

# Flexible Work and Phased Retirement: Practical Issues for Employers

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## Introduction

This article will focus on practical issues and implications for employers as they consider the aging workforce and their business realities. Employers need to adapt to the evolving conditions. With COVID-19, more people have worked from home temporarily and there is a lot of uncertainty about how jobs will change in the months and years ahead. The age 55 and over workforce is growing much more rapidly than the workforce at younger ages. Many people need or want to work longer and retire later, or work as part of their retirement. Some businesses have varying needs for workers depending on the season or business conditions. This article will include information from a 2017 GAO study which provides information about what employers are doing. Many businesses use some form of flexible work, but so far, business has been slow to implement formal phased retirement solutions, and individuals have largely built their own retirement journeys. This article assumes current legal requirements in the United States.

## Key concepts: retirement and phased retirement

There are no uniform generally agreed on definitions of either term. Phased retirement is defined here as the journey from full-time work to full exit from the labor force. Phased retirement generally involves some sort of a flexible work arrangement. In this article, retirement may mean total or partial exit from the labor force.

Phasing pre-retirement vs. phasing post-retirement: Phasing pre-retirement includes arrangements where employees are able to modify their work arrangement and scale down prior to retirement with a longer-term employer. Employers who utilize part-time employees where people can change their schedule are offering phased retirement whether they formally recognize it or not. Phasing post-retirement includes retiring from an employer and getting rehired (often on a very limited basis) or obtaining employment elsewhere.

Options for phasing post-retirement: Rehire of retirees (or hiring other firms' retirees) may be for specific projects, in a regular job, as a temporary, or as an independent contractor.

The individual perspective: From the viewpoint of the retiree, any arrangement that permits gradual exit from the labor force is a form of phased retirement. In many cases, phased retirees will be receiving Social Security and/or other retirement income and may have retirement assets.

## Important Business Issues

Prior to COVID-19, unemployment rates were very low (below 4% in the U.S.), and there were definite shortages of some skills. During and after COVID-19, it has been predicted that unemployment will remain

in double digits through the end of 2020 and it is unclear what it will be in the next two or three years. However, some skills may still be in short supply.

- In 2019, an expert on senior employment stated that talent shortages in some geographic areas and industries will make the experienced workforce a key source of talent.<sup>i</sup> It is unclear how this will evolve in light of the COVID-19 disruption.
- Flexible work arrangements are very attractive to older workers, and to workers at any age with substantial family responsibilities. Some organizations use a lot of flexible arrangements and others do not. It is very likely that there will be different flexible arrangements available in the future as organizations apply what they learned during COVID-19 to restructure some jobs.
- Companies risk the loss of critical institutional knowledge when experienced employees leave. They also risk the loss of key contacts.
- Customers age 50+ are an important part of the economy in many areas. Companies may have more success in serving such customers if their workforce matches the demographics of their customer base.<sup>ii</sup>
- Individuals contribute to work efforts based on their own experience and their impact on the teams that they participate in. It is easy to overlook the important impact that experienced people have on teams.
- Even though age discrimination is prohibited by law, ageism is a reality in many situations in the U.S.

During COVID-19, many jobs were done from home. It appears likely that post-COVID-19, there will be many jobs that are structured differently than pre-COVID-19 with more work being done from home and new processes and changes in technology being adopted. Some tasks are performed by full-time employees and others are performed by a flexible workforce, who are used as needed. It seems likely to me that more work will be performed by the flexible workforce, often from home, and that phased retirees will be ideally suited for many of these tasks. It remains to be seen how this will work out.

## Talent Strategies, Flexible Employment Arrangements, Phased Retirement and Employee Benefits

Talent strategies include types of work arrangements, hiring practices, training practices, performance evaluations, and communication with people about their plans and desired work arrangements.

### NEED FOR FLEXIBILITY

For workers at or near retirement age, flexibility is important, and they are much more likely to continue working if flexible arrangements are available. Flexibility can be a win-win for individuals and businesses. For many firms, there is a great value to having some workplace flexibility and the ability to have access to experienced people who know the firm. Flexible arrangements can help with:

- Scheduling work for organizations such as retail, health care, and food service that can have long hours and varying workloads at different times of the day or week.
- As businesses have become much leaner in their staffing, often the one-time projects that formerly were assigned to regular staff pile up, and there is a need for someone to do them.

- Some organizations need to replace a worker who is gone for a day. For example, a substitute teacher is needed in the classroom when the regular teacher is gone.
- Some businesses are seasonal, such as toys and cosmetics where a large part of the year's output is needed for Christmas, and tourism, which has a different busy season depending on location. Farming is also seasonal, and it has different types of work at different times of the year. Health care also is influenced by seasonal forces.
- Some businesses may have a temporary increase in workload, in situations where they get a major contract for a limited period. Others may have event-related peaks. After major storms or fires, there is a need for insurance adjustors, utility workers to restore power, people to repair damage, short-term help for people displaced, etc. Fires may also require extra help to fight the fires.
- During COVID-19 or other events that encourage sheltering in place, there is an increased demand for delivery people and for those who do grocery and other shopping through shopping services.
- Retaining people who have personal or caregiving obligations that require a reduced schedule, often on a temporary basis.
- All businesses need to have a way to temporarily replace the employee who is gone for several weeks or months but who will return.

### MANAGING FLEXIBILITY

Note that some needs are predictable well in advance, and others are not. A replacement will be needed on very short notice for the teacher or nurse who calls in sick. Seasonal needs can usually be predicted in advance, but a farmer will not know exactly when it is the right time to plant or harvest since conditions can change.

Flexible arrangements can be available to all employees, they can be limited to certain job classes, or they can be on a discretionary basis only. Some flexible arrangements are available only with individual approval. The people strategies should include the approval process defining who can sign off on specific arrangements and whether they must follow pre-approved designs, or whether they can be individually negotiated.

Flexibility may apply to the amount of work, place of work and scheduling of work. Types of flexible work arrangements include part-time work, telecommuting, contracting, rehire of retirees, flexible hours, use of retiree pools, and use of people to work on limited projects. The individuals doing the flexible work may be employees, contractors, or work through a temp agency or consulting firm. Some examples of retiree pools that I encountered during many years of research on these topics include:

- Informal pool – human resources keeps box of index cards on retirees interested in temporary work;
- Company maintains formalized pool for temp assignments, with retirees encouraged to participate;
- Formal specialized pools such as substitute teacher pools, claim examiner pools, utility worker pools, nursing pools;
- Organizations specializing in matching caregivers to those who need care and managing them.

Pools can be limited to one employer only, or to a group of employers, or to anyone who wants to access them. They can be managed in-house or management can be outsourced.

The flexible work arrangements that work well for phased retirees may work well at all ages. However, there may be some different issues when working with experienced employees.

## **EMPLOYEE BENEFIT ISSUES**

Employers that offer part-time work options with benefits can often use the same rules for phased retirees who work at least that amount of time. Employees who are phasing pre-retirement and work less may not be eligible for benefits, and this can be a consideration in structuring work options.

Retirement can be supported by defined contribution (DC) or defined benefit (DB) plans. There are relatively few DB plans in the private sector which offer current accrual of benefits. DB plans need adjustments to accommodate phasing pre-retirement. For rehire of retirees, employers simply need to provide that benefits will not be stopped on rehire or rehire within certain limitations. An easy provision is to limit the rehire to less than 1,000 hours of work in a year, or to rehire the person through a third party or as an independent contractor. There are no specific phased retirement issues in DC plans, and these plans do not encourage retirement at any specific time.

There are different issues for some professions. For example, academics might teach part-time and get partial pension benefits and full health benefits for a defined period before retiring fully.

Historically, health insurance has been a barrier to phased retirement in many situations. The Affordable Care Act (ACA) enabled access to coverage for those under age 65, but this coverage is often expensive. The future of the ACA and its consumer protection is unclear, creating uncertainty about health insurance coverage and what will happen to those with health challenges if they need individual coverage, so fear of loss of health benefits is again a problem. Health insurance may be a reason for people to work post-retirement and they may seek jobs that offer this benefit.<sup>1</sup>

If there is retiree health, it may need to be adjusted for phased retirement.

Other issues to be considered in benefit and financial wellness plan management include:

- Eligibility for and level of disability and life insurance benefits.
- Support for retirement planning and creating a culture where people are able to have open discussions about their retirement plans and work preferences.
- Caregiver support and flexibility in working arrangements to accommodate caregivers.

## **QUESTIONS TO BE CONSIDERED IN DESIGNING AND IMPLEMENTING FLEXIBLE WORK ARRANGEMENTS**

- Will a program be offered to all employees, to all in specific groups, or only on individual approval?

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<sup>1</sup> The GAO report cited in this essay indicated that all of the organizations had dealt with providing reasonable health insurance for the phased retirees.

- How can the business define a range of acceptable work arrangements and make the information available to the employee and supervisor so that they can structure something that works? Hospital systems are examples of organizations that offer a range of work options.
- How will the business gain the support of managers for the program and make it easy for the managers? Will the program be aligned with the culture and performance incentives?<sup>2</sup>
- Will flexible work arrangements support business goals and create business advantages and opportunities for the organization?
- Will phased retirement be in an employee's same job, something that uses the same skills and organizational knowledge, or something different? Retiree pools are examples of arrangements that have no set schedule and where the employee could move into a variety of different roles.
- Will phased retirees be used for special projects?
- Will pay be based on the old or the new role, and how will it be defined?
- How will retirement, health, life insurance and disability benefits be managed? What is the minimum amount of work commitment needed for benefit eligibility?
- Will phasing include a reduction in schedule before retirement and/or some work after retirement?
- If there is a DB pension plan, how will the plan be adjusted for work on a reduced schedule? Will employees earn reduced benefits during phasing period, and when will benefits be recalculated. For an employee who returns to work while receiving benefits, will those benefits be suspended?
- What rules will determine eligibility for health, disability and life insurance benefits? Will contributions and/or benefit levels be adjusted?
- What, if any, time limit is there on phasing?
- If phasing includes a transfer in status from employee to independent contractor, how can the contracting process be streamlined for both parties? What duties will we expect of the contractor? Do labor laws prohibit or limit such a change in status?

## What Employers Are Doing and the GAO Study

In a variety of settings, I have tried to understand employer programs and what is happening in the marketplace. I have been interested in employer-sponsored programs for phased retirement for more than 25 years. I have found generally consistent results over a long period of time. Employers who offer part-time employment are implicitly offering a form of phased retirement, but that is not generally recognized. Those who hire retirees are also doing that. There are few formal phased retirement programs in the private business sector, but more in universities<sup>3</sup>. The Federal government offers a program, but it has had very limited acceptance. Individuals seeking phased retirement are finding their own way and there are a variety of individual deals. Some use part-time options. I have not been able to locate statistics about individual deals.

For the 2017 GAO study, *Older Workers: Phased Retirement Programs, although Uncommon, Provide Flexibility for Workers and Employers*, Report-17-536, the GAO interviewed both employers and experts,

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<sup>2</sup> For example, some companies judge business units on headcounts. If flexible workers are counted as full headcounts, this tends to defeat the program. If contractors are not counted, that encourages the use of contractors.

<sup>3</sup> Note that the employment deal of tenured faculty is different from most private-sector jobs. Phased retirement can be viewed as a buyout of tenure.

and found little formal phased retirement. They present evidence that many people are working as part of retirement, creating their own phased retirement. These findings are similar to the author's prior research.

The GAO describes eight case studies. All eight protect health care coverage for phased retirees, usually with a minimum work requirement, usually increasing the employer-provided health benefit. Most require supervisor approval for the individual to participate, as does the Federal phased retirement program, and most focus on a work arrangement with specific duties, and possibly an explicit agreement. Only two organizations had DB plans, and most had defined contribution plans. The defined contribution plans reflect actual year-by-year contributions, but otherwise they were not affected by the arrangement. Some of the companies had age requirements and/or limits on the period of phased retirement.

## Phased Retirement and Different Types of Employees

I believe that there are three very different situations as we think about employment options nearing and during retirement: major contributor, highly skilled employees, and rank and file.

### MAJOR CONTRIBUTORS

These employees make a unique contribution to the firm based on their knowledge of the firm and its processes, their contacts, their role, etc. They have a great deal of firm-specific human capital and can't be easily replaced by another person with a similar background. Examples include:

- People with important contacts;
- Nobel prize winners in universities;
- Researchers in universities who attract major research funding;
- Researchers responsible for major drug development in pharmaceutical companies;
- In manufacturing companies with complex processes, foremen and people who understand how equipment was modified and processes customized in individual plants;
- Physicians with major reputations who attract patients to hospitals where they are;
- In organizations with a few major customers, the people who are responsible for those relationships and the major business developers.

### HIGHLY SKILLED EMPLOYEES

These employees are very important to the organization and have specialized skills, but they are interchangeable. They have substantial human capital but it is mostly not firm-specific. They may require substantial training, professional certification, and/or a license. Examples include:

- Actuaries;
- Claims examiners and underwriters in the insurance industry;
- Skilled electricians, plumbers, carpenters, etc.;
- Nurses, doctors, physical therapists, etc.;
- Foreign currency traders;
- Grant reviewers in foundations;
- Teachers;
- Child-care workers.

## RANK AND FILE EMPLOYEES

These employees do not have any special skill set and they do not require a license.

The chart below compares phased retirement for the different employee types. Since highly skilled employees and rank and file employees have similar options, they have been combined.

### PHASED RETIREMENT FOR DIFFERENT TYPES OF EMPLOYEES

Issue	Major Contributors	Other Employees
Suitable arrangements	Phasing pre-retirement more likely. Would likely be an employee. Might be a contractor, particularly if used for post-retirement work. Emerita designation is also option.	Could be phasing pre-retirement or post-retirement. Could be contractor or employee.
Use of pools	Not applicable.	Well-suited to this need; pool could cover one organization's employees or could work with multiple organizations.
Job content	As agreed to, could be ongoing or special projects. Could be engaged to maintain a particular relationship or be an ambassador for the organization. Could have a mentoring and or/advisory role.	Could be ongoing, a special project, or to work for a specific time period, such as a day, month, etc.
Individual approval required for arrangement	Yes, probably at high level. Arrangement likely to be tailored and negotiated.	Depends on situation, usually it would be supervisor if required.
Employee benefits continued	If phasing pre-retirement, probably yes.	If phasing pre-retirement and an employee, there would probably be some benefits.  If contractor or phasing post-retirement, probably not.

## Issues Related to Contracting

Quite a lot of phased retirement or continued work at later ages is as an independent contractor. It is very important for the individual and employer to have a clear agreement defining the scope of work and compensation, as well as intellectual property and other rights. Model contracts are needed that are suitable and in order to make the process easy to implement. Where contracting and legal departments are involved, it can get very complicated for the individual contractor to understand and agree to legal terms and conditions. Some of the terms and conditions requested may not be suitable for phased retirees. These comments are based on my own experience.

## An Action Plan for Implementing Flexible Work Arrangements and/or Phased Retirement

These are suggestions for employer action:

- Start with a rigorous business and talent analysis.
- Incorporate into overall talent management strategy, paying attention to culture as well as quantitative business issues.
- Set up a program to preserve important business knowledge.
- Include in financial wellness programs information or coaching to help employees prepare to be employable longer, either by their current employer or in a new job.
- Consider expanding part-time and flexible work options and consider whether seasonal work options will work.
- Develop compensation strategies to fit the work options.
- Consider a phased retirement health benefit program, where employees who meet the eligibility requirements, both service and amount to be worked, can continue to be covered by the employers' health insurance program, possibly with an additional subsidy.
- Make adjustments to benefit programs as needed.
- Consider establishing a retiree pool, so that retirees can be used for temporary assignments, for special projects, and to fill in when people are ill or on vacation. Some organizations have done this for many years.
- Make sure job training opportunities are extended to older employees.
- Evaluate whether contract work is feasible for the organization and whether contracting with retirees would work for special assignments. If so, establish model contracts and an effective procedure to implement.
- Secure appropriate legal review. Legal issues were beyond the scope of this article.
- Establish processes for open communication to enable organizations and employees to find the best arrangement for both parties.
- Establish processes for getting buy-in from managers and people throughout the organization and making it easy for them to use the program.

## Final Thoughts

Flexible work arrangements can be very valuable to a wide variety of businesses and may be used on an increasing basis in the future as organizations seek to keep their full-time workforces to a minimum. Experienced workers bring skill, knowledge of the organization and maturity to the firm and are a valuable resource. As many Americans are at or near conventional retirement ages, flexible work arrangements allow them options to phase into retirement and allow organizations the flexibility to use them as needed and to work longer on a basis that works for both the employer and employee. This is an important way to respond to population aging and emerging business issues and it can be a win-win for all. This article provides information to help organizations take advantage of these opportunities.

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## References

### RESEARCH, CURRENT EXPERIENCE AND DATA

- U.S. GAO, [Phased Retirement Programs, Although Uncommon, Provide Flexibility for Workers and Employers](#), GAO-17-536, 2017. Provides insight into recent employer practices and data on employees. A series of employer case studies are discussed.
- [Older Workers: Labor Force Trends and Career Options](#), U.S. Department of Labor, 2017

### EMPLOYER AND BUSINESS COMMUNITY FOCUSED

- Staying Ahead of the Curve 2004, Best Practices for a Mature Workforce [https://assets.aarp.org/rgcenter/econ/multiwork\\_2004.pdf](https://assets.aarp.org/rgcenter/econ/multiwork_2004.pdf), AARP. Report analyzes the practices of companies that were awarded prizes for their work with older workers and provides a structure for thinking about which practices can have bigger impact and make more difference. Report has been cited as very helpful to organizations who did work in this field.
- Mercer, Next Stage: Are You Ready, 2019. Report focusing on how business should respond to the experienced workforce.
- Society of Actuaries: Securing Future Retirements Essay Collection, 2018.
  - [Working Longer to Improve Retirement Security: Addressing Workplace Issues](#)  
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<sup>i</sup> Mercer LLC, 2019. Next Stage: Are You Ready?

<sup>ii</sup> Mercer LLC, 2019. Next Stage: Are You Ready?