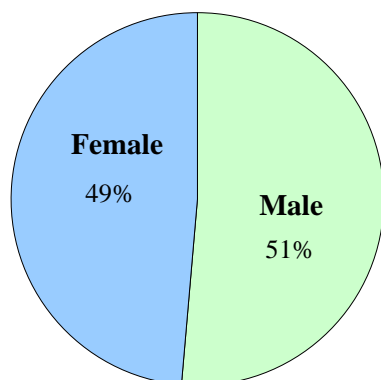
Various ways had been attempted to ensure the validity of information collected. However, it should be noted that each method and instrument has its limitations. The in-depth interviews could allow in-depth probing of views and opinions of respondents, but the findings may not be highly representative in view of the small sample size. The non-sampling errors of in-depth interviews were minimised through proper training, briefing and debriefing of the interviewing team and optimal deployment of experienced researchers as required by the ISO9001:2008.

Chapter 4 Profile of Respondents of Telephone Survey

4.1 Gender

Among the respondents, 51% were male and 49% were female.

Chart 1 Distribution of the respondents by gender

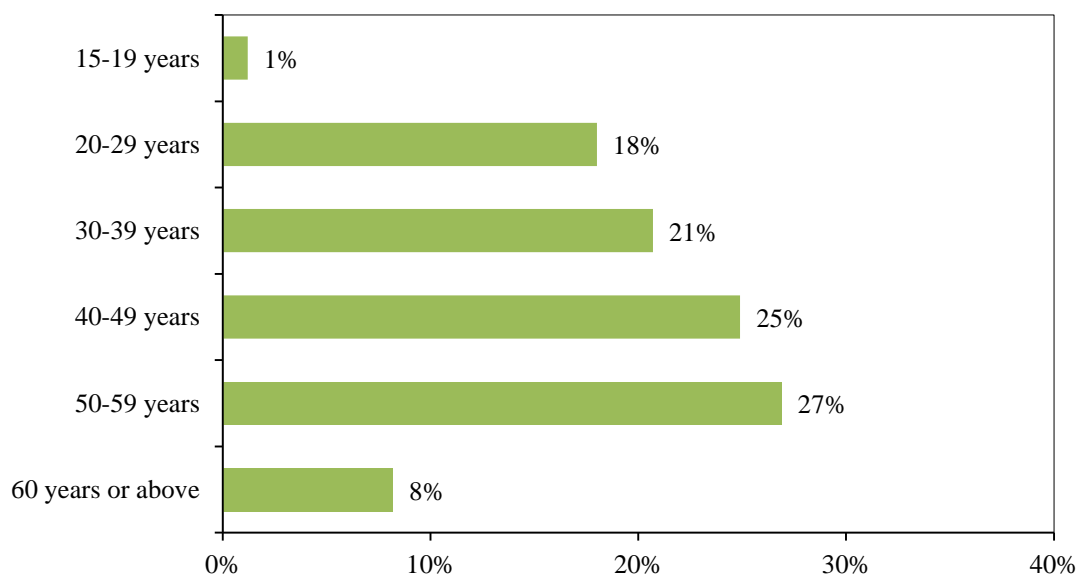


Base: All respondents who had participated in the Survey, n = 401
Ref.: AGE

4.2 Age

Most respondents were in the age group of “50-59 years” (27%), closely followed by those aged “40-49 years” (25%), “30-39 years” (21%) and “20-29 years” (18%).

Chart 2 Distribution of the respondents by age

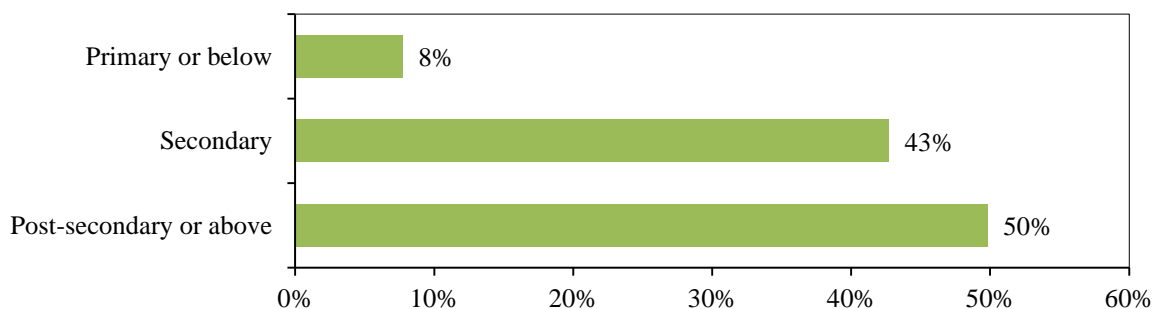


Base: All respondents who had participated in the Survey, n = 401
Ref.: AGE

4.3 Education Level

Half of the respondents attained the education level of post-secondary or above (50%), while 43% attained secondary level of education.

Chart 3 Distribution of respondents by education level attained

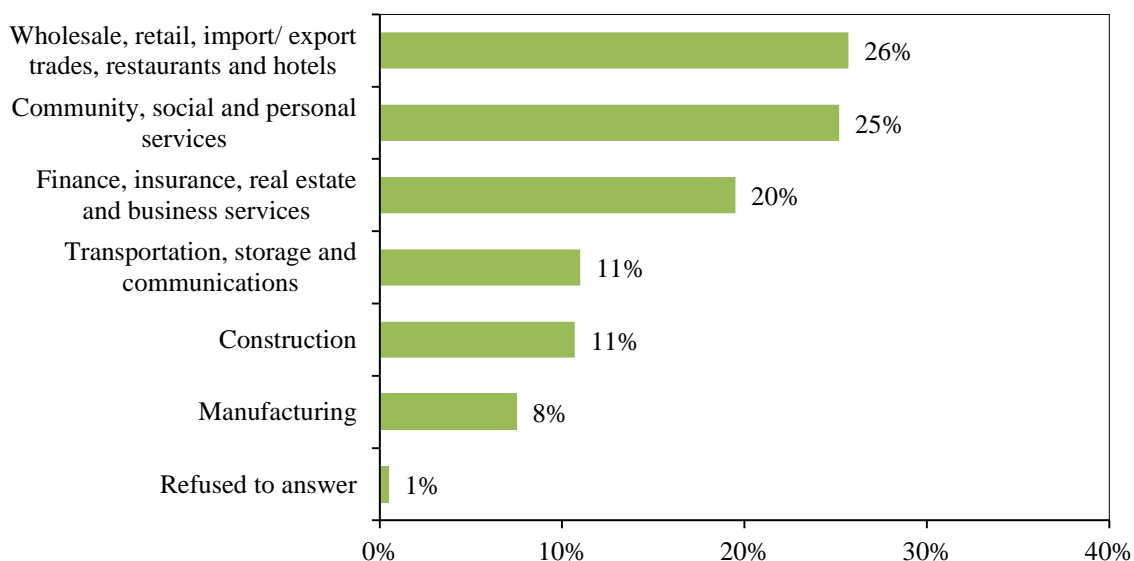


Base: All respondents who had participated in the Survey, n = 401
Ref.: EDUCA

4.4 Industry

Around one-fourth of the respondents worked in the industries of wholesale, retail, import/export trades, restaurants and hotels industry (26%), whereas another one-fourth worked in the industries of community, social and personal services (25%). They were followed by finance, insurance, real estate and business services (20%), transportation, storage and communications (11%), construction (11%), and manufacturing (8%).

Chart 4 Distribution of respondents by industry

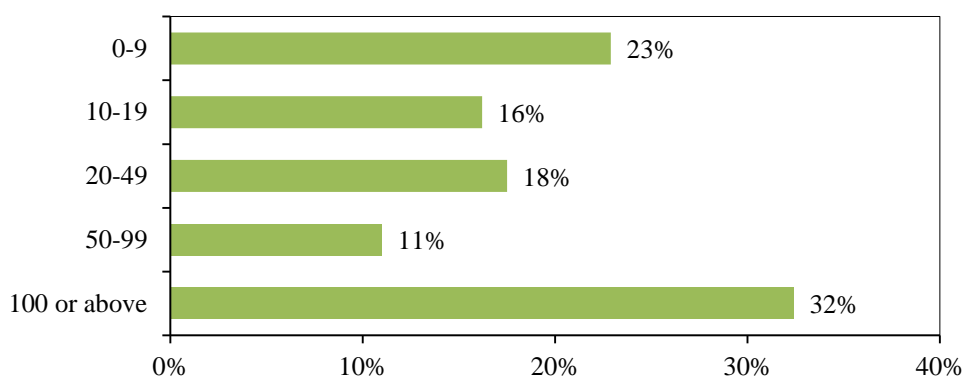


Base: All respondents who had participated in the Survey, n = 401
Ref.: INDUST

4.5 Number of Full-time Staff in the Company

Nearly one-third of the respondents were employed by companies with full-time staff of 100 or above (32%), followed by those with 0-9 (23%), 20-49 (18%), 10-19 (16%) and 50-99 (11%) employees.

Chart 5 Distribution of respondents by number of full-time staff in the company

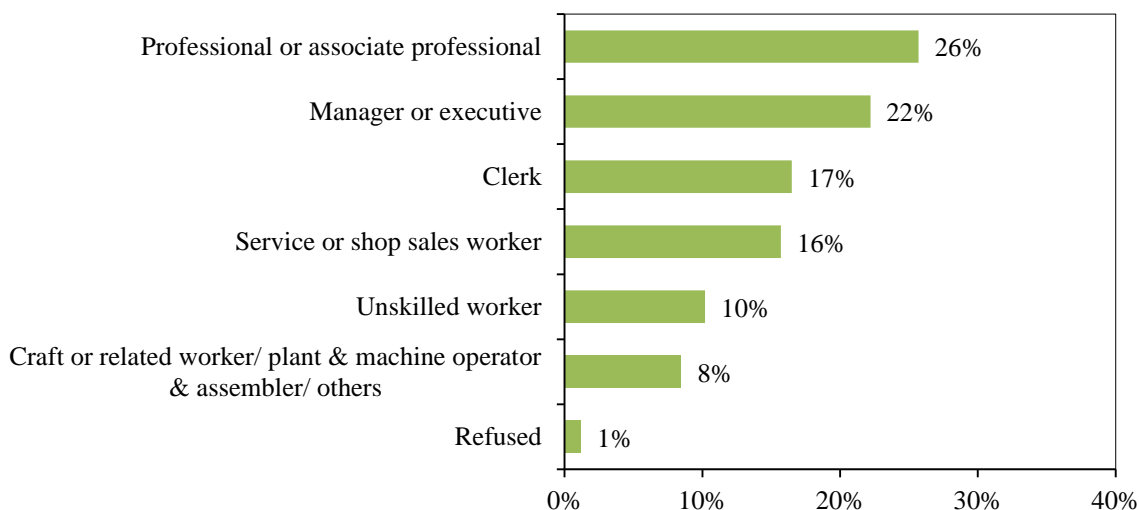


Base: All respondents who had participated in the Survey, n = 401
 Ref.: COSIZE

4.6 Job Position

Around one-quarter of the respondents held the positions of professionals or associate professionals (26%). They were followed by those who were managers or executives (22%), clerks (17%), service or shop sales workers (16%), unskilled workers (10%) and others (8%).

Chart 6 Distribution of respondents by job position

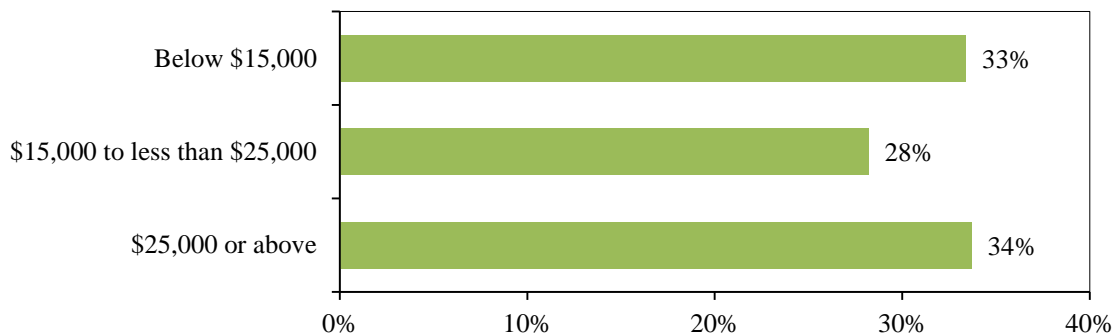


Base: All respondents who had participated in the Survey, n = 401
 Ref.: POSIT

4.7 Monthly Personal Income

Around one-third of the respondents had a monthly personal income of \$25,000 or above (34%) and another one-third earned below \$15,000 (33%).

Chart 7 Distribution of respondents by monthly personal income



Base: All respondents who had participated in the Survey, n = 401

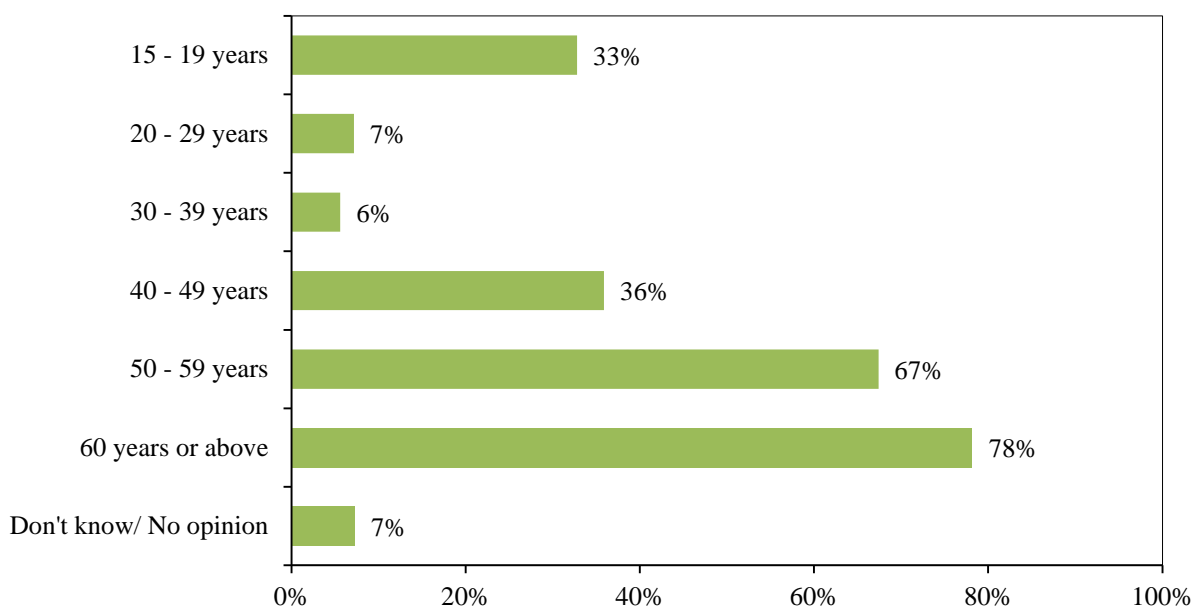
Ref.: PERINC

Chapter 5 Current Situation of Workplace Age Discrimination

5.1 People Perceived to be Vulnerable to Age Discrimination

Those aged “60 years or above” was the age group regarded by the largest number of employed persons (78%) as vulnerable to age discrimination, followed by the age group “50-59 years” (67%). Around one-third perceived those aged “40-49 years” (36%) and “15-19 years” (33%) as vulnerable to age discrimination, whereas less than one-tenth of them held the same view towards those aged “20-29 years” (7%) and “30-39 years” (6%).

Chart 8 People perceived to be vulnerable to age discrimination



Note: Multiple answers were allowed.

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q2

However, this pattern of age discrimination perceived by the responded employed persons was slightly different from what revealed by the employers of SMEs in the in-depth interviews. Most employers in the in-depth interviews said that the age structure of their employees was biased towards relatively mature age groups of 30-39 and 40-49. These employers complained about young workers, saying that they would not stay long and therefore it was too costly to hire and train them up.

“My company is so small that they turn away from me. On the other hand, I wonder if they will stay for long. After several months, they get some experience and then they will leave.....” (Employer in hospitality industry)

One employer commented that young workers did not work conscientiously and their attitudes did not meet the requirements of the profession. In general, employers in the industry lost confidence in employing young workers.

“I discriminate against them. They failed me several times because they were not responsible. If you don’t know how to do the job, I’d rather you leave it there than doing it sloppily, which makes the whole matter even worse. Other friends in the industry have the same feeling.... It is an issue of ethics and education that the younger generation lacks the ability of self-control. They do not reflect on how much work they have done, but only consider they should be paid immediately after work.” (Employer in construction industry)

An employee revealed that the company where she was working did not recruit young employees. This was mainly due to the fact that the young employees changed job frequently and left the company soon after they were recruited.

“Other companies hire young people in the twenties, but we won’t do that because our company is a small one. We once recruited young people but they left after working for a while, probably due to long hours. When they just started getting familiar with some clients, they left and hence other colleagues had to take over their clients. Therefore, my boss preferred not to hire the youngsters.” (Employee in retail industry)

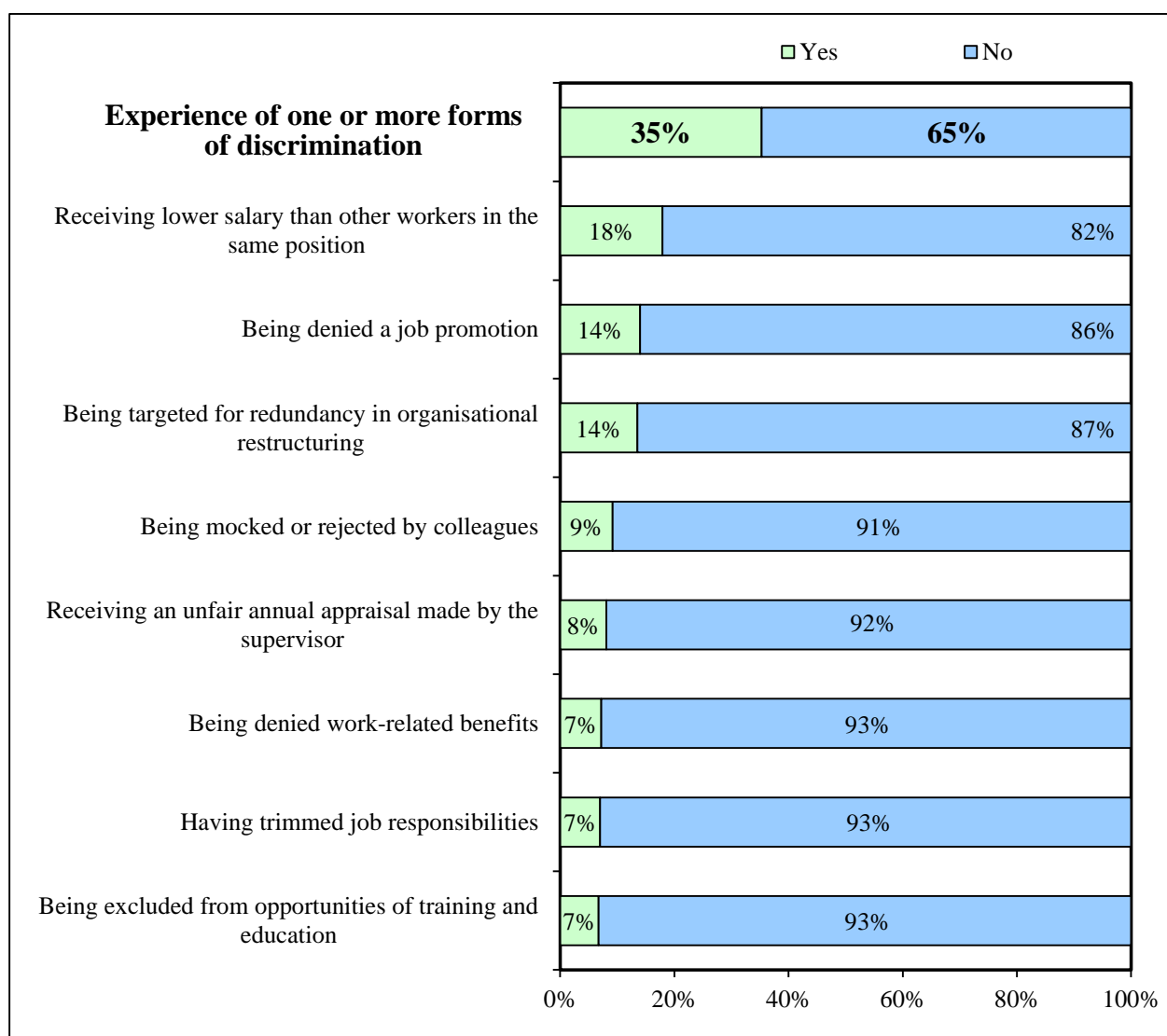
One Legislative Councillor opined that young workers are inexperienced and need some training before they can be competent for the positions. Employers prefer to pay higher salaries to hire experienced employees who can pick up their duties immediately. This will certainly create a vicious cycle for the young workers because it will be difficult for them to accumulate work experiences. The interviewee suggested that the Government should take the initiative to encourage private companies to offer trainee positions that do not require any working experiences for the youngsters.

“It’s difficult for young people to enter the profession after graduation. Employers are concerned that they will leave after gaining one or two years of working experiences. They prefer to hire some trained workers who have one or two years’ experience. The Government may consider providing career counselling or taking the initiative to encourage companies to offer certain number of trainee positions so as to redress this problem.” (Legislative Councillor)

5.2 Experiences of Workplace Age Discrimination in the Past Five Years

Over one-third (35%) of the employed persons reported that they had experienced at least one form of age discrimination in the workplace in the past five years. Among the forms of workplace age discrimination, “receiving lower salary than other workers in the same position” (18%), “being denied a job promotion” (14%) and “being targeted for redundancy in organisational restructuring” (14%) were mostly reported to have been experienced by the employed persons.

Chart 9 Experience of different forms of workplace age discrimination in the past five years



Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q4

Analysed by age, there was a tendency that the mature workers, in particular those aged 50 or above, had a higher chance of reporting the experience of being denied a job promotion because of age.

Table 1 Experience of different forms of workplace age discrimination in the past five years - analysed by age

	Total (n = 401)	Age Range		
		15-29 (n = 77)	30-49 (n = 183)	50 or above (n = 141)
Experience of being excluded from opportunities of training and education	7%	5%	4%	11%
Experience of being denied a job promotion	14%	8%	11%	23% ↑
Experience of having trimmed job responsibilities	7%	5%	5%	11%
Experience of receiving lower salary than other workers in the same position	18%	19%	14%	24%
Experience of receiving an unfair annual appraisal made by the supervisor	8%	4%	7%	13%
Experience of being denied work-related benefits	7%	3%	4%	14%
Experience of being targeted for redundancy in organisational restructuring	14%	6%	12%	20%
Experience of being mocked or rejected by colleagues	9%	10%	7%	11%

Note: “↑” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q4

Analysed by education level, employed persons across different educational levels were observed to have reported the experience of some forms of employment-related age discrimination in the past five years.

Table 2 Experience of different forms of workplace age discrimination in the past five years - analysed by education level

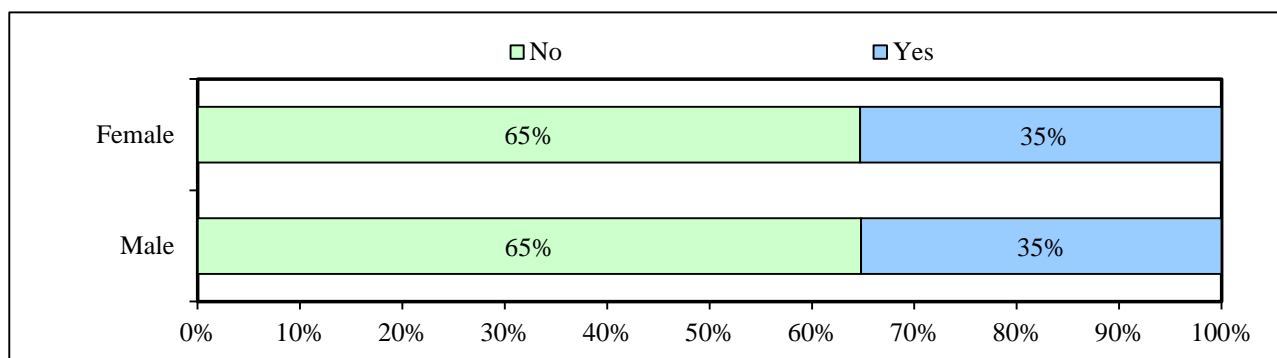
	Total (n = 401)	Primary or below/ junior secondary (n = 85)	Senior secondary (F4-F7) (n = 117)	Post-secondary (sub-degree programmes) (n = 44)	University (degree programmes) (n = 155)
Experience of being excluded from opportunities of training an education	7%	6%	8%	2%	8%
Experience of being denied a job promotion	14%	15%	17%	17%	11%
Experience of having trimmed job responsibilities	7%	9%	7%	2%	8%
Experience of receiving lower salary than other workers in the same position	18%	18%	22%	16%	15%
Experience of receiving an unfair annual appraisal made by the supervisor	8%	12%	9%	6%	6%
Experience of being denied work-related benefits	7%	14%	6%	6%	5%
Experience of being targeted for redundancy in organisational restructuring	14%	20%	12%	20%	9%
Experience of being mocked or rejected by colleagues	9%	12%	9%	6%	9%

Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q4

Analysed by gender, men and women are equally likely to be subjected to workplace age discrimination. About 35% of men and 35% of women indicated that they had experienced one or more forms of workplace age discrimination in the past five years.

Chart 10 Proportion of male and female employed persons who experienced workplace age discrimination in the past five years



Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q4

Table 3 Experience of different forms of workplace age discrimination in the past five years - analysed by gender

	Total (n = 401)	Male (n = 206)	Female (n = 195)
Experience of being excluded from opportunities of training an education	7%	7%	6%
Experience of being denied a job promotion	14%	15%	13%
Experience of having trimmed job responsibilities	7%	7%	8%
Experience of receiving lower salary than other workers in the same position	18%	19%	17%
Experience of receiving an unfair annual appraisal made by the supervisor	8%	8%	8%
Experience of being denied work-related benefits	7%	8%	6%
Experience of being targeted for redundancy in organisational restructuring	14%	14%	13%
Experience of being mocked or rejected by colleagues	9%	9%	10%

Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q4

Analysed by other demographic characteristics, no significant difference was observed in the employed persons across different industries, job positions and monthly personal income, in terms of their experience in various forms of workplace age discrimination in the past five years.

Table 4 Experience of different forms of workplace age discrimination in the past five years - analysed by industry

	Total (n = 401)	Manufacturing (n = 30)	Construction (n = 43)	Wholesale, retail, import/ export trades, restaurants and hotels (n = 103)	Transportation, storage and communications (n = 44)	Finance, insurance, real estate and business services (n = 78)	Community, social and personal services (n = 101)
Experience of being excluded from opportunities of training an education	7%	3%	9%	5%	10%	7%	7%
Experience of being denied a job promotion	14%	9%	23%	11%	17%	13%	14%
Experience of having trimmed job responsibilities	7%	7%	9%	7%	11%	6%	6%
Experience of receiving lower salary than other workers in the same position	18%	16%	20%	19%	27%	13%	16%
Experience of receiving an unfair annual appraisal made by the supervisor	8%	11%	10%	8%	7%	8%	7%
Experience of being denied work-related benefits	7%	7%	16%	8%	11%	6%	2%
Experience of being targeted for redundancy in organisational restructuring	14%	13%	11%	13%	28%	10%	11%
Experience of being mocked or rejected by colleagues	9%	6%	18%	11%	8%	7%	7%

Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q4

Table 5 Experience of different forms of workplace age discrimination in the past five years - analysed by job position

	Total (n = 401)	Manager or executive (n = 89)	Professional/ associate professional (n = 103)	Clerk (n = 66)	Service or shop sales worker (n = 63)	Unskilled worker (n = 41)	Others (n = 34)
Experience of being excluded from opportunities of training an education	7%	5%	8%	10%	3%	5%	8%
Experience of being denied a job promotion	14%	13%	14%	19%	9%	7%	27%
Experience of having trimmed job responsibilities	7%	6%	7%	9%	2%	18%	5%
Experience of receiving lower salary than other workers in the same position	18%	21%	15%	18%	14%	27%	17%
Experience of receiving an unfair annual appraisal made by the supervisor	8%	7%	7%	9%	5%	17%	11%
Experience of being denied work-related benefits	7%	9%	4%	6%	3%	15%	11%
Experience of being targeted for redundancy in organisational restructuring	14%	16%	13%	14%	8%	16%	16%
Experience of being mocked or rejected by colleagues	9%	9%	8%	10%	9%	15%	8%

Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q4

Table 6 Experience of different forms of workplace age discrimination in the past five years - analysed by monthly personal income

	Total (n = 401)	Below \$15,000 (n = 134)	\$15,000 to below \$25,000 (n = 113)	\$25,000 or above (n = 135)
Experience of being excluded from opportunities of training an education	7%	7%	7%	4%
Experience of being denied a job promotion	14%	12%	16%	14%
Experience of having trimmed job responsibilities	7%	5%	12%	4%
Experience of receiving lower salary than other workers in the same position	18%	22%	24%	9%
Experience of receiving an unfair annual appraisal made by the supervisor	8%	9%	8%	7%
Experience of being denied work-related benefits	7%	9%	8%	4%
Experience of being targeted for redundancy in organisational restructuring	14%	17%	13%	10%
Experience of being mocked or rejected by colleagues	9%	11%	11%	7%

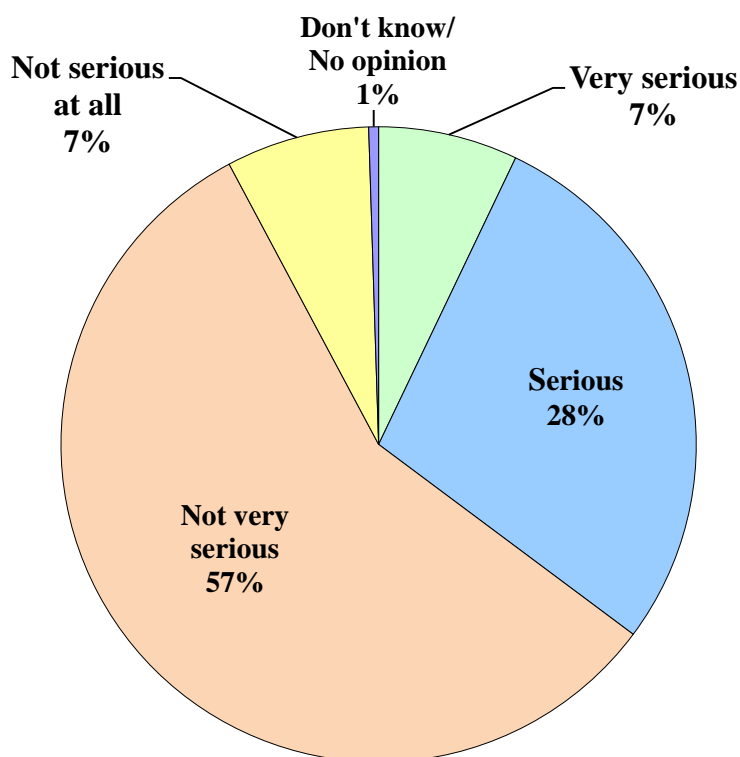
Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q4

5.3 Perceived Seriousness of Workplace Age Discrimination in Hong Kong

A total of 35% of the employed persons perceived the problem of age discrimination in the Hong Kong workplace as “serious” (28%) and “very serious” (7%). Over half (57%) of the employed persons thought that the problem was “not very serious” and 7% of them thought it was “not serious at all”.

Chart 11 Perceived seriousness of workplace age discrimination in Hong Kong



Base: All employed persons aged 15 or above, n = 401; N = 3 488 500
 Ref.: Q1

Analysed by reported experience of workplace age discrimination in the past five years,

- (i) those who reported they had experienced workplace age discrimination in the past five years tended to consider the problem of workplace age discrimination as “serious” (38%); while
- (ii) those who reported they had NOT experienced workplace age discrimination were more likely to consider the problem as “not very serious” (65%).

Table 7 Perceived seriousness of workplace age discrimination – analysed by reported experience of workplace age discrimination

	Total (n = 401)	Had experienced workplace age discrimination (n = 143)	Had <u>NOT</u> experienced workplace age discrimination (n = 258)
Very serious	7%	13%	4%
Serious	28%	38% ↑	23%
Not very serious	57%	42%	65% ↑
Not serious at all	7%	6%	8%
Don't know/ No opinion	1%	1%	0%
	100%	100%	100%

Note: “↑” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q1 & Q4

Based on in-depth interviews, some employers perceived that age discrimination was not serious in their industries. Most of them said that they would consider employees' abilities rather than their age in making hiring decision. In addition, mature workers were described as more seasoned in handling interpersonal relationship than their younger colleagues.

“It's not serious. We'll consider the level of their skills rather than their age. Of course, mature workers are physically less fit, but their sense of responsibility is an important asset.”
(Employer in construction industry)

“Basically, there isn't any age discrimination. For example, I have sixtyish (employees) who won't walk as fast as you do, but they treat the customers well. They're experienced in communicating with customers skillfully.” (Employer in catering industry)

The employers complained about the great difficulty in recruitment due to the low unemployment rate. They believed that age discrimination did not exist at all. They took the view that the enforcement of statutory minimum wage has increased the bargaining power of workers. Although employers prefer to hire young people, they rarely manage to do so as young people have many choices.

“I don't think it's serious. The Government calls it full employment now. Workers pick the jobs they like, not vice versa.” (Employer in cleaning industry)

“Under the statutory minimum wage, I'd like to hire young girls. However, the young girls will look down upon our profession because we need to do the cleaning as well. Even big hotels need cleaning. But young girls do not think they will have good prospects in our field. I am very much aware of the reality when I posted recruitment ads on newspapers, I could not find a single young girl in ten applicants. No twenties...even thirties are rare.”
(Employer in hospitality industry)

“There’s no discrimination in our profession. It is the job-seekers who discriminate against our profession. Young people want to get well-paid jobs, whereas the aged expect less demanding jobs. For example, new immigrants (work in our industry because they) have come to Hong Kong for a short time and have no special skills. Once he has taken a training course for security guards, he’ll find a security guard job. He will no longer need to stand all day at work.” (Employee in catering industry)

One employee agreed that age discrimination did exist in her industry. Customers did not prefer to be served by mature workers and therefore her colleagues were comparatively young. To keep a good image of the company, those aged over 40 would not be employed.

“Those selling products aged twenties or thirties. If you are older, you’ll not be hired. For my colleagues in the beauty industry, some of them became salespersons at counters. Those fortyish will normally not be hired to serve at the reception counters, probably because companies want to keep their images and hire those in their twenties.” (Employee in beauty industry)

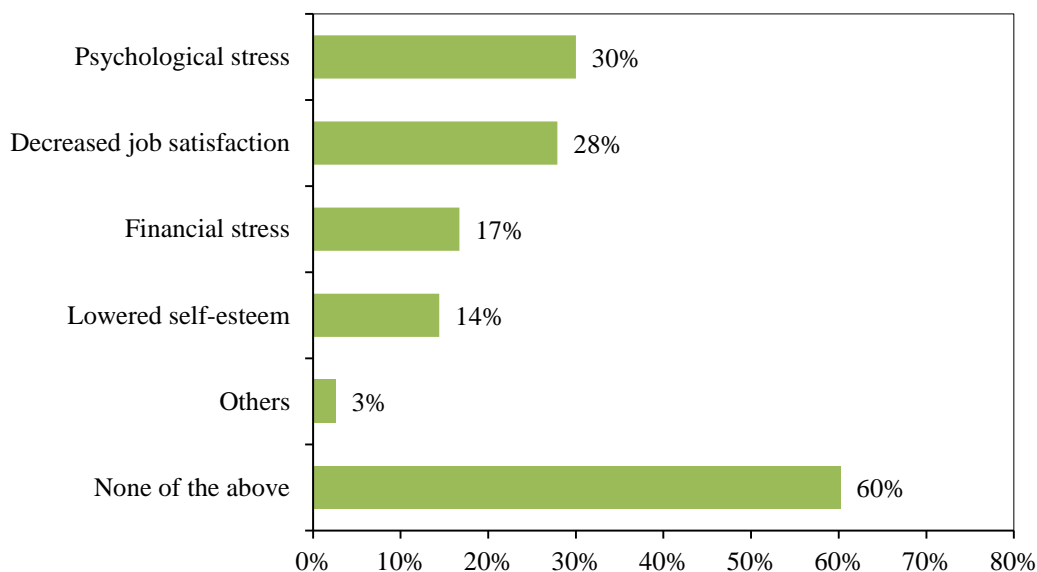
An employer believed that there were age-discriminatory practices in his industry in the past, but due to shortage of manpower, even mature workers, who are physically less fit, will also be hired nowadays. He said that if employers have a choice, they would prefer to hire younger workers.

“Age discrimination does exist. In the property management industry, those reaching 65 years old will find it hard for them to inspect daily in a 60-storey building. I have seen those colleagues approaching retirement age having their efficiency, memory and communication skills decline. If there is a large number of applicants, I’ll consider age and working experience first, and consider how the applicants look.” (Employer in property management industry)

5.4 Impact of Workplace Age Discrimination on Employees

While most of the employed persons (60%) perceived no impact of any forms of workplace age discrimination on them, around three in ten employed persons experienced “psychological stress” (30%) and “decreased job satisfaction” (28%).

Chart 12 Impact of workplace age discrimination on employees



Note: Multiple answers were allowed.

Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q5

To discern if the impact was derived from the work culture or personal experience, the data were further analysed by reported experience of workplace age discrimination in the past five years:

- (i) those who reported they had experienced workplace age discrimination tended to experience psychological stress (58%), decreased job satisfaction (58%), financial stress (38%) and lowered self-esteem (33%); while
- (ii) those who reported they had NOT experienced workplace age discrimination were more likely to perceive no impact (78%).

Table 8 Impact of workplace age discrimination on employed person - analysed by reported experience of workplace age discrimination

	Total (n = 401)	Had experienced workplace age discrimination (n = 143)	Had <u>NOT</u> experienced workplace age discrimination (n = 258)
Psychological stress	30%	58% ↑	15%
Decreased job satisfaction	28%	58% ↑	11%
Financial stress	17%	38% ↑	5%
Lowered self-esteem	14%	33% ↑	4%
Others	3%	6%	1%
None of the above	60%	28%	78% ↑

Note: “↑” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

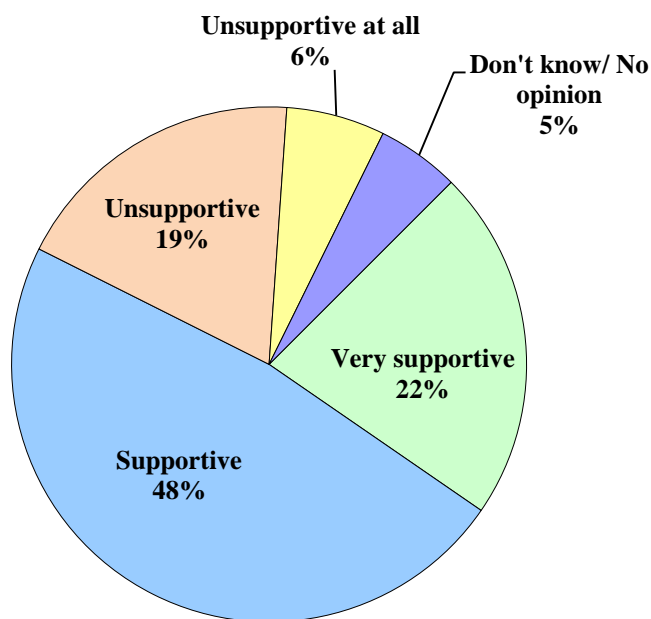
Ref.: Q4 & Q5

Chapter 6 Feasibility of Legislating against Age Discrimination

6.1 Attitude towards Legislating against Age Discrimination

While 70% of the employed persons were “supportive” (48%) / “very supportive” (22%) of introducing legislation on age discrimination, one-quarter (25%) of them were “unsupportive” (19%) or “unsupportive at all” (6%). The remaining 5% had no opinion.

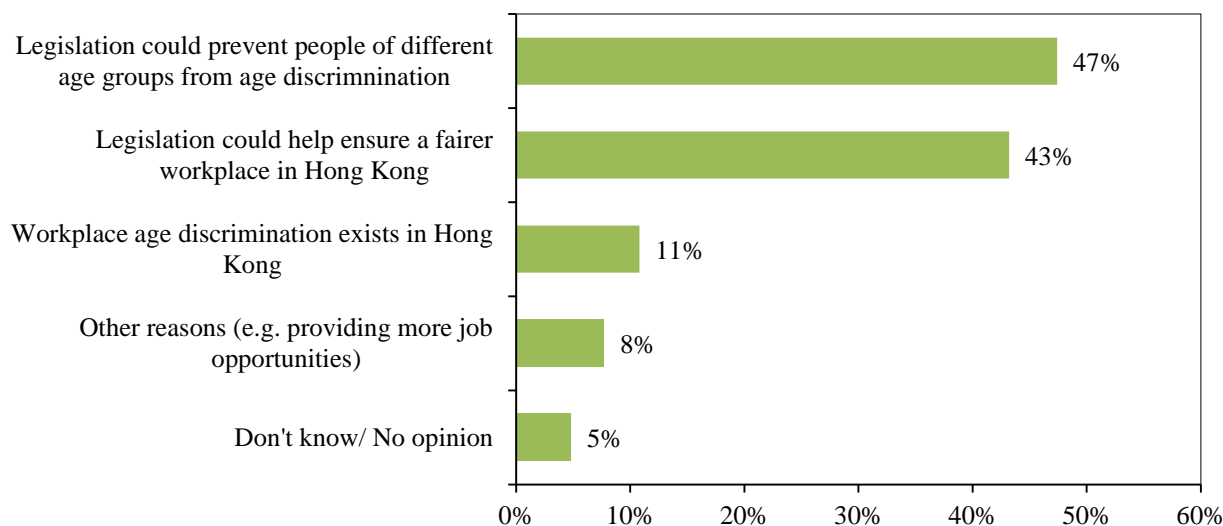
Chart 13 Attitude towards legislating against age discrimination



Base: All employed persons aged 15 or above, n = 401; N = 3 488 500
Ref.: Q6

Among those who were supportive/ very supportive of legislating against age discrimination, most of them held the view that “legislation can prevent people of different age groups from age discrimination” (47%) and “legislation could help ensure a fairer workplace in Hong Kong” (43%).

Chart 14 Reasons for being supportive of legislating against age discrimination



Note: Multiple answers were allowed.

Base: All employed persons aged 15 or above who were supportive/ very supportive of the legislation on age discrimination, n = 279; N = 2 437 871

Ref.: Q7b

In the in-depth interviews, most employers and employees were supportive of legislating against age discrimination, believing this can protect mature workers from unfair dismissal on the ground of their age and their high salaries.

“If I were an employee, I would like to have legislation against age discrimination. Let’s say if I had worked in this hotel for 10 years and the boss would like to replace me with some beautiful young girls with more energy and lower salaries, I’d be protected by the legislation.”
(Employer in hospitality industry)

“In fact, it is good for aged people who still want to work. They will not be discriminated because of age.” (Employer in logistics industry)

“There should be legislation on age discrimination. Some companies probably treat aged people unfairly by rejecting their applications.” (Employee in tourism industry)

“It’d be better to have legal protection. In this profession, we seldom work beyond forties because most of us would like to take care of our own children at home. However, if someone has the financial need, she’ll certainly be affected for not getting hired beyond forties.” (Employee in beauty industry)

One Legislative Councillor welcomed legislating against age discrimination and considered that an objective standard for age discrimination could be set by legislation. Another Legislative Councillor echoed that the legislation would set a basic standard to protect employees against age discrimination.

“I support introducing the legislation. Hong Kong is a relatively law-abiding society in general. If there is no legislation, there wouldn’t be any standard. Then no one knows what they should do and should not do. There will be objection during the process of legislating. But once it is enacted and the law is in force, Hong Kong people would abide to it.”
(Legislative Councillor)

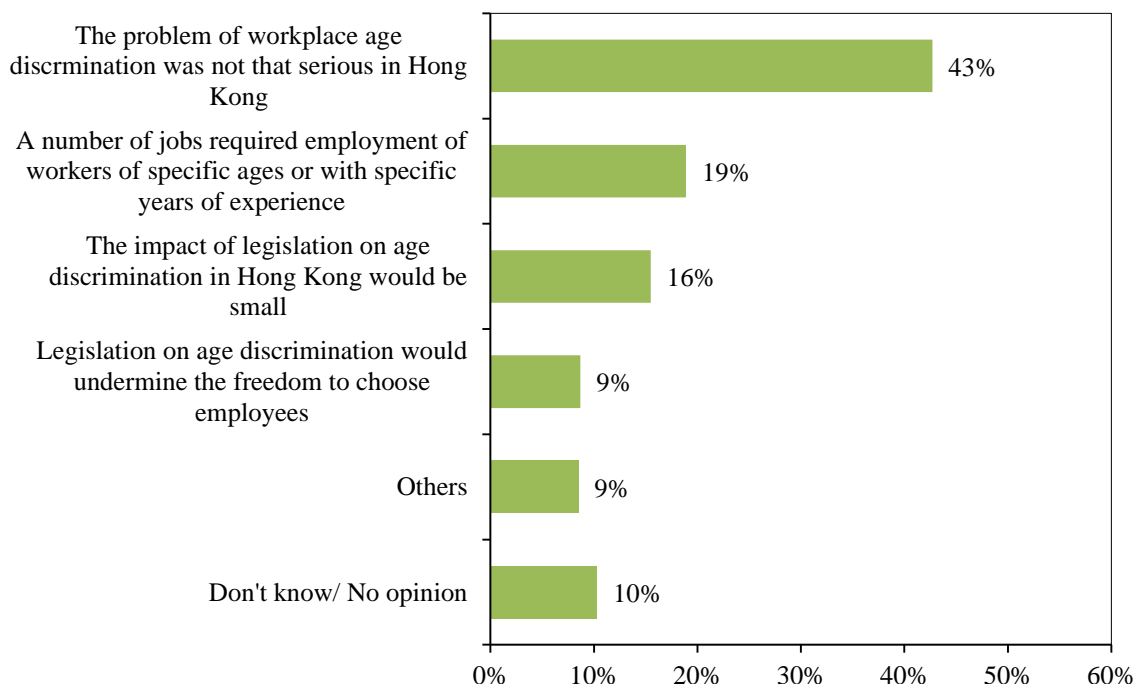
“Legislation will set a basic standard to protect workers from age discrimination. After the law is enacted, people will recognize that legislation on age discrimination appears relatively justifiable.” (Legislative Councillor)

A Legislative Councillor perceived that it is now the right time for legislation and expected the consultation to span over a few years. The example of legislation on Mandatory Provident Fund (MPF) was quoted:

“A good public consultation takes a long time and has a number of phases. Maybe the first phase is about debating on whether we need this set of law and the pros and cons of it. After that, the second phase can discuss the details of the law. Like the case of MPF, from consultation to passing the bill, it took us 8 years. I guess we need at least 6 to 7 years for the legislation on age discrimination.” (Legislative Councillor)

Among those who were unsupportive of legislating against age discrimination, most of them held the view that “the problem of workplace age discrimination was not that serious in Hong Kong” (43%), “a diversity of jobs required employment of workers with specific age-related attributes (e.g. years of work experience)” (19%), and “the impact of legislating against age discrimination would be small” (16%).

Chart 15 Reasons for being unsupportive of legislating against age discrimination



Note: Multiple answers were allowed.

Base: All employed persons aged 15 or above who were unsupportive/unsupportive at all of the legislation on age discrimination, n = 100; N = 869 131

Ref.: Q7a

In the in-depth interviews, some employers were unsupportive towards legislating against age discrimination. They shared the view that age discrimination was not serious in Hong Kong. In addition, they believed that the legislation might pose extra restriction on employers and they would lose flexibility in future recruitment of workers.

“In general, age discrimination is not serious in Hong Kong. I don’t see the need for legislation in the near future. It may be serious in some industries such as the beauty industry. That is, good appearance is a must. However, young girls have care-free attitude, while mature employees may not have good looks. Also, for those jobs which involve physical work, mature workers may not be able to do the job. How can an aged staff convince people to buy cosmetic products? If legislation on age discrimination is enacted, the aged employees can’t be fired, and they are not fit for other positions. It’s a mismatch, not age discrimination.” (Employer in catering industry)

“It’s weird to hire an old man to sell sports shoes, though he may have lots of experiences. We need young people with a feeling of sunshine.” (Employer in retail industry)

Another employer was anxious about the physical condition and safety problem in employing mature workers. He suggested that sufficient time should be allowed for employers and employees to review a new set of guidelines, before enacting any legislation on age discrimination.

“Like the construction industry, while those over sixties are still employed, they’ll get hurt easily. In our industry, the mature security guards will find it difficult to patrol the building. Legislation will impose restriction on both employers and employees. We think that it’d be better to use guidelines or code of practice to test the water before considering legislation.” (Employer in property management industry)

One Legislative Councillor strongly opposed to legislation on age discrimination, which was deemed to arouse conflicts and lawsuits. The Legislative Councillor believed that it would provide excuses for employees to sue employers on the grounds of age when they were being treated unfavourably. An employer also shared this view.

“I definitely object to the idea of legislating against age discrimination. When an employer wants to fire an employee with sound reasons, the dismissed employee will use age discrimination as an excuse to lodge a complaint. There will be lots of disputes. Even the retirement age for civil servants in general and the disciplined services are different. Officers of the disciplined services are required to retire at the age of 55, in the consideration of their physical fitness. If so, is it possible to sue the Government for age discrimination?” (Legislative Councillor)

“The drawback of enacting an ordinance is the possible abuse of the law. A person was not offered a job because of his lack of ability rather than his age. But the person concerned may interpret that the company did not hire him because he is old.” (Employer in tourism industry)

Another Legislative Councillor viewed that the age groups being discriminated and their respective seriousness should be identified prior to initiatives and discussions towards legislating against age discrimination. The timing for legislation would depend on the economic climate and the population structure. The legislation can genuinely protect the discriminated age groups when the society is in face of an economic downturn.

“It depends on the economic development of the society, the progress of population ageing and the population structure. If the unemployment rate rose to 8%, those aged fifties might be asked to retire earlier to provide opportunities for the young people. When there was economic downturn, in such cases, employers are tempted to fire the highly paid employees who have worked for some years to cut cost. In such cases, an age discrimination law will be able to protect them from being dismissed.” (Legislative Councillor)

One employer opined that it would be difficult to effectively implement an ordinance on age discrimination. It would be hard to differentiate whether the decisions of firing mature employees were based on age-related incompetency or age discrimination.

“There will be problems in implementing the ordinance. For each job, workers are required to possess certain skills or abilities. It is difficult to differentiate between age-related incompetency and age discrimination.” (Employer in the education sector)

Analysed by demographic characteristics, employed persons across all age groups were supportive of legislating against age discrimination, in particular, such proportion tended to be higher among those aged 20-29 (81%, “supportive” (56%) / “very supportive” (25%)). No significant difference was observed in the attitude towards the matter across different education levels, industries, job positions and monthly personal income.

Table 9 Attitude towards legislating against age discrimination - analysed by age

	Total (n = 401)	Age Range					
		15-19 (n = 5)	20-29 (n = 72)	30-39 (n = 83)	40-49 (n = 100)	50-59 (n = 108)	60 or above (n = 33)
Very supportive	22%	16%	25%	15%	24%	20%	38%
Supportive	48%	84%	56%	54%	43%	45%	27%
Unsupportive	19%	0%	15%	19%	22%	18%	23%
Unsupportive at all	6%	0%	1%	6%	6%	10%	8%
Don't know/ No opinion	5%	0%	3%	6%	5%	7%	4%
	100%	100%	100%	100%	100%	100%	100%

Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q6

Table 10 Attitude towards legislating against age discrimination - analysed by education level

	Total (n = 401)	Primary or below/ junior secondary (n = 85)	Senior secondary (F4-F7) (n = 117)	Post- secondary (sub-degree programmes) (n = 44)	University (degree programmes) (n = 155)
Very supportive	22%	20%	18%	24%	26%
Supportive	48%	48%	53%	55%	42%
Unsupportive	19%	17%	18%	15%	22%
Unsupportive at all	6%	11%	7%	2%	5%
Don't know/ No opinion	5%	5%	4%	4%	7%
	100%	100%	100%	100%	100%

Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q6

Table 11 Attitude towards legislating against age discrimination - analysed by industry

	Total (n = 401)	Manufacturing (n = 30)	Construction (n = 43)	Wholesale, retail, import/ export trades, restaurants and hotels (n = 103)	Transportation, storage and communications (n = 44)	Finance, insurance, real estate and business services (n = 78)	Community, social and personal services (n = 101)
Very supportive	22%	20%	23%	27%	27%	23%	15%
Supportive	48%	47%	51%	51%	36%	44%	50%
Unsupportive	19%	23%	20%	12%	26%	23%	18%
Unsupportive at all	6%	3%	6%	5%	7%	4%	10%
Don't know/ No opinion	5%	6%	0%	5%	4%	6%	7%
	100%	100%	100%	100%	100%	100%	100%

Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q6

Table 12 Attitude towards legislating against age discrimination - analysed by job position

	Total (n = 401)	Manager or executive (n = 89)	Professional/ associate professional (n = 103)	Clerk (n = 66)	Service or shop sales worker (n = 63)	Unskilled worker (n = 41)	Others (n = 34)
Very supportive	22%	31%	21%	19%	16%	16%	30%
Supportive	48%	34%↓	46%	59%	58%	57%	38%
Unsupportive	19%	24%	23%	9%	13%	13%	25%
Unsupportive at all	6%	6%	5%	6%	9%	8%	5%
Don't know/ No opinion	5%	5%	5%	8%	5%	6%	3%
	100%	100%	100%	100%	100%	100%	100%

Note: "↓" denotes that there is a significantly lower percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q6

Table 13 Attitude towards legislating against age discrimination - analysed by monthly personal income

	Total (n = 401)	Below \$15,000 (n = 134)	\$15,000 to below \$25,000 (n = 113)	\$25,000 or above (n = 135)
Very supportive	22%	21%	22%	23%
Supportive	48%	56%	47%	44%
Unsupportive	19%	15%	20%	22%
Unsupportive at all	6%	6%	6%	5%
Don't know/ No opinion	5%	3%	6%	6%
	100%	100%	100%	100%

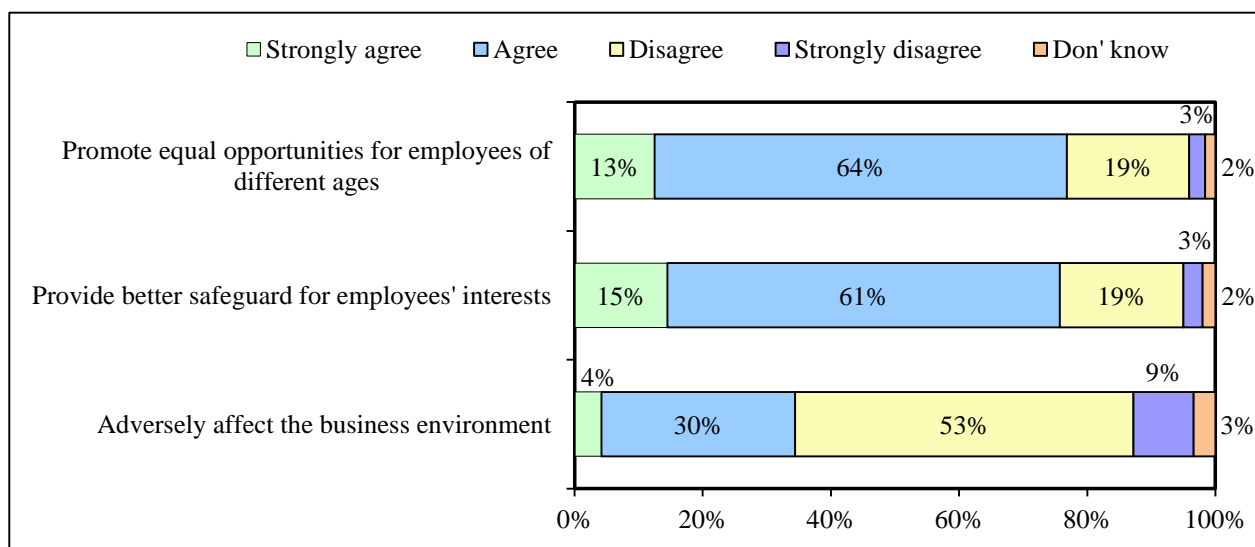
Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q6

6.2 Perceived Impact of Legislating against Age Discrimination

With regard to impact of legislating against age discrimination, over three-quarters of the employed persons agreed that legislating against age discrimination could “promote equal opportunities for employees of different ages” (strongly agree (13%) ; agree (64%)) and “provide better safeguard for employees’ interests” (strongly agree (15%) ; agree (61%)). Only around one-third agreed that legislating against age discrimination would “adversely affect the business environment” (strongly agree (4%) ; agree (30%)).

Chart 16 Impact of legislating against age discrimination



Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q8 to Q10

Analysed by demographic characteristics,

- (i) those who disagreed that the business environment would be adversely affected were more likely to be those aged 20-29 years (75%); and
- (ii) those who disagreed that equal opportunities for employees of different ages could be promoted were more prone to be those with monthly personal income of \$25,000 or above (31%).

Table 14 Proportion of employed persons who disagreed (strongly disagreed/ disagreed) with the impact of legislating against age discrimination – analysed by age

	Total (n = 401)	Age Range					
		15-19 (n = 5)	20-29 (n = 72)	30-39 (n = 83)	40-49 (n = 100)	50-59 (n = 108)	60 or above (n = 33)
Adversely affect the business environment	62%	74%	75% ↑	61%	62%	58%	48%
Provide better safeguard for employees' interests	22%	26%	21%	19%	26%	26%	12%
Promote equal opportunities for workers of different ages	22%	26%	18%	23%	24%	23%	12%

Note: "↑" denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q8 to Q10 & AGE

Table 15 Proportion of employed persons who disagreed (strongly disagreed/ disagreed) with the impact of legislating against age discrimination – analysed by monthly personal income

	Total (n = 401)	Below \$15,000 (n = 134)	\$15,000 to below \$25,000 (n = 113)	\$25,000 or above (n = 135)
Adversely affect the business environment	62%	63%	61%	62%
Provide better safeguard for employees' interests	22%	18%	21%	28%
Promote equal opportunities for workers of different ages	22%	14%	19%	31% ↑

Note: "↑" denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q8 to Q10 & PERINC

Analysed by reported experience of workplace age discrimination, those who agreed that equal opportunities for workers of different ages could be promoted tended to be those who had experienced such discrimination (86%).

Table 16 Proportion of employed persons who agreed (strongly agreed/ agreed) with the impact of legislating against age discrimination – analysed by reported experience of workplace age discrimination

	Total (n = 401)	Had experienced workplace age discrimination (n = 143)	Had <u>NOT</u> experienced workplace age discrimination (n = 258)
Promote equal opportunities for workers of different ages	77%	86% ↑	72%
Better safeguard employees' interests	76%	82%	73%
Adversely affect the business environment	34%	35%	34%

Note: “**↑**” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q4 & Q8 to Q10

In in-depth interviews, respondents were asked about the pros and cons of legislating against age discrimination in relation to employers and employees. Employers expressed their concerns and pointed out a number of disadvantages towards them. They believed that the legislation would probably break the trust between employers and employees, and therefore, conflicts would arise when legislation is in force.

“It will do more harm than good. When an ordinance against age discrimination is enacted, it will harm the original good communication. Employers and employees will second guess the motivation of the other side. For example, I hired a young worker who learned things quickly and did his jobs efficiently. The mature staff would then think that the young guy was hired to replace him.” (Employer in catering industry)

Employers were also worried about being forced to hire workers who did not fit for the jobs in order to meet the legal obligations. If incompetent workers were employed, this would raise the operational costs and thus reduce the profits.

“After all, business is about calculating cost-effectiveness. Employers will not let go those competent workers who help companies to earn money. If the employer does not keep those competent workers, other employers will hire them. Employers know how to calculate. Age discrimination is not a big problem.” (Employer in construction industry)

Other than the above concerns, employers found the definition of age discrimination unclear. They were worried that some companies would find it difficult to accommodate and hence would cause a drop in productivity, and employers would have less flexibility in hiring employees of certain age groups.

“I don’t have any idea about how the legislation against age discrimination will be drafted. Will there be any quota for hiring each of the age groups? If so, flexibility in recruitment will be reduced.” (Employer in cleansing industry)

“There will be restriction on hiring people of certain age groups. Relatively, it will be difficult to hire people.” (Employer in property management industry)

“Many industries are unique. If you passed a law against age discrimination before you gain an understanding of these industries, it will be unfair to them. For example, family business is the norm in funeral industry. There is no open recruitment.” (Employer in catering industry)

It was a view commonly shared by employers and employees that the legislation could protect the interests of employees. Unreasonable dismissal of mature staff would be prevented.

“Employees of all age groups will be protected. The mature people are provided with opportunities to work, whereas young people will not be discriminated in job-seeking.” (Employee in tourism industry)

“Employees get some protection. Whether they take that job offer or not is their own choice.” (Employee in retail industry)

“Talking about protecting older workers, I had quite a personal experience. I did not start to work in the construction industry at the very beginning. I am also a victim of age discrimination. When I returned to Hong Kong to work from Mainland China, I was already in my forties. People said I was too old and most of them declined to hire me. That is the reality.” (Employer in construction industry)

“This is a protection. When you have worked in a company for over 10 years, you have made your contribution. However, if the company prefers to use less money to hire a younger staff, then you are going to be replaced.” (Employer in catering industry)

One Legislative Councillor agreed that legislation against age discrimination should be enacted, despite that it would reduce the choice of employers in hiring staff. He quoted the case of flight attendants as an example:

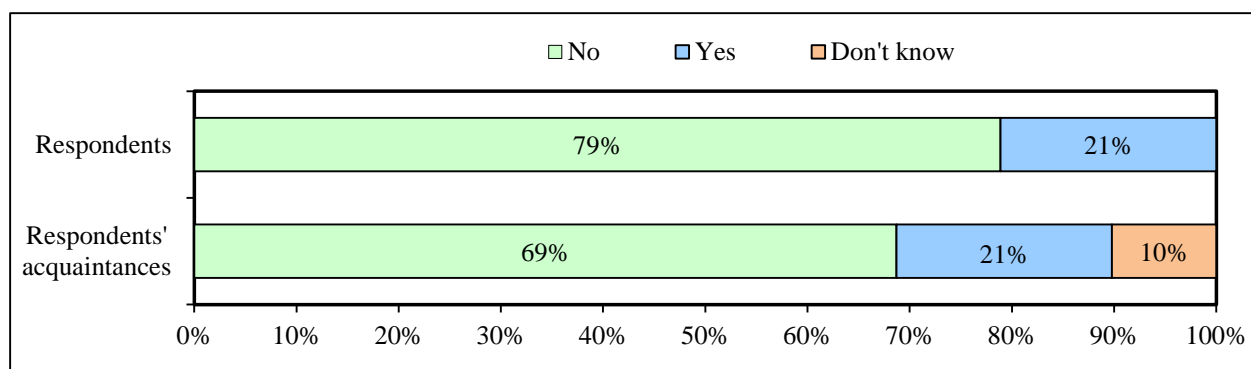
“There would be fewer choices. Asian airlines always employ young flight attendants while in overseas countries you can see ladies and gentlemen in their 50s or 60s are still working as flight attendants. To respect the employees, this [legislation on age discrimination] should be the direction.” (Legislative Councillor)

6.3 Scope of Legislation against Age Discrimination

6.3.1 Encounter of job ads specifying an age limit in job search process

Around one-fifths (21%) of the employed persons had encountered job ads specifying an age limit in the job search process, while 79% did not have such experiences. Equally, about 21% of the employed persons indicated that their acquaintances had such encounters, whereas 69% were not aware that their acquaintances had so.

Chart 17 Encounter of job ads specifying an age limit in job search process



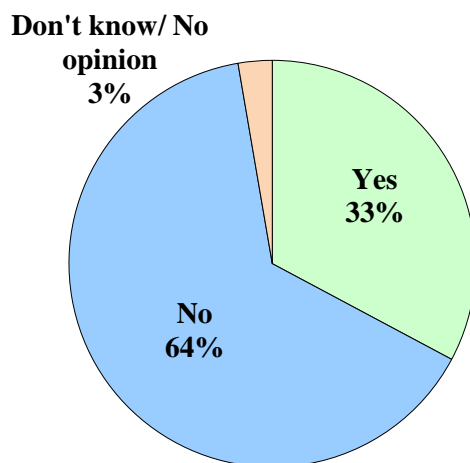
Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q3a_3 & Q3b_3

6.3.2 Whether employers should have the right to decide employees' retirement

Almost two-thirds (64%) of the employed persons disagreed that employers should have the right to decide employees' retirement age, whereas 33% thought employers had the right to do so and 3% held no opinion.

Chart 18 Whether employers should have the right to decide employees' retirement age



Base: All employed persons aged 15 or above, n = 401; N = 3 488 500
 Ref.: Q13

Younger workers tended to disagree that employers should have the right to decide employees' retirement age. Those aged 20-29 years (82%) were more likely to hold that view.

Table 17 Whether employers should have the right to decide employees' retirement age – analysed by age

	Total (n = 401)	Age Range					
		15-19 (n = 5)	20-29 (n = 72)	30-39 (n = 83)	40-49 (n = 100)	50-59 (n = 108)	60 or above (n = 33)
Yes	33%	26%	17%	26%	41%	40%	44%
No	64%	74%	82% ↑	69%	59%	56%	52%
Don't know/ No opinion	3%	0%	1%	5%	0%	5%	4%

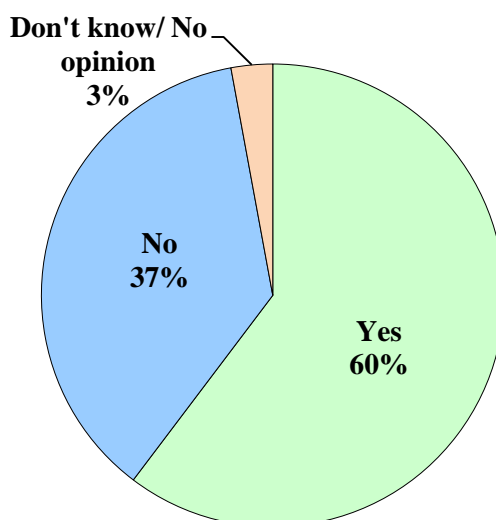
Note: "↑" denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total (p<0.05).

Base: All employed persons aged 15 or above, n = 401; N = 3 488 500
 Ref.: Q13 & AGE

6.3.3 Prohibit unfair job promotion on the basis of age

Sixty per cent of the employed persons opined that if an age discrimination legislation is introduced, it should regulate the situation where an employer used age as a criterion for promotion. For the rest of the employed persons, 37% disagreed and 3% held no opinion.

Chart 19 Whether legislation against age discrimination should regulate unfair job promotion on the basis of age



*Base: All employed persons aged 15 or above, n = 401; N = 3 488 500
Ref.: Q11*

During the in-depth interviews, one employee opined that the recruitment phase should be covered by the age discrimination legislation because employers might have prejudice against the marital status and/or family status of a certain age group. For instance, some people assumed that women aged 40 might need to take care of their children and would not work overtime for the companies.

*“I think it is the recruitment phase (that should be covered by the law). In the job interview, they know your age, and they will consider if you have children or not, and if you have any economic burdens. If you have children, they think that you will not work overtime.”
(Employer in property management industry)*

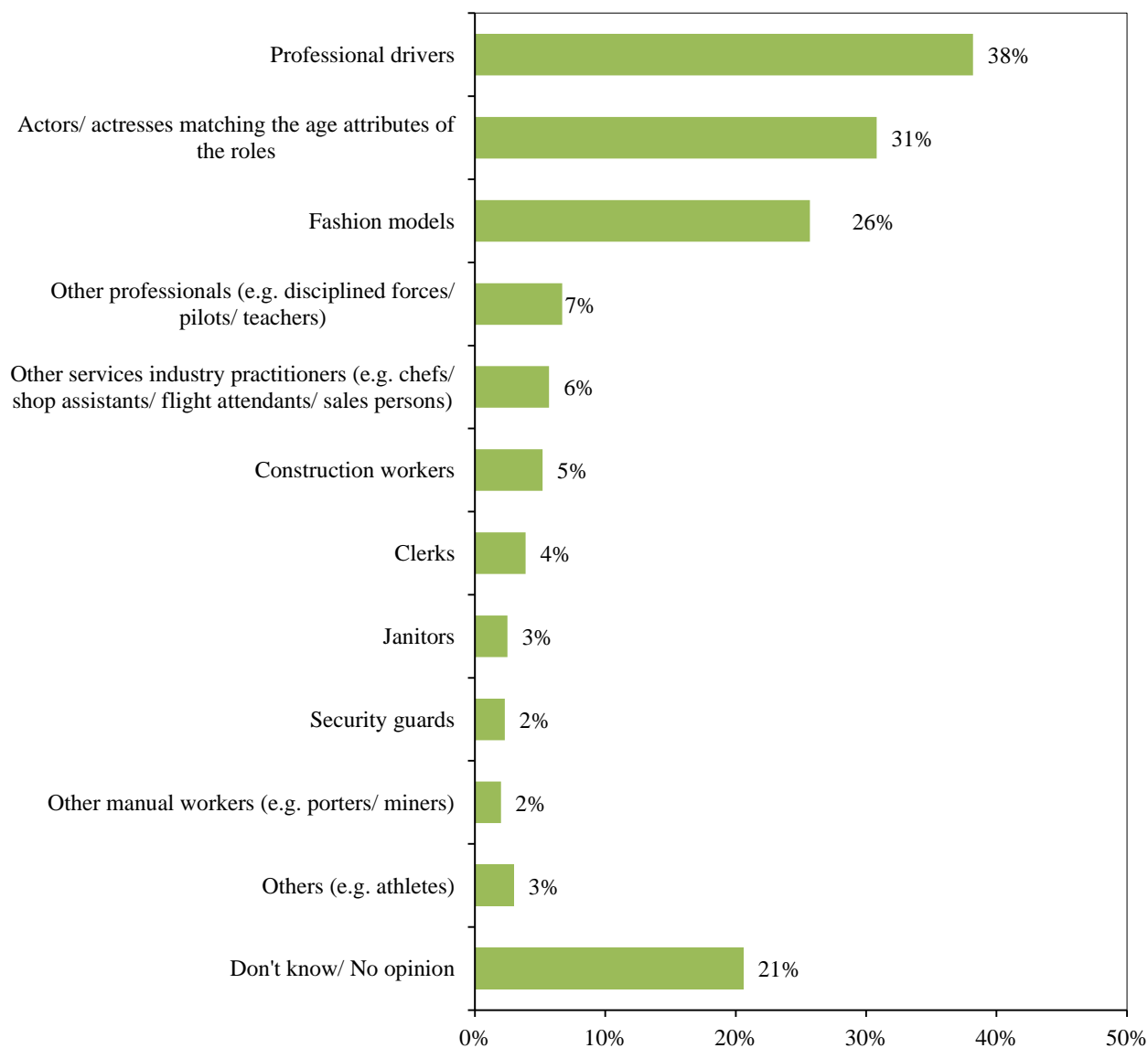
An employee viewed that promotion on the basis of age should be regulated by legislation. Mature workers should not be denied the chance of promotion.

“(If an age discrimination legislation was introduced) Those aged fifties or sixties would not suffer the unfair treatment of being denied any promotion opportunities just because of their old age.” (Employee in tourism industry)

6.3.4 Job Positions that should be exempted from age discrimination legislation

With regard to the job positions that should be exempted from a legislation against age discrimination, the three most mentioned job positions were “professional drivers” (38%), “actors/ actresses matching the age attributes of the roles” (31%) and “fashion models” (26%). Around one-fifth (21%) held no opinion.

Chart 20 Job positions that should be exempted from age discrimination legislation



Note: Multiple answers were allowed.

Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q12

During the in-depth interviews, interviewees indicated that some job positions should be exempted from the regulation of the age discrimination legislation. These include security guards, beauticians and flight attendants. The rationales behind included safety reason, clients' acceptance and family reason.

“For different job positions, different upper age limits should be set for the safety of both the companies and the staff. For example, drivers will have poor eye sight when they get old and therefore it will be dangerous for them to drive then. However, it appears alright for older persons to work as security guards.” (Employee in tourism industry)

“It should not be called discriminatory. For instance, in beauty industry, if staff over sixties do facial treatment for customer, the customer will certainly not visit again. Sometimes, it is not the employer who discriminates against them. It is the customers who do not accept services to be provided by the mature staff.” (Employer in cleansing industry)

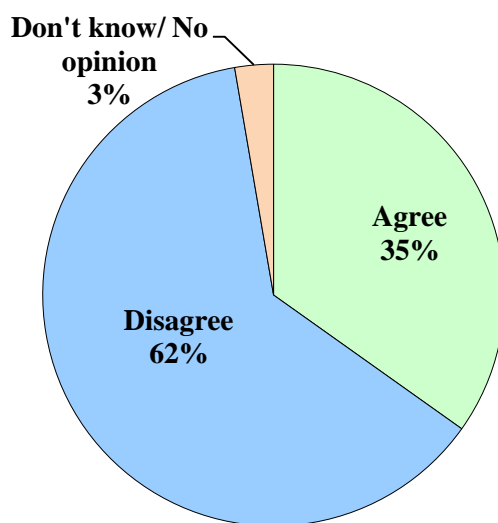
“Flight attendants can't be too old because they have to take care of their family and children.” (Employer in logistics industry)

6.4 Retirement Age in Hong Kong

6.4.1 Mandatory retirement age

Over three-fifths (62%) of the employed persons disagreed that there should be a mandatory retirement age in Hong Kong, while 35% agreed and 3% held no opinion. A median mandatory retirement age of 65 was suggested by those (35%) who agreed that there should be a mandatory retirement age.

Chart 21 Do you agree that there should be a mandatory retirement age in Hong Kong



Base: All employed persons aged 15 or above, n = 401; N = 3 488 500
Ref.: Q14

Analysed by demographic characteristics,

- (i) those who agreed that there should be a mandatory retirement age in Hong Kong were more likely to be those aged 50-59 years (46%) and those who worked in the community, social and personal services industry (46%); and
- (ii) those who disagreed were more likely to be from the transportation, storage and communications industry (78%).

Table 18 Agree/Disagree to set a mandatory retirement age in Hong Kong – analysed by age

	Total (n = 401)	Age Range					
		15-19 (n = 5)	20-29 (n = 72)	30-39 (n = 83)	40-49 (n = 100)	50-59 (n = 108)	60 or above (n = 33)
Agree	35%	67%	29%	29%	36%	46% [↑]	20%
Disagree	62%	33%	68%	70%	62%	50%	73%
Don't know/ No opinion	3%	0%	3%	1%	2%	4%	8%

Note: “[↑]” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q14 & AGE

Table 19 Agree/Disagree to set a mandatory retirement age in Hong Kong – analysed by industry

	Total (n = 401)	Manufacturing (n = 30)	Construction (n = 43)	Wholesale, retail, import/ export trades, restaurants and hotels (n = 103)	Transportation, storage and communications (n = 44)	Finance, insurance, real estate and business services (n = 78)	Community, social and personal services (n = 101)
Agree	35%	46%	21%	35%	22%	33%	46% [↑]
Disagree	62%	47%	76%	63%	78% [↑]	64%	51%
Don't know/ No opinion	3%	6%	4%	2%	0%	3%	3%

Note: “[↑]” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q14 & INDUST

In in-depth interviews, interviewees were asked about their company's recommended retirement age. Employers said that the recommended retirement age ranged from 60 to 70 in their companies. This was set with reference to pamphlets provided by the Labour Department. They would re-employ the retired persons as freelancers or part-timers. Retirement decisions were based on the employees' performance. The employers tended to retain workers with good track record as it was difficult to hire competent and experienced workers.

“In general, the retirement age is 65. Employees can get long-service payment and MPF. If you want to continue working, you can be casual workers. The company sets the retirement age at 65, based on the guidelines of the Labour Department leaflet. It'd be better to retain an experienced worker to continue working rather than hiring an inexperienced one who would offend customers.” (Employer in catering industry)

“In our industry, some people aged seventies are still working. They are long-term casual workers. When we have projects to do, we will ask them to work for us. Small projects all run in this way. Unless their skill level falls, age is not an issue for employing them. When their physical strength starts to ebb, I place them in less important posts. Given the current shortage of manpower, people with some skills will be hired.” (Employer in construction industry)

Some employers said that their company did not have a retirement age and it was up to the workers to decide when they would retire. However, insurance premium for workers aged 65 or above was very high and this made them hesitate to employ workers beyond that age. In this regard, the mode of employment would then change to regular part-time workers or freelancers.

“A maid aged 60 employed by my company still wants to work. She did nothing wrong and therefore we leave it to her to decide when to retire. However, insurance for workers aged over 65 is very expensive. Some insurance companies even reject to underwrite those workers. In that case, I will ask the staff to leave if they are beyond 65 years old. There is no point to pay a higher premium for just one employee.” (Employer in hospitality industry)

“We allow those aged over 60 to continue working. Yes, insurance companies will not cover them. As far as I can remember, our insurance only covers workers up to 58 years old. If the workers still manage to do their work, we re-employ them as part-time workers but they are informed of not being covered by insurance.” (Employer in logistics industry)

One employer explained that the recommended retirement age for security guards was 65 in the company due to the licensing requirement of the Security Personnel Permit from the Hong Kong Police Force. If possible, the mature security guards can be relocated to other position like clerical workers in the office.

According to the licensing requirement of the Security Personnel Permit from the Police, the retirement age of all our colleagues is 65. There was a supervisor over 65 years old and he was transferred to back office to do clerical work.” (Employer in property management industry)

One employer commented that there was not any suggested retirement age in the company because the staff would usually quit themselves after working for a certain number of years.

“I had a colleague who worked from her twenties to thirties in the beauty industry and she quitted the job herself. It was the norm of the beauty industry that no mature workers will do facial massage. Once you got older with rough hands, you were not fit to massage customers’ face.” (Employer in retail industry)

Some employers believed that there should be a recommended retirement age to which employees aged between 60 and 65 can make reference. The workers should be allowed to continue working if they were capable to do so. The retirement age could vary among staff and should be mutually agreed between employers and employees.

“It’s good to have a recommended retirement age. Then you have a line to make reference. In our industry, some people can continue to work after 60, whereas some people’s strength ebbs and then they have to step down.” (Employer in construction industry)

“Yes, there is a recommended retirement age. They are still capable of working. When I see those aged over sixties playing chess in the park, they appear bored and look as if they have nothing better to do but to count their remaining days.” (Employer in logistics industry)

“Yes, an appropriate retirement age of 65 years old should be set. Otherwise, those mature workers may continue to work even when they get too old. They may be unaware of their health problem.” (Employee in tourism industry)

A Legislative Councillor viewed that the need for a mandatory retirement age depends on the physical condition of individuals. The Government has adopted a higher retirement age for newly recruited civil servants up to the age of 65. Depending on future advancement of medicine, the retirement age could be further raised. All in all, he believed that the time to retire should be related to the capability of the workers rather than their age.

With the advancement in medicine, the longevity of Hongkongers is quite high in the world. I agree with what the Government has done to raise the retirement age of new civil servants up to 65 years old, which will probably be extended to 68 years old in the coming years with further advancement in medicine. Let the society decide. It all depends on one's performance. If a worker is physically unfit, he will definitely not be hired regardless of his age.” (Legislative Councillor)

Another Legislative Councillor considered that as the life expectancy increases, there is room for further discussion about where to set the retirement age.

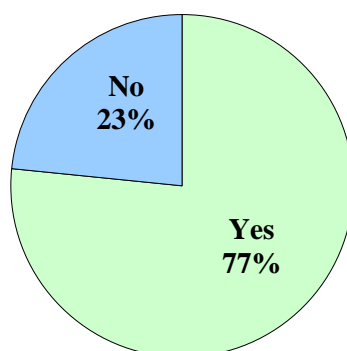
“As the society develops, the life expectancy of population increases. In the past, growing old is equivalent to being fragile, but it is not the case now. The average life span of females in Hong Kong is beyond eighty and that of the males is only several years shorter, so the problem is about where to set the retirement age. I think that there is room for further discussion on this matter.” (Legislative Councillor)

Chapter 7 Engaging the Mature People in Employment

7.1 Preferred Modes of Re-Employment after Retirement

Over three-quarters (77%) of the employed persons would like to be re-employed in a higher or equivalent position after retirement, while 23% held the opposite view.

Chart 22 Preferred to be re-employed in a higher or equivalent position after retirement



Base: All employed persons aged 15 or above, n = 401; N = 3 488 500
 Ref.: Q16

Analysed by demographic characteristics, relatively speaking, those aged 50-59 years were less interested in getting re-employed in a higher or equivalent position after retirement.

Table 20 Preferred to be re-employed in a higher or equivalent position after retirement or not – analysed by age

	Total (n = 401)	Age Range					
		15-19 (n = 5)	20-29 (n = 72)	30-39 (n = 83)	40-49 (n = 100)	50-59 (n = 108)	60 or above (n = 33)
Yes	77%	84%	83%	81%	83%	61%	77%
No	23%	16%	17%	19%	17%	39%↑	23%

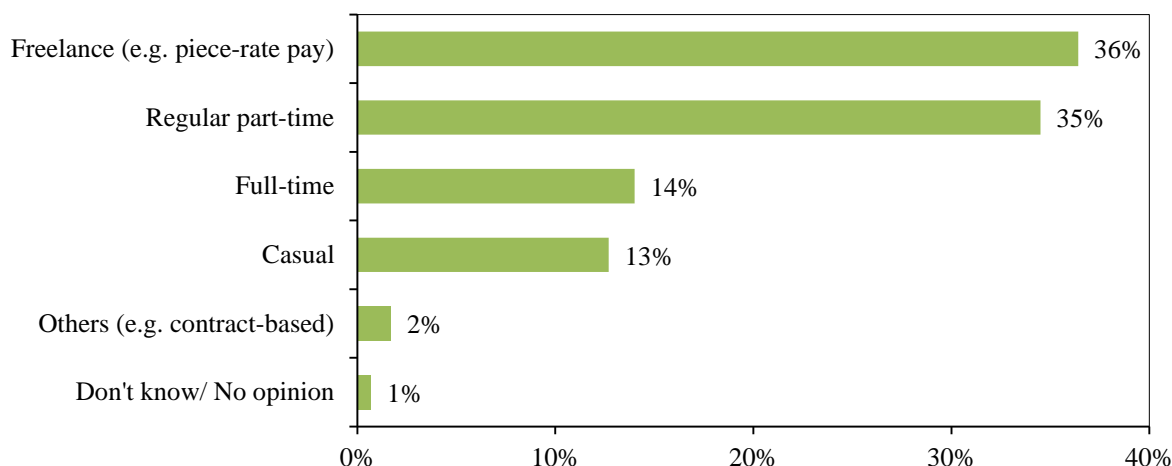
Note: “↑” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total (p<0.05).

Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q16 & AGE

Among those who would like to be re-employed in a higher or equivalent position after retirement, over one-third preferred working “freelance (e.g. piece-rate pay)” (36%) or as a “regular part-time” staff (35%). Only 14% and 13% of the employed persons preferred to be re-employed as “full-time” and “casual” staff respectively.

Chart 23 Most preferred mode of re-employment after retirement



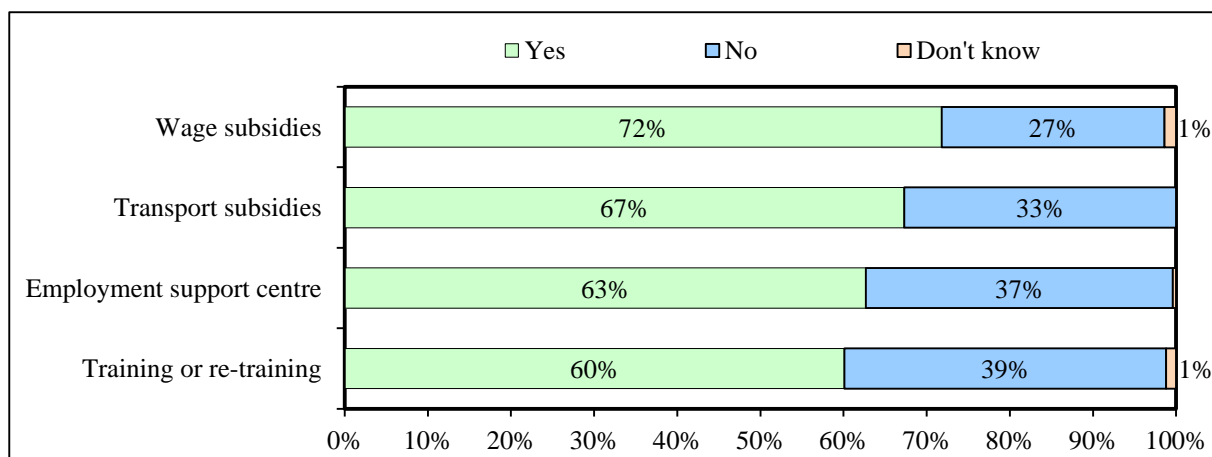
Base: All employed persons aged 15 or above who would like to be re-employed in a higher or equivalent position after retirement, n = 304; N = 2 673 029

Ref.: Q17

7.2 Feasibility of Government Provision of Support Measures

Over 60% of the employed persons believed that it would encourage the mature people to continue working after retirement if the government provided support measures, namely wage subsidies, transport subsidies, employment support centre, and provision of training or re-training. “Wage subsidies” was regarded by the largest number of employed persons (72%) as useful in providing incentives to mature people to continue working after retirement.

Chart 24 Would the introduction of government support measures encourage the mature people to continue working after retirement?



Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q18

Analysed by demographic characteristics,

- (i) those who believed that wage subsidies could help motivate mature people to go back to work after retirement were more likely to be employed persons aged 20-29 years (83%), working as clerks (84%) or those with monthly personal income of \$15,000 to below \$25,000 (85%);
- (ii) a relatively higher proportion of employed persons with a monthly personal income of \$15,000 to below \$25,000 (79%) and those with a monthly income below \$15,000 (77%) considered transport subsidies would be a useful incentive to encourage mature people to go back to work after retirement;
- (iii) a relatively higher proportion of clerks (76%) and those who reported they had experienced workplace age discrimination (73%) thought that employment support centre would be an effective supporting measure;
- (iv) a relatively higher proportion of those with monthly personal income of below \$15,000 (70%) and \$15,000 to below \$25,000 (71%) indicated that training or re-training would encourage the mature people to go back to work after retirement;
- (v) it was noteworthy that those with a monthly personal income of \$25,000 or above were less likely to consider the four government support measures useful, compared with those with a lower monthly personal income; and
- (vi) those who reported they had experienced workplace age discrimination in the past five years were more likely to believe that government support measures will encourage mature people to continue working after retirement. In particular, they tended to find wage subsidies and employment support centres to be useful measures.

Table 21 Agreement on introducing government supporting measures would encourage mature people to continue working after retirement - analysed by age

	Total (n = 401)	Age Range					
		15-19 (n = 5)	20-29 (n = 72)	30-39 (n = 83)	40-49 (n = 100)	50-59 (n = 108)	60 or above (n = 33)
Wage subsidies	72%	84%	83% ↑	79%	70%	53% ↓	85%
Transport subsidies	67%	74%	78%	65%	74%	51% ↓	79%
Employment support centre	63%	67%	56%	70%	66%	52%	79%
Training or re-training	60%	58%	61%	65%	57%	51%	83%

Note: “↑” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$). “↓” denotes that there is a significantly lower percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q18 & AGE

Table 22 Agreement on introducing government support measures would encourage mature people to continue working after retirement – analysed by job position

	Total (n = 401)	Manager or executive (n = 89)	Professional/ associate professional (n = 103)	Clerk (n = 66)	Service or shop sales worker (n = 63)	Unskilled worker (n = 41)	Others (n = 34)
Wage subsidies	72%	61% ↓	70%	84% ↑	82%	73%	67%
Transport subsidies	67%	61%	59%	78%	75%	73%	72%
Employment support centre	63%	60%	57%	76% ↑	66%	62%	60%
Training or re-training	60%	52%	61%	72%	59%	61%	63%

Note: “↑” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$). “↓” denotes that there is a significantly lower percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q18 & POSIT

Table 23 Agreement on introducing government support measures would encourage mature people to continue working after retirement – analysed by monthly personal income

	Total (n = 401)	Below \$15,000 (n = 134)	\$15,000 to below \$25,000 (n = 113)	\$25,000 or above (n = 135)
Wage subsidies	72%	79%	85% ↑	57% ↓
Transport subsidies	67%	77% ↑	79% ↑	50% ↓
Employment support centre	63%	71%	72%	49% ↓
Training or re-training	60%	70% ↑	71% ↑	43% ↓

Note: “↑” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$). “↓” denotes that there is a significantly lower percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q18 & PERINC

Table 24 Agreement on introducing government support measures would encourage mature people to continue working after retirement - analysed by reported experience of workplace age discrimination

	Total (n = 401)	Had experienced workplace age discrimination (n = 143)	Had <u>NOT</u> experienced workplace age discrimination (n = 258)
Wage subsidies	72%	80% ↑	67%
Transport subsidies	67%	76%	63%
Employment support centre	63%	73% ↑	57%
Training or re-training	60%	69%	55%

Note: “↑” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

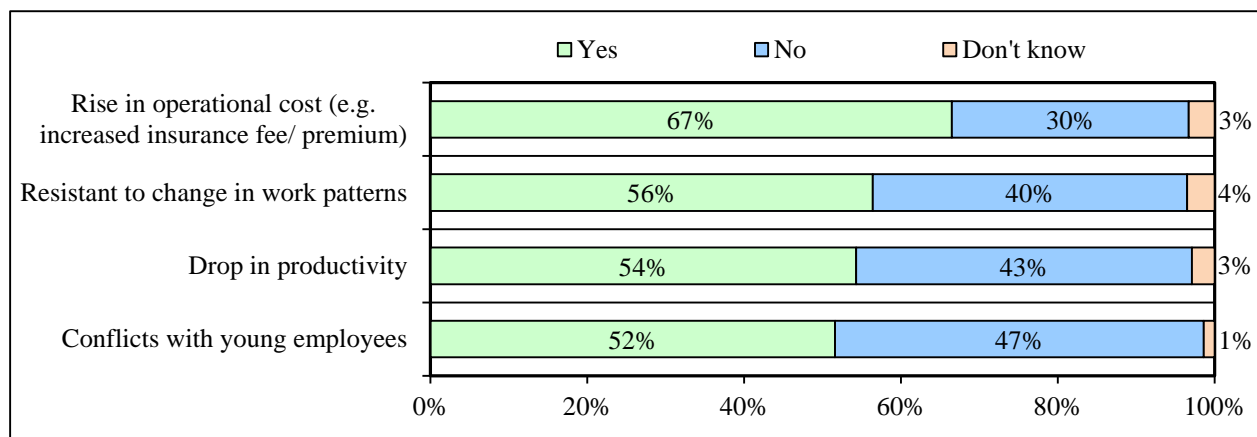
Ref.: Q4 & Q18

Around 10% of the employed persons suggested some other support measures that the government could provide to help motivate the mature people to continue working after retirement. They included “medical benefits” (4%), “flexible working hours” (2%) and “MPF and tax allowances” (1%).

7.3 Employers' Concerns for Hiring Mature Workers

Over half of the employed persons believed that employers would be concerned about “a rise in operational cost (e.g. increase in insurance fee/ premium)” (67%), “mature workers’ resistance to change work patterns” (56%), “a drop in productivity” (54%) and “conflicts with young employees” (52%) when they considered hiring mature workers.

Chart 25 Employers' concerns for hiring mature workers perceived by employed persons



Base: All employed persons aged 15 or above, n = 401; N = 3 488 500

Ref.: Q19

Analysed by demographic characteristics, a relatively higher proportion of clerks (82%) thought that employers would be concerned about “a rise in operational cost when hiring mature workers”.

Table 25 Employers’ concerns for hiring mature workers perceived by employed persons – analysed by job position

	Total (n = 401)	Manager or executive (n = 89)	Professional/ associate professional (n = 103)	Clerk (n = 66)	Service or shop sales worker (n = 63)	Unskilled worker (n = 41)	Others (n = 34)
Rise in operational cost (e.g. increased insurance fee/premium)	67%	62%	59%	82%↑	66%	78%	62%
Resistant to change in work patterns	56%	53%	60%	66%	57%	47%	48%
Drop in productivity	54%	49%	49%	60%	57%	65%	62%
Conflicts with young employees	52%	47%	44%	61%	58%	56%	59%

Note: “↑” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q19 & POSIT

Analysed by reported experience of workplace age discrimination, a much higher proportion of employed persons with reported experience of workplace age discrimination (62%) believed that employers would be concerned about “conflicts with young employees”.

Table 26 Employers’ concerns for hiring mature people perceived by employed persons – analysed by reported experience of workplace age discrimination

	Total (n = 401)	Had experienced workplace age discrimination (n = 143)	Had NOT experienced workplace age discrimination (n = 258)
Rise in operational cost (e.g. increased insurance fee/premium)	67%	69%	65%
Resistant to change in work patterns	56%	63%	53%
Drop in productivity	54%	59%	52%
Conflicts with young employees	52%	62%↑	46%

Note: “↑” denotes that there is a significantly higher percentage of the sub-group responses when compared to the corresponding total ($p < 0.05$).

Base: All employed persons aged 15 or above, $n = 401$; $N = 3\,488\,500$

Ref.: Q4 & Q19

Around one-fifth (21%) of the employed persons suggested some other concerns that employers might have for hiring mature workers. They included: “poor physical conditions of mature workers” (14%), “lack of work motivation and stability” (2%), and “not receptive to new technologies or ideas” (2%).

During in-depth interviews, some employers revealed that they had re-employed retired persons. However, they only hired those once worked in their companies or workers with required skills. Retired persons without required skills would be less likely to be considered for re-employment. Most employers admitted that there was difficulty in hiring workers. Some of them valued the passing of the experience from mature workers on to the younger workers in their companies.

“Yes, we will re-employ retired persons who want to stay on working, for we can’t find experienced workers.” (Employer in construction industry)

“No, I haven’t hired retired persons. However, if they have relevant experiences, I will hire them. At least, they do not need any training.” (Employer in hospitality industry)

“Yes, if they accept that original benefits will not be provided. They are experienced and productive, and therefore they can help me a lot. They even give me ideas.” (Employer in logistics industry)

“Yes, I have hired retired persons. They, at the age of 60, retired from other professions. They will come to work here as security guards for several years.” (Employer in property management industry)

“Yes, retired persons can still work. For example, some civil servants retire at 55 years old and their productivity is still very high.” (Employer in cleansing industry)

One Legislative Councillor viewed that the prime concern is the physical fitness of the workers. If the retired persons are not physically fit for employment, they will easily be injured. Furthermore, companies have to consider the issues of obtaining work license and insurance for mature workers.

“It’s important to consider the physical fitness of the retired person. If he walks feebly, he will be easily hurt. It’ll bring trouble to the company. In fact, before the licensing requirement, I once hired a mature man as security guard who worked very well. However, after the licensing requirement is in place, I no longer employed him because he could not get the license.” (Legislative Councillor)

Another Legislative Councillor reiterated that introducing age discrimination legislation could facilitate engaging the retired persons in employment.

“Without any legislation against age discrimination, it is not probable to extend the retirement age. An age discrimination legislation will set a stage for extending the retirement age and this can facilitate the engagement of the retired persons in employment.”
(Legislative Councillor)

Chapter 8 Conclusion and Recommendations

Over one-third of the responded employed persons reported that they had experienced various forms of workplace age discrimination in the past five years. The findings suggest there is a reason to believe that age discrimination is occurring in our workplace.

Age is not a good indicator of capability and productivity nowadays. Ageist stereotypes of mature people as frail, burdensome and dependent are not supported by evidence.²⁶ Yet these deep-rooted negative stereotypes resulted in discrimination in the workplace. In general, 35% of the working population perceived that age discrimination was serious or very serious in the workplace. Mature workers were regarded as more vulnerable to age discrimination, whereas young workers were stigmatized to be immature and with no sense of purpose. In the in-depth interviews, most of the SME employers believed that hiring young workers would impose high training costs on the companies because they changed jobs frequently.

Today's public opinion is divided on many issues, but on age discrimination, a clear majority hold the same view. As much as 70% of the employed persons, across different age groups and educational levels, agreed that there was a need for introducing age discrimination legislation. Employers and Legislative Councillors have, however, shown their hesitations. In the qualitative in-depth interviews, they expressed their concerns about how to define the meaning of age discrimination and the scope of legislation. The interviewed employers believed that an age discrimination legislation would reduce flexibility in decision-making in the employment cycle. They took the view that under the current social and economic circumstances (viz. low unemployment rate and enforcement of minimum wage), employers found great difficulty in recruitment, let alone discriminating mature people.

Regarding the retirement age and re-employment of mature workers, some employers commented that there should be a recommended retirement age so that employees could make reference to. The workers should be allowed to continue working if they were capable of doing the job. The retirement age could vary and should be agreed mutually between employers and employees. However, it seems that employers tend to offer employment only to mature workers who have worked for them before and possessed the required skills. That might imply potential difficulties for mature workers to find a new job once out of work.

The Hong Kong population is ageing fast. Government projections indicate that nearly one-third of our population will be 65 or above by 2041.²⁷ It is high time for us to break the age barriers in our workplace culture. Making employment decisions based on out-dated assumptions on age not only discriminates against the mature people, but also limits employers' choice of the best person for the job in their company and intensifies the problem of a shrinking labour force of Hong Kong as a whole. Based on the research findings, recommendations are proposed below for stakeholders' consideration:

²⁶ World Health Organisation. (2015). *World Report on Ageing And Health*. <http://www.who.int/ageing/publications/world-report-2015/en/>

²⁷ Census and Statistics Department. (2012). *Hong Kong Population Projections 2012-2041*. http://www.censtatd.gov.hk/press_release/pressReleaseDetail.jsp?charsetID=1&pressRID=2990

- (i) The Hong Kong Special Administrative Region Government (Government) should start conducting large scale prevalence survey of age discrimination regularly to collect public views on the issue. The last time that the Government conducted similar survey was more than 10 years ago. Regular surveys allows the Government to monitor closely the prevalence and trend of age discrimination, and ensures sufficient public discussion of the related issues, so as to start discussion of legislating against age discrimination as soon as possible.
- (ii) In the in-depth interviews, most of the SME employers have not heard about the “Practical Guidelines for Employers on Eliminating Age Discrimination in Employment” issued by the Labour Department. As a start-up, the Labour Department should further promote the Guidelines in order to raise employers’ awareness of providing equal opportunities and an inclusive working environment for employees of all ages. The Government should also study the relationship of ageing, health and ability to work, and collect case studies of employers who hire mature workers. Such data and case sharing will help clarify the myths and misconceptions about ageing, and eradicate the deep-rooted stereotypes of mature people.
- (iii) The research findings revealed that more than 60% of the employed persons did not agree that there should be a mandatory retirement age. The Government has recently raised the retirement age of the new recruits of civil servants to the age of 65. Apart from the Government and a small number of industries that have statutory age limits, the private sector does not have a mandatory retirement age as such. However, in practice, private companies have a retirement age under their own company policies and the offering of employment for staff reaching the retirement age is done on a case by case basis. Before the introduction of age discrimination legislation, the Government might consider the experiences of Singapore in implementing phased retirement under the Retirement and Re-employment Act. In Singapore, there is no definite retirement age across the board. The Singaporean Government set the minimum retirement age at 62, but employers are required by law to offer re-employment to eligible employees who turn 62, up to the age of 65, subject to the work performance and medical fitness of employees. Alternatively, employers may re-employ employees on a term contract of at least one year, renewable up to the age of 65.
- (iv) In view of facilitating re-employment of mature people, the Government should review the existing relevant licensing policies and statutory requirements that set an age criterion in some specific industries and examine if the age limit is objectively justified.
- (v) Both the Government and the insurance industry should explore means to overcome the hurdle of high insurance premium for hiring mature workers. First, the insurance companies should provide objective criteria and transparent terms and conditions for high premiums for employees’ compensation insurance on the ground of age. In parallel, the Labour Department should join hands with the Office of the Commissioner of Insurance to liaise with the insurance industry, with a view to ensuring the premium for mature workers is set at a reasonable level.

- (vi) To promote the employability of young people, the Government should take the initiative to collaborate with educational institutions and the business sector to provide more internship and trainee programmes for undergraduates / fresh graduates. This will not only provide employment opportunities for young people, but also help them building up positive attitude at work and prove their capabilities to eliminate the negative stereotypes against them.

- (vii) The research findings showed that employed persons preferred to work as regular part-timer and in other non-full time employment if they are engaged in work after retirement. It is not yet a common practice to re-employ mature workers as regular part-timer or job-sharer. The Government may take the initiative to create such posts in government departments as a pilot scheme to accumulate the experience for such new modes of employment for mature workers, and then encourage government contractors, statutory bodies and the private sector to follow.

- (viii) As revealed in the research findings, employed persons considered wage subsidies and transport subsidies as most preferred modes of motivation, in particular for those with monthly personal income below \$25,000. The Government may consider the feasibility of providing some financial incentives to raise the mature workers' labour force participation rate.

Appendix

【Questionnaire for Telephone Survey】

Introduction

【Read out】 Hello, Sir/ Madam! The Equal Opportunities Commission has commissioned us to conduct a survey about “Age Discrimination in Employment”. The interview will only last for several minutes. Thank you for your cooperation. Are you currently employed and aged 15 or above?

【If not, invite one of the employed persons aged 15 or above in the household (except foreign domestic workers) to answer the phone, and then begin again with the introduction.】

Screening of Respondents

FAMILY Could you please tell me the number of employed persons aged 15 or above in this household? **【Record the answer】** **【Employed persons include employers, employees and those who are self-employed, irrespective of whether the mode of employment is full-time or part-time】**

【If FAMILY = 0, terminate the interview】

【To terminate the interview, read out】 I regret that our target respondents for this survey are the employed persons aged 15 or above. Thank you for your time. Bye.

DISTRICT Which district do you live in? On Hong Kong Island, in Kowloon or the New Territories? **【Check if the quota is full】**

- 1 Hong Kong Island 2 Kowloon 3 New Territories

【If the quota is full, terminate the interview】

【To terminate the interview, read out】 I regret that the quota for this respondent group is full. Thank you for your time. Bye.

AGE Which of the following age group do you belong to? **【Read out options 1-6 or 8-13】** **【Note : To calculate based on last birthday】** **【Check quota】**

- | | |
|----------------------------|-------------------------------|
| 1 Male : 15 – 19 years | 8 Female : 15 – 19 years |
| 2 Male : 20 – 29 years | 9 Female : 20 – 29 years |
| 3 Male : 30 – 39 years | 10 Female : 30 – 39 years |
| 4 Male : 40 – 49 years | 11 Female : 40 – 49 years |
| 5 Male : 50 – 59 years | 12 Female : 50 – 59 years |
| 6 Male : 60 years or above | 13 Female : 60 years or above |
| 7 Male : Refused | 14 Female : Refused |

【If the quota for the respondent group is full AND there are more than one employed persons aged 15 or above in the household, invite another one eligible respondent】

【To invite another eligible respondent, read out】 I regret that the quota for your age group

is full. May I invite another employed person aged 15 or above from your household to do the interview please?

【If the quota for the respondent group is full AND there isn't any other employed person aged 15 or above in the household, terminate the interview】

【To terminate the interview, read out】I regret that the quota for this age group is full. Thank you for your time. Bye.

【If all the eligible respondents in the household refuse to provide their age, terminate the interview】

【To terminate the interview, read out】 Thank you for your time. Bye.

Introduction

【Read out】 I am Mr./ Ms. ____, an interviewer from CSG. All information collected will only be used for aggregated statistical analyses and will be kept in strict confidence. **【Check the household telephone number】**

Questions

【Part 1: Review of the Current Situation】

Q1. How serious do you think the problem of age discrimination is in the Hong Kong workplace? Please indicate on a scale of 1 to 4, where 1 indicates "not serious at all", 2 indicates "not very serious", 3 indicates "serious" and 4 indicates "very serious".

- 1 Not serious at all
- 2 Not very serious
- 3 Serious
- 4 Very serious
- 98 **【Do not read out】** Don't know / No opinion

Q2. Which age groups of people do you think will be discriminated because of their age?

【Read out options 1-6】 【Multiple answers】

- 1 15 – 19 years
- 2 20 – 29 years
- 3 30 – 39 years
- 4 40 – 49 years
- 5 50 – 59 years
- 6 60 years or above
- 98 **【Do not read out】** Don't know / No opinion

Q3.

Have you, or your acquaintances, ever encountered the following situations? Acquaintances include your family members, friends and colleagues. 【Rotate and read out】	Q3a. Self	Q3b. Acquaintances
1 Being dismissed and replaced with someone older or younger by the employer ¹	1. Older/ 2. Younger/ 3. No replacement/ 98. Don't know/ 99. No such encounter	1. Older/ 2. Younger/ 3. No replacement/ 98. Don't know/ 99. No such encounter
2 Being required to retire before the suggested retirement age ² by the employer	1. Yes/ 2. No	1. Yes/ 2. No/ 98. Don't know
3 Encountering job ads which include an age restriction ³ in the job search process	1. Yes/ 2. No	1. Yes/ 2. No/ 98. Don't know
4 Being called a "kid" or an "uncle/aunt" by the employer or colleagues ⁴	1. "Kid"/ 2. "Uncle/ Aunt"/ 99. No such encounter	1. "Kid"/ 2. "Uncle/ Aunt"/ 98. Don't know/ 99. No such encounter
5 Having the usual duty transferred to a younger or older colleague ⁵	1. Older/ 2. Younger/ 99. No such encounter	1. Older/ 2. Younger/ 98. Don't know / 99. No such encounter

¹ O'connor v. Cosolidated Coin Caterers Corp, US Supreme Court ruling.

² Retrieved from <http://www.sbs.com.au/news/article/2014/04/14/court-ruling-highlights-workplace-age-discrimination>, Federal Circuit Court in Brisbane

³ Guidelines from Labour department, HKSARG. Retrieved from: <http://www.labour.gov.hk/eng/plan/eade.htm>

⁴ Roberts v. Cash Zone (Camberley) Limited and another. Retrieved from: <http://www.xperthr.co.uk/law-reports/case/Roberts-v-Cash-Zone-Camberley-Ltd-and-another-ET27018042012/5588/>

⁵ Retrieved from: <http://www.theguardian.com/media/2011/jan/11/countryfile-miriam-oreilly-tribunal>

Q4.

Have you ever experienced any of the following forms of exclusion because of your age in the past 5 years? 【Rotate and read out】	Yes	No
1 Being excluded from opportunities of training and education	1	2
2 Being denied a job promotion	1	2
3 Having trimmed job responsibilities	1	2
4 Receiving lower salary than other workers in the same position	1	2
5 Receiving an unfair annual appraisal made by the supervisor	1	2
6 Being denied work-related benefits	1	2
7 Being targeted for redundancy in organizational restructuring	1	2
8 Being mocked or rejected by colleagues	1	2

Q5. Have you ever experienced the following conditions because of any forms of age discrimination in the workplace? 【Rotate and read out】 What other conditions have you experienced?

- 1 Financial stress
- 2 Psychological stress
- 3 Lowered self-esteem
- 4 Decreased job satisfaction
- 97 【Do not read out】 Others 【Record the answer】

【Part 2: Feasibility of Legislating on Age Discrimination】

Q6. Given the current situation in Hong Kong, how supportive of the legislation on age discrimination are you? Please indicate on a scale of 1 to 4, where 1 indicates “unsupportive at all”, 2 indicates “unsupportive”, 3 indicates “supportive” and 4 indicates “very supportive”.

- 1 Unsupportive at all 【Continue with Q7a】
- 2 Unsupportive 【Continue with Q7a】
- 3 Supportive 【Skip to Q7b】
- 4 Very supportive 【Skip to Q7b】
- 98 【Do not read out】 Don't know / No opinion 【Skip to Q8】

Q7. (a). Why weren't you supportive of the legislation on age discrimination? **【Skip to Q8】**

- 1 **【Do not read out】** The problem of workplace age discrimination is not that serious in Hong Kong
- 2 **【Do not read out】** The impact of legislation on age discrimination in Hong Kong is small
- 97 **【Do not read out】** Other reasons for being unsupportive of the legislation **【Record the answer】**
- 98 **【Do not read out】** Don't know / No opinion

(b) Why were you supportive of the legislation on age discrimination?

- 1 **【Do not read out】** Workplace age discrimination exists in Hong Kong
- 2 **【Do not read out】** Legislation can help ensure a fairer workplace in Hong Kong
- 3 **【Do not read out】** Legislation can prevent people of different age groups from age discrimination
- 97 **【Do not read out】** Other reasons for being supportive of the legislation **【Record the answer】**
- 98 **【Do not read out】** Don't know / No opinion

Q8. To what extent do you agree that legislation on age discrimination can better safeguard employees' interests? Do you "strongly agree", "agree", "disagree" or "strongly disagree" with the statement?

- 1 Strongly agree 2 Agree 3 Disagree 4 Strongly disagree
- 98 **【Do not read out】** Don't know / No opinion

Q9. To what extent do you agree that legislation on age discrimination can promote equal opportunities for workers of different ages? Do you "strongly agree", "agree", "disagree" or "strongly disagree" with the statement?

- 1 Strongly agree 2 Agree 3 Disagree 4 Strongly disagree
- 98 **【Do not read out】** Don't know / No opinion

Q10. To what extent do you agree that legislation on age discrimination would adversely affect the business environment? Do you "strongly agree", "agree", "disagree" or "strongly disagree" with the statement?

- 1 Strongly agree 2 Agree 3 Disagree 4 Strongly disagree
- 98 **【Do not read out】** Don't know / No opinion

Q11. Suppose an employer does not explicitly mention age as a criterion for promotion, but in reality only the employees aged 20-40 are promoted while those aged above 40 never have a chance of promotion. Do you think new legislation on age discrimination should regulate the aforementioned situation?

- 1 Yes 2 No 98 **【Do not read out】** Don't know / No opinion

Q12. Which job positions do you think should be given exemption in relation to the legislation on age discrimination? For instance, professional drivers, fashion models and actors/ actresses who match to the age characteristics of the roles in the play.

- 1 Professional drivers
- 2 Fashion models
- 3 Actors/ actresses matching the age attributes of the roles
- 4 **【Do not read out】** Construction workers
- 5 **【Do not read out】** Janitors
- 97 **【Do not read out】** Others **【Record the answer】**
- 98 **【Do not read out】** Don't know / No opinion

Q13. Should employers have the right to decide employees' retirement age?

- 1 Yes
- 2 No
- 98 **【Do not read out】** Don't know / No opinion

Q14. Do you agree or disagree that there should be a mandatory retirement age in Hong Kong?

- 1 Agree **【Continue with Q15】**
- 2 Disagree **【Skip to Q16】**
- 98 **【Do not read out】** Don't know / No opinion **【Skip to Q16】**

Q15. Then what should the mandatory retirement age be?

【Record the answer】

【Part 3: Engaging older people in employment】

Q16. Do you want to be re-employed in a higher or equivalent position after retirement?

- 1 Yes **【Continue with Q17】**
- 2 No **【Skip to Q18】**

Q17. Which of the following modes of employment do you prefer most after retirement? **【Rotate and read out】**

- 1 Full-time
- 2 Regular part-time
- 3 Casual
- 4 Freelance (e.g. piece-rate pay)
- 97 Others: **【Record the answer】**

Q18. If the government provides you with the following support measures, will they help motivate you to continue working after retirement? **【Rotate and read out】** What other support measures can the government provide?

- 1 Provision of training or re-training (1. Yes/ 2. No/ 98. Don't know/ No opinion)
- 2 Transport subsidies (1. Yes/ 2. No/ 98. Don't know/ No opinion)
- 3 Wage subsidies (1. Yes/ 2. No/ 98. Don't know/ No opinion)
- 4 Employment support center (1. Yes/ 2. No/ 98. Don't know/ No opinion)
- 97 Others: **【Record the answer】**

Q19. When hiring old-aged workers, do you think employers will have the following concerns? **【rotate and read out】** What other concerns will employers have?

- 1 Drop in productivity (1. Yes/ 2. No/ 98. Don't know/ No opinion)
- 2 Rise in operational cost (e.g. increased insurance fee/ premium) (1. Yes/ 2. No/ 98. Don't know/ No opinion)
- 3 Conflicts with young employees (1. Yes/ 2. No/ 98. Don't know/ No opinion)
- 4 Resistant to change in work patterns (1. Yes/ 2. No/ 98. Don't know/ No opinion)
- 97 Others: **【Record the answer】**

Respondents' Profile

To facilitate our analysis of the views of respondents with different backgrounds, I would like to ask about some of your personal information.

POSIT What position do you hold?

- 1 Manager or executive
- 2 Professional
- 3 Associate professional
- 4 Clerk
- 5 Service or shop sales worker
- 6 Craft or related worker
- 7 Plant and machine operator and assembler
- 8 Unskilled worker
- 9 **【Do not read out】** Refused
- 97 **【Do not read out】** Others **【Record the answer】**

COSIZE How many full-staff staff are there in your company?

- 1 0-9
- 2 10-19
- 3 20-49
- 4 50-99
- 5 100 or above

INDUST Which industry is the organisation you work for engaged in?

- 1 Manufacturing
- 2 Construction
- 3 Wholesale, retail, import/ export trades, restaurants and hotels
- 4 Transportation, storage and communications
- 5 Finance, insurance, real estate and business services
- 6 Community, social and personal services
- 9 **【Do not read out】** Refused
- 97 **【Do not read out】** Others **【Record the answer】**

EDUCA What is your highest educational level? **【Read out options 1 - 5】**

【If the answer is “post-secondary” or “university”, probe】 Is it a degree or sub-degree programme?

- 1 Primary or below
- 2 Junior secondary (F1-F3)
- 3 Senior secondary (F4-F7)
- 4 Post-secondary (Sub-degree programme)
- 5 University (Degree programme)
- 9 **【Do not read out】** Refused

PERINC What is your approximate personal income per month?

【Read out options 1 -7】

- | | |
|------------------------------|------------------------------------|
| 1 Below \$5,000 | 5 \$20,000 to below \$25,000 |
| 2 \$5,000 to below \$10,000 | 6 \$25,000 to below \$50,000 |
| 3 \$10,000 to below \$15,000 | 7 \$50,000 or above |
| 4 \$15,000 to below \$20,000 | 9 【Do not read out】 Refused |

**** This is the end of the interview. Thank you for your participation. Bye! ****

【In-depth Interview Discussion Guide】

Introduction by the Moderator (5 minutes)

Thank you very much for spending time with us for an in-depth interview. We, CSG, an independent market research consultancy, have been commissioned by the Equal Opportunities Commission to conduct a survey about “Age Discrimination in Employment”. The main aim of the survey is to gauge public views and opinions on the subject matter.

Your sharing is very important in relation to obtaining a comprehensive understanding on current situation of equal opportunity and age discrimination in the workplace. We hope that you can take the opportunity to share your views with us.

The information collected in this interview will only be used to perform aggregated analyses. To ensure that we document accurately, the interview will be recorded. Strict confidentiality of your personal information and content is guaranteed. The audio record will be destroyed immediately when the research study is completed.

Shall we start recording the interview now with your permission? (Wait for interviewee’s consent)

Main Discussion (50 minutes)

Section 1

Targets: Coming from small-and-medium enterprises (SMEs), 10 employers / human resources managers of various industries and 3 employees

1. Generally speaking, how is the age distribution of employees in the company?
 - ✧ Is there a difference in age distribution of employees in various departments?
 - ✧ **【If yes, probe】** What is the difference? What is/are the reason(s) for such a difference?
2. What is the proportion of employees aged below 20?
 - ✧ What is/are the reason(s) for having such a proportion?
3. What is the proportion of employees aged above 50?
 - ✧ What is/are the reason(s) for having such a proportion?
4. Are there any ranks or positions that are biased to employees of a certain age group?
 - ✧ **【If yes, probe】** What is/ are the reason(s) behind such a bias?
5. Generally speaking, how serious is the problem of workplace age discrimination in Hong Kong?
 - ✧ Why do you say so? Can you share with us concrete example(s)?
6. Are there any rules or regulations to prevent age discrimination in your company?
 - ✧ **【If yes, probe】** What are these rules or regulations? Can you share with us concrete example(s)?
7. Are you aware that the Labour Department has issued a guide on age discrimination in the

- workplace?
- ◇ **【If yes, probe】** Did you make use of the guide? How did you make use of the guide?
 - ✓ **【If no, probe】** Why didn't you make use of the guide? What are the problems that you have encountered during implementation?
 - ◇ **【If no, probe】** Any plan of improvement that your company will consider? Any suggestion you would recommend?
8. Is there a suggested retirement age that applies to all employees in your company?
- ◇ **【If yes, probe】** What age is it? What did the setting of the suggested retirement age make reference to?
 - ✓ Have any employees who are over the suggested retirement age ever continued to be employed? Why do you say so?
 - ◇ **【If no, probe】** What mechanism would the company employ to decide who will retire and what their retirement age will be? Or the employees could decide the retirement age themselves?
9. Is there a need for the Hong Kong Government to set a mandatory retirement age?
- ◇ **【If yes, probe】** Why do you say so? What should be the retirement age?
 - ◇ **【If no, probe】** Why do you say so? What is your concern?
10. Do you think that Hong Kong needs legislation on age discrimination?
- ◇ **【If yes, probe】** Why do you say so?
 - ◇ **【If no, probe】** Why do you say so? What are the concerns of the company? Can you share with us concrete examples?
11. What are the pros and cons of legislation on age discrimination to employers and employees?
12. What shall be the scope of the legislation on age discrimination? For example,
- ◇ Various parts of the employment cycle, such as recruitment, promotion, dismissal, retirement. Why do you say so?
 - ◇ Which industries, groups or job functions shall be exempted? Why do you say so?
13. Would your company employ retired persons?
- ◇ **【If yes, probe】** Why do you say so?
 - ◇ **【If no, probe】** Why do you say so? What is your concern?

Section 2

Targets: 4 Legislative Councilors

14. Do you think that sufficient efforts have been put by the Hong Kong Government on equal opportunities for people in different age groups in workplace?
 - ✧ **【If yes, probe】** Why do you say so? Any concrete example(s)? What are the rooms for further enhancement?
 - ✧ **【If no, probe】** Which areas do you think fall short of your expectation?
15. What is your opinion on the legislation on age discrimination in Hong Kong?
 - ✧ **【If supportive to legislation, probe】** Why do you say so? How should we solicit support from different sectors and different stakeholders in the society for the legislation?
 - ✧ **【If not supportive to legislation, probe】** Why do you say so?
16. What are the pros and cons of legislation on age discrimination?
17. Someone says that even if age discrimination is legislated, there will be difficulties in implementation and providing evidence for prosecution. What is your opinion?
 - ✧ What are the remedies? Any aids needed?
 - ✧ Who should bear the burden of proof; shall it be the employees or the employers?
18. Do you think the legislation on age discrimination would be detrimental to the business environment and investors' confidence? Why do you say so?
19. At present, do you think it is the right time to conduct pre-legislation public consultation on age discrimination?
20. What are the similarities and differences between legislation on age discrimination and the current discrimination ordinances?
21. Is there a need for the Hong Kong Government to set a mandatory retirement age?
 - ✧ **【If yes, probe】** Why do you say so? What should be the age? How do you come up with this age?
 - ✧ **【If no, probe】** Why do you say so? Should we maintain the status-quo? Or should there be other measures to deal with the issue?
22. What can the Hong Kong Government do to help the re-employment of the retired persons?
23. Lastly, someone says that the age of retirement should be postponed. What is your view?

Ending the interview (5 minutes)

Thanks to the interviewees for participating.

Invite the interviewees to fill in a questionnaire on their personal profile.

Re-assure the strict confidentiality of the interview.

Respondents' Profile

To facilitate our analysis on the views of various respondents, please provide some of your personal particulars.

P1. What position do you hold?

- 1 Manager or executive
- 2 Professional
- 3 Associate professional
- 4 Clerk
- 5 Service or shop sales worker
- 6 Craft or related worker
- 7 Plant and machine operator and assembler
- 8 Unskilled worker
- 9 Others (please specify)

P2. How many employees are there in your company/ organization?

- 1 0-9
- 2 10-19
- 3 20-49
- 4 50-99
- 5 100 or above

P3. Which industry are you working in?

- 1 Manufacturing
- 2 Construction
- 3 Wholesale, retail, import/ export trades, restaurants and hotels
- 4 Transportation, storage and communications
- 5 Finance, insurance, real estate and business services
- 6 Community, social and personal services

P4. What is your highest educational level attained?

- 1 Primary or below
- 2 Junior secondary (F1-F3)
- 3 Senior secondary (F4-F7)
- 4 Post-secondary (Sub-degree program)
- 5 University (Degree program)