

Age and human rights






The New Brunswick *Human Rights Act (Act)* prohibits discrimination based on age in five areas: employment, housing, services, publicity, and professional, business, or trade associations.

Defining age

Age is a protected ground in all Canadian human rights jurisdictions. The *Act* does not define age and does not set an age range for its age protections, which means that these protections extend to persons of all age groups.

Three categories of age

To understand age discrimination, it's useful to note the three categories under which age is classified:

-  **Chronological age:** This means the number of years a person has lived, counted from their date of birth (ex: you are 55 years old).
-  **Biological age:** This means how physically and mentally capable someone is (ex: how much energy or capacity someone has for work).
-  **Social age:** This means how a person's age is viewed by society (ex: judging someone's behaviour as appropriate or inappropriate for their age).



Intersectionality and age

People who face discrimination because of their age are also more likely to identify with other vulnerabilities, like disability, family status, or race, which intensifies their experience of disadvantage.

Age discrimination and ageism

Age discrimination relates to age-based disadvantage in an area protected by the *Act*, for example, employment, services, or housing.

Ageism, on the other hand, usually relates more to individual and social attitudes about age, which lead to age stereotyping and discrimination. Ageism is exhibited in stereotypes and myths, disdain or dislike, or a subtle avoidance of contact with individuals of a certain age. These attitudes result in discriminatory practices in employment, housing, and services.

Examples of harmful stereotypes or myths about age

- Assuming that age diminishes a person's working capacity, skill levels, physical strength, and cognitive ability. Older persons may also be seen as incapable of learning new skills.
- Presuming that older persons have fewer financial needs than people who are active in the labour market. (This argument may be used to rationalize poverty-level or below poverty-level pension rates.)
- Believing that older workers become less safe for the workplace as they age and are more likely to develop a disability.



IMPORTANT: By emphasizing equality and human dignity of all groups, human rights laws challenge these stereotypes of age and older persons.



Practices that show evidence of age discrimination

Workplace policies or practices that courts and tribunals regard as evidence of age bias or age discrimination in employment include, among others, the following:

- ✗ A younger person replaces an older laid-off employee in a similar job role.
- ✗ Sudden and unjustified complaints about an older worker's performance at the time of workplace downsizing or restructuring.
- ✗ Comments, hints, or insinuations from management that clearly point to ageist assumptions or age bias.
- ✗ Official documentation or memos that show evidence of age discriminatory policies, practices, or attitudes.
- ✗ A pattern of eliminating older workers from the workplace.

Good practices to avoid age discrimination

- ✓ Job advertisements should not include or hint at age limits, implicitly or explicitly.
- ✓ Hiring should be done and seen to be done on grounds of ability, not age.
- ✓ Individualized performance appraisals and not the age of employees should be the basis to assess job competence or work fitness.
- ✓ Older workers at risk of losing jobs should have the option of effective re-training programs, pre-retirement preparation, and flexible or phased retirement.
- ✓ Mandatory retirement should not be implicitly or explicitly imposed on employees.

Mandatory retirement and age discrimination

Mandatory retirement is considered discriminatory based on age, and all Canadian jurisdictions, including New Brunswick, permit mandatory retirement only under certain exceptions, which vary from province to province.






Above all, employers should establish **age neutral policies** that promote **equal opportunities regardless of age**. Policies should be based on individual competence and not on age.

Do you have questions? Contact the Commission.

The **New Brunswick Human Rights Commission** is a government agency that ensures the human rights of everyone in New Brunswick are protected under the Act. If you want to learn more about your **rights and responsibilities related to age**, contact the Commission. The Commission provides free information about your rights and can provide information on filing a complaint.

You can reach us at:

 (506) 453-2301  hrc.cdp@gnb.ca  www.gnb.ca/hrc-cdp

Learn more about age and human rights by consulting our "Guideline on age":
<https://bit.ly/ageguideline>

