**Willing to Work: National Inquiry into Employment Discrimination against Older Australians and Australians with Disability**

# Submission No 284

**Name** Withheld

**Submission made by**

[x]  Australian with disability in work

[x]  Australian with disability who would like to work

# Submission regarding Older Australians / Australians with Disability / Both

### **Your experience**

**Have you (or the person you are submitting on behalf of) experienced employment discrimination?**

[x]  Yes

[ ]  No

[ ]  Not sure

**Did you take any action in relation to the employment discrimination you experienced?**

[x]  Yes

[ ]  No

**Please tell us more, for example, what action you took and how effective you felt it was; or why you chose not to take any action.**

In my experience, there are two situations that stand out. I am an Australian with a disability (Complete C5/6 Quadriplegia due to traumatic spinal cord injury – ASIA A)

Case One –

I had applied for training as **[redacted]** with **[redacted]**. Before beginning this application, I had done extensive research including conducting work experience at **[redacted]** to ensure that I would be able meet the physical requirements of the job. I had also learnt that there was currently someone employed in this role who also had a spinal cord injury and used a wheelchair.

Once I’d ensured that I would be able to perform in this role, I then began the application process. The application process involved 7 stages from an online test to an interview with**[redacted]** at the final stage. The first two stages of the process were based online and as such my disability had no effect on my results and I had passed easily through to the following rounds. The next stage was a full day of psychometric testing in person at their testing centre. The test administrators on the day were extremely positive and helpful with any arrangements I needed (such as chairs moved away from desks, etc.) As with the online tests, the results from this stage of testing also demonstrated that there was no issue with mental ability and I had been even told that for a section of this element I had scored the highest for this group.

The next stage was medical assessment, which is where the issues with my application began to appear. This application required a class 3 medical certificate which was assessed by an appropriately certified doctor. The certificate and the medical testing was to measure my ability to perform the job i.e. my sight and hearing were suitable for the inherent requirements.

As I had seen the job being performed and had no visual or auditory issues, as I’d expected there were no obvious issues with this medical assessment. Once the test was completed, the evaluation was sent off to **[redacted]**.

My application was outright denied, and no specific reason was given. This was highly unusual as no doctor had indicated any issue when performing the tests, and I knew that I was physically able to perform the job. We rang **[redacted]** to seek clarification and we were able to speak to one of their medical certifiers. Upon learning of my spinal injury he was openly and outright dismissive of any chance that I could perform the inherent requirements of the job. When pressed for specific reasons he was unable and unwilling to discuss any specifics and was simply adamant that someone with my injury was unfit to perform the job.

Knowing that I was physically able to do the job, I sought assistance from a disability advocacy service to help me resolve the issue. My case manager at the advocacy service was also quite dismissive of the idea of me performing this job, and instead encouraged me to apply for call centre positions. I insisted that my needs for advocacy were simply to demonstrate my physical ability to perform the job, and asked that she help mediate with **[redacted]**. The case manager did in fact call **[redacted]** but only to discuss how I was “aiming too high” and was probably not suited for this job. Far from advocating my physical ability, she instead assumed my unsuitability without good reason and in doing so, damaged **[redacted]**’s view of me as a potential employee.

This experience left me to believe that the advocacy services could not help me in this circumstance and I had to be my own advocate. After further discussion with **[redacted]**, we came to an agreement with the medical certifiers that I would meet an assessor at **[redacted]** and they would assess my physical ability to perform all inherent requirements of the job on site.

The closest **[redacted]** happened to be Sydney, so we met there rather than Melbourne or Brisbane, which were the centres I was applying for. I met the assessor on site and demonstrated my ability to perform all physical requirements of the job. Throughout the day there were only two minor issues – the first being that the entrance to the Sydney **[redacted]** was not wheelchair accessible, and I required assistance up a small step. I knew this was not going to be a problem as the training I was applying for would see me located in the Melbourne or Brisbane **[redacted]** both of which are wheelchair accessible and at worst, an inexpensive ramp could have been installed and even funded by the workplace modifications scheme. The second and only other issue was a small push-to-talk button on the rarely used emergency phones. Due to my lack of dexterity I was unable to use the phone as is. I was very confident this issue could be overcome with some very minor modification to the phone without detracting from anyone else’s ability to use the phone (which would also be covered by the workplace modification scheme)

Being confident that this assessment would allay any doubts **[redacted]** had in my physical ability to do the job, I was extremely surprised and frustrated when they denied my medical certification once again. Their reasons cited for denying my application were that I was unable to enter the workplace due to their lack of wheelchair accessibility and that I was unable to use their emergency phone which was an inherent requirement of the job.

I was extremely frustrated at their combined hesitance to even consider the possibility of small modifications, especially considering that they were completely aware that this was not the location I was applying for. Even so, they used the inaccessibility of an unrelated workplace as reason for me not being fit for the job.
I wrote **[redacted]** again, explaining their lapses in potential accommodations: I explained that the job was in a different and accessible building and that they didn’t even consider an OT’s opinion about modification.

Finally they saw reason and I received a class 3 medical certificates which was appropriately conditional on me having access to modified emergency phone.

This experience and their resistance left me believing that my chances of progressing further through the application process were severely damaged. I was especially concerned that in comparison to other applicants I had already stood out as requiring special attention. I felt I had to fight for my right to be treated as the other able bodied applicants. I felt I was no longer being assessed on my actually employability, but now the focus was on my disability even though I had demonstrated that it had no affect on my ability to do the job.

From here I easily progressed through to the final stage. I felt I did well, but unfortunately I was unsuccessful at this final stage. After a year of persevering this was disappointing to say the least, however I understand that I simply may have not passed the interview stage for reasons completely aside from my disability. As much as I would like to assume otherwise, I couldn’t help but feel like the negative experiences and adamantly dismissive attitudes I had faced throughout the process still may have weighted the outcome. Whether conscious or unconscious I felt that from a Human Resources perspective my employment may have brought them undesirable attention. I still believe that I am well suited for the job and that my physical circumstances would not change that.

Case Two –

The second case was less active and more passive, but still left me feeling that I’d been treated unfairly due to my disability.

After completing my Bachelor of IT at university, I applied for a job at a veterinary supply company. This company had their own in house software team and I was applying as a developer. The entire recruitment and assessment process was extremely positive and I felt that I was being assessed entirely on my skills as relevant to the job at hand. I never once felt that my physical disability was a detriment to the application. I passed their technical skills assessments, fit in well with their team and workplace culture, and felt very positive about the role. I was called in for a follow-up interview and I felt that they were going to offer me the job.

I am quite pragmatic and upfront about my physical requirements and I discussed with the team that I manage my own needs as much as possible, but may from time to time need assistance with minor physical tasks (picking up dropped items or retrieving things from my backpack). I said that as long as they don’t need me up a flight of stairs then there should be no problem. A few days later I received a call saying that I had the job, and I was excited to start work.

When I arrived at the workplace, I discovered that their software department was indeed upstairs and that there was no wheelchair access.

I felt disappointed that I had even singled out stairs as being a specific issue, and that it wasn’t mentioned at any point through the application process.

I was given an office downstairs, which was adjacent to their call centre, and near the reception desk. My main role involved collaboration in team projects and I also relied heavily on the team for training and orientation within the systems that they use. Upstairs the team I was trying to work with had a very different environment to my own. They had an open plan office with shared collaboration spaces, which facilitated open discussions and project work. Even though writing software is often self-directed work, the collaborative aspects of teamwork are an essential part of the development process. For example being able to go to a whiteboard with someone in order to deconstruct an idea, leaning over to ask questions, and just generally being available to participate in open discussions about the project.

Although the team could be contacted by phone, there are certain elements of the team that cannot be provided in an isolated environment. Feeling as though I was an interruption when calling upstairs to ask a question did not encourage me to feel that I was a member of the team.

You can see the juxtaposition between case one and case two, and that in this particular case it was unconscious and insidious. No one specifically did anything to make me feel discriminated against; in fact they were individually very positive and supportive. Even with this in mind, I still found myself in a situation that felt discriminatory when compared to other team members completing the same task. The more isolated I felt, the harder I found it to perform my job adequately. This was magnified as time went on, due to seeing my teammates less and less each day. My ability to learn the systems being used was severely hindered as I didn’t have access to my team members which is where I would have had immediate access to training, support and answers to any questions that I had.

By the time my three-month probation period was up I had failed to train with their systems to a standard that both they and I were happy with, and I still felt an outsider of their team. My manager decided not to employee me full time once the probation period was over, and I left the position. I felt that If I were able to access their workspace I would have felt that I had a fair and equal chance at developing my skills to a suitable level.

**Did your experience of employment discrimination impact on your participation in the workforce? (For example, did you have to stop work, change jobs or take sick leave?)**

[x] Yes

[ ] No

**Please tell us more**

In Case One I believe my disability was a major contributor in my denial of employment. If not directly, then by the negative attitudes that were fostered in the process.

In Case Two I felt from day one my participation in this team was severely hindered by my lack of access to the office and environment that the other team members enjoyed, and my employment was terminated after the probation period.

### **Barriers**

**Do you think older Australians/Australians with disability face barriers when they look for work or are in a job?**

[x] Yes

[ ] No

[ ] Not sure

**If yes, or not sure, what do you think these barriers might be?**

I think there are three main types of barriers;
Active – people who actively think you’re less of an employee or actively decide not to accommodate or install a ramp etc.

Passtive – where it is not through malice or personal opinions held, but that they aren’t aware of the barriers or aren’t aware that they are sometimes even enabling the barriers.

Another type that could be both passive and active would be lack of education or ignorance which can manifest as barriers of various kinds.

**Does employment discrimination have an impact on gaining and keeping employment for older Australians/Australians with disability?**

[x] Yes

[ ] No

[ ] Not sure

**Are there any practices, attitudes or laws which discourage or prevent equal participation in employment of older Australians/Australians with disability?**

[ ] Yes

[ ] No

[x] Not sure

**Please tell us more**

The penalties for incorrectly certifying construction, which don’t meet the building code standards for disability access, should be more severe to encourage true and proper use of the law.

This would result in better access to all building requirements including places of employment, and accessible parking. This would help remove at least one barrier, which prevents equal participation in employment.

**What are the incentives and disincentives for older Australians/Australians with disability to work?**

**Incentives:**

Income, participation in workforce, social engagement, integration for the benefit of the individual and society as a whole, improvement of self worth

**Disincentives:**

Workplace discrimination, access to premises, trepidation, fear of negative effects their disability may have on employment (unforseen health complications)

### **Good practice**

**Are there examples of good practice and workplace policies in employing and retaining older Australians/ Australians with disability?**

[x] Yes

[ ] No

[ ] Not sure

**Please tell us of examples of good practice in employing and retaining older Australians/ Australians with disability in work that you are aware of.**

In my personal experience, I’ve recently had unforeseen health complications related to my disability, which has left me unable to work while recovering. My employer has been extremely understanding and supportive and has constantly reiterated that work requirements are secondary to my health. He has arranged a home office for when I am able and has assured me that they want me to continue as part of their team as soon as my health permits. He had no obligation to support me as much as he did, but he has demonstrated good practice through encouraging an open environment and by not seeing my disability as a detriment to my value.

### **Solutions**

**What action should be taken to address employment discrimination against older Australians/Australians with disability?**

Better and more frequent education across all levels of the workforce.

Encouraging awareness and inclusion from a young age.

Treatment of disability in the media which better reflects everyday society (i.e. more people with disabilities in film and TV; whose character development doesn’t rely on their physical ability)

**What should be done to enhance workforce participation of older Australians/Australians with disability?**

Remove barriers of entry into the workplace, albeit physical, social or environmental.

**What outcomes or recommendations would you like to see from this National Inquiry?**

Compulsory education programs for HR and management staff to encourage understanding and awareness

Education in regards to both in-house and external services available (i.e. Workplace Modification Scheme)