

Submission by the Department of Employment

Australian Human Rights Commission’s

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

January 2016



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# Introduction

The Australian Government is committed to improving the employment participation of older Australians and those with disability. Employment is important for individual welfare and economic security, allowing people to provide for themselves and their families, improve their standard of living and save for retirement, including through superannuation. Employment is equally important in facilitating mental and physical health, and social connections.

The economic case for participation is equally strong: employment reduces Australia’s overall welfare expenditure and increases self-reliance in retirement[[1]](#footnote-1). As the population ages, with the number of people aged 65 years and over expected to more than double by 2055[[2]](#footnote-2), the importance of encouraging older Australians and people with disability to participate in economic activity becomes ever more pressing.

Australian Government policies are aimed at encouraging more employers to appreciate the benefits of diversity in the workplace, to help mature age job seekers and people with disability find and retain work, and to help address negative attitudes and recruitment practices toward mature age people and those with disability.

The primary responsibility for Government programmes and services to support people with disability, including Disability Support Pension and Disability Employment Services, rests with the Department of Social Services. Notwithstanding this, job seekers with disability may register for mainstream employment services, known as jobactive, and access a range of labour market programmes administered by the Department of Employment, including wage subsidies.

# Legislative protections administered by the Department of Employment

## Fair Work Act 2009

The *Fair Work Act 2009* (Cth) (Fair Work Act) prohibits unlawful employment discrimination and other forms of adverse action. These prohibitions are part of a broad suite of protections called the general protections. The general protections in Part 3-1:

* protect workplace rights
* protect freedom of association
* provide protection from workplace discrimination, and
* provide effective relief for persons who have been subject to unlawful discrimination and/or adverse action.

Of particular relevance is the prohibition under section 351 of theFair Work Acton an employer taking adverse action against an employee or prospective employee because of a number of listed attributes, including the person’s age or physical or mental disability.[[3]](#footnote-3)

Adverse action, including that motivated by a discriminatory reason, taken against an employee or prospective employee might include:

* dismissing them
* not giving them their legal entitlements
* treating them differently than other employees
* altering an employee’s position to their detriment
* not hiring them

The Fair Work Act includes some exceptions to the prohibition against workplace discrimination, including, if the action is:

* permissible under a relevant anti-discrimination law
* based on the inherent requirements of the particular position concerned
* taken against a staff member of an institution run in accordance with religious beliefs, and the action is taken in good faith and to avoid injury to those religious beliefs.[[4]](#footnote-4)

The general protections in Part 3–1 of the Fair Work Act cover most Australian workplaces and all types of employees in these workplaces – full time, part time and casual employees, probationary employees, apprentices and trainees, and individuals employed for fixed periods of time or tasks. The unlawful termination provisions in Part 6–4 of the Fair Work Act provide similar protections from dismissal for discriminatory reasons for non-national system employees.

The Fair Work Ombudsman (FWO) is responsible for promoting compliance with the Fair Work Act, and educating people about their rights and responsibilities at work. The FWO compliance and enforcement policy focuses on early intervention and resolution of workplace issues through the provision of advice and support. Allegations of workplace discrimination are matters the FWO can investigate. Where an investigation finds that the employer has (or had) discriminatory practices that are linked to adverse actions against employees or prospective employees, the FWO may take enforcement action.[[5]](#footnote-5)

Employees who believe they have experienced adverse action can also seek help from the Fair Work Commission (FWC). The FWC can hold a conference between the parties to the dispute – this *must* occur if the dispute involves a dismissal and *may* occur (if both parties agree) if the dispute does not involve a dismissal. If the dispute is not resolved at conference, the applicant can choose to make an application to a court to deal with the matter.

Under the Fair Work Act, there are a number of remedies and penalties for adverse action on discriminatory grounds. The maximum penalty for contravention of the unlawful discrimination protections is $54,000 per contravention for a corporation, and $10,800 per contravention for an individual. Where the Federal Court or Federal Circuit Court of Australia determines that a person has contravened the discrimination protections under the Fair Work Act, the court may make any order that it considers appropriate, including orders for injunctions, reinstatement and/or compensation.[[6]](#footnote-6)

There is limited data on the number of applications to the FWC alleging adverse action on discriminatory grounds under section 351, the number of claims upheld in the Federal Court or Federal Magistrates Court, or the level of penalties ordered. In its report on the workplace relations system, the Productivity Commission recommended the FWC be required to report more information about general protections matters. More information on applications alleging discrimination would provide a clearer picture of the level of workplace discrimination.

Employees dismissed on discriminatory grounds can also elect to pursue a remedy under the unfair dismissal provisions in the Fair Work Act rather than the general protections/unlawful termination protections. They cannot, however, pursue both. There is a cap on the level of compensation available under the unfair dismissal provisions but this does not apply to the general protections.

# General employment services - jobactive

The Department of Employment is responsible for administering Australia’s mainstream employment services system, jobactive. jobactive services job seekers from all walks of Australian life, including youth, Indigenous Australians, mature age job seekers and people with disability who are not participating in Disability Employment Services, and is available to all job seekers entitled to work in Australia.

jobactive connects job seekers with employers and is delivered by a network of jobactive providers in over 1700 locations across Australia. jobactive focuses on giving job seekers the skills and attributes that employers are looking for in order to facilitate their transition to work. jobactive offers a full suite of services, including but not limited to: job search assistance, training, interview preparation, referrals to jobs, work experience programmes, volunteer work, wage subsidies and case management. Job seekers can also be referred to a wide range of specialist services, such as drug and alcohol counselling, for example.

The level of assistance available to job seekers in jobactive depends on their individual circumstances, including income support status, to ensure resources are directed towards those who need the most support to find and keep employment. Job seekers are fully eligible to participate if they are in receipt of Newstart Allowance, Youth Allowance, Parenting Payment, Disability Support Pension (with compulsory requirements) or Special Benefit, or if they are accessing assistance through the Pre-Release Prisoner Programme or a Structural Adjustment Package.

The Employment Fund is a pool of funds that can be accessed by jobactive providers to ensure job seekers build experience and skills to meet employers’ needs and get a job. The fund can be used to pay for work related items, professional services, post placement support and specific, targeted training that will assist the job seeker in obtaining employment. Employment Funds are not limited to any one job seeker, allowing them to be used flexibly. However, job seekers who are more disadvantaged attract higher levels of funding.

Table 1 below shows how mature age (50+) job seekers and people with disability are represented on the jobactive caseload, including which Stream they belong to. Typically, Stream A is for the most job-ready job seekers, Stream B for job seekers with moderate barriers to employment, and Stream C for job seekers with severe and/or multiple barriers to employment. Both mature age job seekers and people with disability are overrepresented in Streams B and C, particularly people with disability, which means their provider receives greater funding to assist them.

Table 1: jobactive caseload data for Mature Age (50+) and People with Disability (as at 31 December 2015) by Stream

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Placement Description** | **Mature Age (50+) Caseload** | **% of Total jobactive Caseload** | **People with Disability Caseload** | **% of Total jobactive Caseload** | **Mature Age (50+) People with Disability Caseload** | **% of Total jobactive Caseload** | **Total jobactive Caseload** |
| Eligibility not determined | 520 | 21.5% | 473 | 19.6% | 164 | 6.8% | **2,417** |
| Stream A Volunteer | 2,659 | 25.3% | 1,415 | 13.5% | 421 | 4.0% | **10,504** |
| Stream A | 83,562 | 22.7% | 33,040 | 9.0% | 10,561 | 2.9% | **368,028** |
| Stream B | 66,928 | 28.3% | 78,990 | 33.4% | 33,470 | 14.1% | **236,667** |
| Stream C | 29,582 | 20.7% | 92,330 | 64.6% | 23,954 | 16.8% | **142,968** |
| **Total** | **183,251** | **24.1%** | **206,248** | **27.1%** | **68,570** | **9.0%** | **760,584** |

The outcome payment structure of jobactive supports the policy imperative of assisting those most disadvantaged in the labour market to find and maintain sustainable employment. jobactive providers receive greater financial incentives (outcome payments) the higher the Stream the job seeker is in (Stream C is the highest), and the longer they have been unemployed.

Outcome payments are paid after 4, 12 and 26 weeks in employment, with the latter milestones attracting larger payments. This ensures job seekers are achieving sustainable employment outcomes.

### Job seeker assessment

The Job Seeker Classification Instrument (JSCI) is used to measure a job seeker’s relative difficulty in gaining and maintaining employment and helps identify what level of support the job seeker will need to help them find work. It assesses a range of factors including age and gender, work experience, living circumstances and personal factors.

Job seekers are assessed when they first register for employment assistance and any time they experience a significant change in their circumstances. Under jobactive, the JSCI is used to allocate job seekers to one of the first two levels of employment assistance – Stream A or B as appropriate to their needs. The JSCI also identifies job seekers who have complex or multiple vocational and non-vocational barriers to employment (such as medical conditions or disability) and may require a more comprehensive assessment through an Employment Services Assessment (ESAt). The ESAt is used to determine if the job seeker requires Stream C services in jobactive or referral to other services such as Disability Employment Services, administered by the Department of Social Services.  The ESAt uses available medical evidence to assess the functional impact of the conditions on the job seeker’s ability to gain employment. ESAts are conducted by health and allied health professionals.

All job seekers, including those with an assessed partial capacity to work and mature age job seekers, can discuss with their jobactive provider the most appropriate activity to assist them gain work skills and move into suitable work as quickly as possible.

### Mutual obligation

The Australian Government believes in mutual obligation and expects job seekers receiving income support and who are capable of working to do all that is possible to improve their prospects of finding employment, including through activities like Work for the Dole or volunteering. The *Social Security Act 1991 (Cth)* provides the fundamental basis for mutual obligation requirements through legislating participation requirements.

Job seekers receiving income support payments with mutual obligation requirements (i.e. on activity tested payments) may be eligible for the full range of assistance under jobactive, tailored to their needs.

All job seekers in receipt of activity tested income support payments will have either full time or part time mutual obligation requirements; however, these requirements are more flexible for older Australians and those with a disability. A job seeker’s mutual obligation requirements are generally determined by:

* their age
* their assessed work capacity
* whether they have the primary responsibility for the care of a child.

Job seekers aged 30 to 59 years of age are required to participate in an approved activity for 15 hours per week (or 390 hours over 26 weeks) to complete the Annual Activity Requirement component of their mutual obligation requirements. The range of activities can include:

* Work for the Dole
* a National Work Experience Programme Placement
* Voluntary Work
* part-time employment
* part-time study or training
* accredited language literacy and numeracy courses
* Defence Reserves and other government programmes.

For job seekers aged 60 years and over, there is no Annual Activity Requirement, however they may choose to undertake activities.

Job seekers aged 55 years and over who are meeting their full-time mutual obligation requirements through 15 hours per week of paid (including self-employment) or approved voluntary work (or a combination) cannot be required to simultaneously look for additional work or undertake any other activities.

### Job seeker compliance

If a job seeker is experiencing issues which impact their ability to attend or participate (including ongoing or short-term health issues), processes and safety nets are in place to ensure that they do not receive a penalty for failing to meet their mutual obligation requirements.

If a job seeker has a reasonable excuse for being unable to attend an appointment or activity and gives prior notice, they will not be subject to any penalty or required to make up any missed hours of participation. If a job seeker is unable to give prior notice of their inability to attend an appointment or activity, their income support payment can be suspended. However, once the job seeker makes contact with their provider and confirms there were circumstances impacting their ability to attend and to give prior notice, the income support payment suspension will be lifted and the job seeker will receive full back pay.

Job seekers who are unable to meet their mutual obligation requirements for extended periods may be granted an exemption from mutual obligation requirements. Job seekers with exemptions from mutual obligation requirements are not subject to any requirements or penalties, but may participate in employment services on a voluntary basis.

### Job seekers with a Partial Capacity to Work or Temporary Reduced Work Capacity

Job seekers with a Partial Capacity to Work or Temporary Reduced Work Capacity (0-14 hours per week) are required to attend quarterly interviews with the Department of Human Services. They do not have any other mutual obligation requirements, but may participate in employment services on a voluntary basis.

Job seekers with a Partial Capacity to Work or Temporary Reduced Work Capacity (15 to 29 hours per week) who are fully meeting their respective part-time or full-time mutual obligation requirements through paid work (including self-employment) or approved study (or a combination) cannot be required to simultaneously look for additional work or undertake any other additional requirements.

### Volunteer job seekers

To promote labour market participation, providers also deliver services to volunteer job seekers through jobactive.

Job seekers are eligible to volunteer for services in jobactive if they are eligible to work in Australia, and not in paid employment of 15 hours or more per week or studying full time. This includes people not on income support, as well as those on income support who do not have compulsory mutual obligation requirements (for example Age Pensioners, Disability Support Pension recipients without participation requirements, Parenting Payment recipients with a youngest child aged under six and Carer Payment recipients).

In jobactive, volunteer job seekers may receive up to six months of assistance to help them understand the skills and attributes needed by local employers, prepare résumés and look for jobs. Providers are eligible to receive outcome payments for placing volunteer job seekers in work. This is an incentive for providers to service job seekers which did not exist under the previous Job Services Australia contract arrangements.

# Specific programmes supporting People with Disability

Australian Government responsibility for tailored programmes and services to support people with disability, such as Disability Employment Services, Disability Support Pension and Australian Disability Enterprises, amongst others; as well as programmes designed to assist carers, such as Carer Payment, rests with the Department of Social Services.

The programmes which the Department of Employment operates through which people with disability receive assistance are broad, inclusive programmes. These programmes focus on the relative level of labour market disadvantage as a means of identifying and targeting the level of assistance needed. As a result, the Department does not operate specific programmes which are solely for the benefit of people with disability, but rather recognise, target and attempt to redress the inherent labour market disadvantage which individuals face. As the co-incidence of disability with labour market disadvantage is high, the practical outcome is that people with disability generally attract higher levels of funding for service providers to assist them.

## Employing people with mental health issues

The former Department of Education, Employment and Workplace Relations commissioned a series of research projects in 2008, looking at the employment of people with mental health issues.

One project, entitled *Employer attitudes to employing people with mental illness*, was a qualitative study designed to scope the attitudes of 100 employers of varying sizes across a range of industry types. Employers involved in the study were much more receptive to the idea of retaining an existing employee with mental illness than recruiting people with known mental illness. Employers were highly reluctant to recruit people with mental illness, even when faced with labour shortages.

The full report is available at: https://docs.employment.gov.au/documents/employer-attitudes-employing-people-mental-illness

A second study looked at existing employer initiatives in Australia that supported the recruitment and retention of people with mental illness, using in-depth interviews with 48 employers across a range of industries and locations. A key factor in the successful employment of people with mental illness was disclosure and open communication between the employee and employer.

The full report is available at: https://docs.employment.gov.au/documents/employer-initiatives-supporting-recruitment-and-retention-people-mental-illness

A literature review was also commissioned, which investigated models of employment assistance for people with mental illness and identified good practice and ‘what works’ in relation to assisting people with mental illness into employment. The literature review is available at: https://docs.employment.gov.au/documents/employer-initiatives-supporting-recruitment-and-retention-people-mental-illness

## Mental Health and Work Project

In December 2015, the Organization for Economic Co-operation and Development (OECD) released its report *Mental Health and Work: Australia*. The report looks at how selected OECD countries address policy challenges in relation to mental health, and provides a number of policy recommendations specific to Australia, including how to improve the labour market participation of people with mental health issues.

The OECD report is available at: www.oecd.org/australia/mental-health-and-work-australia-9789264246591-en.htm

## OECD Council on Integrated Mental Health, Skills and Work

In December 2015, the Australian Government adopted the Recommendation of the OECD’s Council on Integrated Mental Health, Skills and Work. By doing so, the Australian Government has agreed where appropriate to:

* improve mental health care systems in order to promote mental wellbeing, prevent mental health conditions, and provide appropriate and timely services which recognise the benefits of meaningful work for people living with mental health conditions
* improve the educational outcomes and transitions into further and high education and the labour market of young people living with mental health conditions
* in close dialogue and cooperation with social partners, seek to develop and implement policies for workplace mental health promotion and return-to-work
* improve the responsiveness of social protection systems and employment services to the needs of people living with mental health conditions.

# Specific programmes supporting mature age Australians

The Australian Bureau of Statistics defines ‘mature age’ as people aged 45-64 years, though the Organization for Economic Cooperation and Development often uses 55 years and older when referring to countries’ mature age populations. The Department notes that the definition of ‘mature age’ is not always the same and what it classifies as ‘mature age’ often depends on the specifics of Government programmes and how they are targeted. For example, in the case of the wage subsidy programme, Restart, a ‘mature age’ job seeker refers to people 50 years of age or older.

The mature age unemployment rate is 3.7 per cent[[7]](#footnote-7) in November 2015 (for persons aged 55 and over) compared with the overall rate of 5.8 per cent[[8]](#footnote-8).

The average duration of unemployment for those age 55 and over, at 68 weeks, is much higher than the 45 week average for all persons7. Mature age people are also more likely to become discouraged job seekers, and over half (57.3 per cent) believe that that they are considered too old by employers[[9]](#footnote-9).

It is widely acknowledged that targeted wage subsidies are an effective means of boosting the employment opportunities of disadvantaged groups, particularly the long term unemployed and those with low skill and education levels[[10]](#footnote-10).

While there has been little research into the effectiveness of wage subsidies specifically targeted at older workers, an Austrian study by Eppel & Mahringer found that the granting of a wage subsidy seemed to have a particularly large effect on the employment opportunities of workers aged 45 years and over[[11]](#footnote-11).

## Restart

To encourage more businesses to hire and retain older Australians, the Australian Government introduced the Restart programme in July 2014. Under Restart, eligible employers may receive up to $10,000 (GST inclusive) if they hire a full-time job seeker 50 years of age or older who has been unemployed and on income support for six months. The subsidy can be used by employers to help pay for training, reskilling or other workforce development.

Eligible job seekers employed for at least 30 hours per week will attract the full rate of the wage subsidy with a pro rata payment available for part time work, between 15-29 hours per week. The amount will vary depending on the number of hours worked, but to receive a wage subsidy, the employee must work for a minimum of 15 hours per week.

Restart is delivered through employment services providers – jobactive, Disability Employment Services and the Community Development Programme. These providers play an important role in promoting the programme and working with employers.

### Changes to the Restart programme

As part of the Australian Government’s Growing Jobs and Small Business package announced in the 2015-16 Budget, funding for Restart was uncapped and included in the $1.2 billion national wage subsidy pool established for all wage subsidies, from 1 July 2015.

From 1 November 2015 further changes were made to the programme to reduce complexity and increase uptake. These include:

* Up to $6,500 (GST inclusive) is available to the employer, 12 months from the time the job starts, instead of the previous 24 months, with payments made in instalments.
* A bonus of up to $3,500 (GST inclusive) for employment which lasts at least 12 months is also available, bringing the wage subsidy total up to $10,000 (GST inclusive).
* Employers will receive payment for the actual hours worked by the employee (with a minimum of 15 hours per week required). If the employment placement ceases early, employers will still be able to receive payment commensurate with the duration of the employment.
* Employers who take on 10 or more mature age staff will be eligible to bundle the Restart Agreements and negotiate upfront, lump sum payments, to help meet the specific costs associated with hiring multiple staff.
* The wage subsidy can be paid flexibly to employers over the term of the wage subsidy agreement, from the time to job starts, rather than waiting until the achievement of set milestones). Providers will be able to make payments to employers as agreed to, and as frequently as necessary to meet the needs of employers.

As at 30 November 2015 nearly 2,900 mature age job seekers had commenced in a job with the help of Restart.

## Changing employer and community attitudes

The 2014 Restart campaign promoted the positive benefits of employing mature age job seekers, and raised awareness and take up by businesses of the $10,000 Restart Wage Subsidy. The campaign was aimed at employers, specifically small and medium businesses.

National advertising ran in two phases, from July to October 2014 and February to April 2015. It comprised print (magazines and newspapers), radio, digital display and search, and non-English print and radio (Arabic, Cantonese, Mandarin, Vietnamese, Greek and Italian). The advertising directed audiences to the campaign website experiencepays.gov.au which contained detailed information on the Restart Wage Subsidy and how to access it; along with mature age employment success stories.

In addition to advertising, the Department organised a direct mail out to over 16,000 small and medium Australian businesses to share information about the Restart programme. The letter encouraged those businesses to consider employing mature age workers and to contact local employment service providers to find out how to apply for a Restart Wage Subsidy. The Department also worked closely with a number of relevant Government agencies and stakeholders to promote Restart through their websites, newsletters and social media channels. These included Myfuture, business.gov.au, the Australian Small Business Commissioner and channels managed by the Department of Human Services and Department of Social Services.

In June 2015, the Government established the role of Ambassador for Mature Age Employment, and appointed Ms Susan Ryan AO, Australia’s current Age and Disability Commissioner, to the position. As the Ambassador for Mature Age Employment, Ms Ryan will help drive greater awareness amongst employers of the business benefits of hiring older workers and help open new doors for job seekers.

## Working Longer, Staying Healthy and Productive Project

The Australian National University’s (ANU) National Centre for Epidemiology and Public Health is currently developing a collaborative research partnership aimed at better understanding the link between the health of mature age workers and their participation in the workforce through the Working Longer, Staying Healthy and Keeping Productive Project. The Department has agreed to provide a financial contribution of $100,000 and an in-kind contribution of up to $38,000 should the ANU be successful in securing an Australian Research Council Linkage Grant in 2016.

Boosting the participation of mature age adults in the workforce is a key strategy to address the economic and social challenges of Australia’s ageing population. This will require a better understanding of, and minimising and/or removing the barriers to mature age workforce participation and providing suitable employment options. The project aims to identify the job design, support services and intervention strategies that will help to optimise the workforce participation and the health (physical and mental) of mature age workers. The research outcomes of the project will improve the Department’s evidence base on mature age workforce participation and productivity, and assist the Department to deliver on its commitments to support mature age workers to remain in, or to re-enter, the workforce.

## GAP Taskforce on Productive Ageing

The Department is working with public policy think-tank Global Access Partners (GAP) and the New South Wales Ministerial Advisory Committee on Ageing to improve the workforce participation and productivity of people aged 45 and above through better health outcomes. The multi-disciplinary taskforce is focused on conditions which can be successfully prevented, delayed or treated to allow greater workforce participation, including bad backs and arthritis[[12]](#footnote-12).

## OECD Council on Ageing and Employment

In December 2015, the Australian Government adopted the Recommendation of the OECD’s Council on Ageing and Employment. By doing so, the Australian Government has agreed where appropriate to:

* strengthen incentives for workers to build up longer careers and to continue working at an older age
* encourage employers to retain and hire older workers
* promote the employability of workers throughout their working lives with a view to strengthening employment opportunities at an older age.

# The Department of Employment as an employer

## Mature age initiatives

The Department is committed to an organisational culture that encourages and supports diversity.

The Department is demonstrating leadership as a mature age employer, and is committed to workplace diversity and inclusion. It values the contributions of people with different backgrounds, experiences and perspectives including older Australians. This is reinforced in the *Department of Employment Diversity Strategy 2015-2017*, which aims to promote and integrate workplace diversity into all aspects of the Department’s work and have a workforce that reflects the diversity of the Australian community. Diversity and inclusion underpins the capability of the Department’s workforce and is a fundamental part of our decision making and the way we work.

Employees aged 45 and over account for 37.7 per cent of the Department’s current workforce, with 14 per cent aged 55 and over. The Department’s Enterprise Agreement (EA) encourages equal participation in employment for all employees.

The Department worked with Comcare and the Australian Public Service Commission, as part of the APS200 Workability and Ageing project, to develop a plan to tackle the challenges of an ageing APS workforce, impaired work capacity and the need to engage a multi-generational workforce. This work contributed to the *Investing in Experience: Managing an Older Workforce* guide, published in 2013 for APS leaders and managers.

## Disability initiatives

The Department’s Disability Action Plan aims to develop a culture of support and respect in the Department for people with disability—one that reflects a person’s contribution and ability, and allows for workplace adjustments to be made to maximise their contribution. Through flexible workplace practices, the Department is also committed to supporting employees who care for people with disability.

The Disability Action Plan includes three areas of activity to:

* raise awareness and understanding of disability issues among employees, build manager capability, and ensure processes efficiently and effectively assist employees with disability or caring responsibilities
* attract, recruit and retain employees with disability
* improve leadership across the Department including establishing the disability employee network and highlighting Executive engagement.

The Department’s Disability Champion is a Band-2 Senior Executive and provides important leadership and support to our employees with disability. The Disability Champion represents the Department externally and provides leadership across the Australian Public Service (APS) by contributing to the APS Disability Champions Network and other related forums. The Disability Champion is deeply committed to the disability sector and uses the role to help improve the outcomes for people with disability by raising awareness of their work and needs as employees of the Department. The Department supports a Disability Employee Network that offers peer support, helps to raise disability confidence, and is the primary advisory group to the Department’s Executive on matters affecting employees with disability.

The Department participates in the Australian Public Service Commission’s *RecruitAbility* scheme, which is a key initiative under the *As One: Australian Public Service (APS) Disability Employment Strategy*. The Department has implemented the *RecruitAbility* scheme into all recruitment processes since early 2015.

The Department is also a gold member of the Australian Network on Disability and actively participates in their bi-annual internship programme *Stepping Into* and hosts their disability confidence training programmes.

# Conclusion

The issue of discrimination against older Australians and Australians with disability is an important one for Australia both economically and socially. While a range of legal instruments, programmes and initiatives are in place to ensure safe and fair workplaces and improve workforce participation of mature aged people and people with disability, it is clear that more can be done to increase the economic security and social wellbeing of these cohorts.

Federal, state and territory governments should continue to demonstrate commitment to supporting workplace diversity and inclusion, and the Department of Employment takes this responsibility seriously. The Department acknowledges that industry cooperation and the broader economic context play a significant role in the employment and retention of mature age people and people with disability.

The Department also administers a range of employment programmes to create enabling environments for business to hire and retain mature age people and people with disability.

1. *Intergenerational Report*s of January 2010 and March 2015, The Treasury, Australian Government, Canberra; *An Ageing Australia: Preparing for the Future*, November 2013, Productivity Commission Research Paper; Canberra. [↑](#footnote-ref-1)
2. National prevalence survey of age discrimination in the workplace, Australian Human Rights Commission, 2015, p. 1. [↑](#footnote-ref-2)
3. Section 351 *Fair Work Act 2009* (Cth). [↑](#footnote-ref-3)
4. *Fair Work Act 2009* (Cth) s. 351(2). [↑](#footnote-ref-4)
5. Fair Work Ombudsman, *Unlawful workplace discrimination*, <https://www.fairwork.gov.au/ArticleDocuments/723/Workplace-discrimination.pdf.aspx>. [↑](#footnote-ref-5)
6. Fair Work Ombudsman, *Unlawful workplace discrimination*, <https://www.fairwork.gov.au/ArticleDocuments/723/Workplace-discrimination.pdf.aspx>. [↑](#footnote-ref-6)
7. ABS *Labour Force, Australia, Detailed – Electronic Delivery, November 2015* (Cat. no. 6291.0.55.001) data are three month averages of original estimates. [↑](#footnote-ref-7)
8. ABS *Labour Force, Australia, November 2015* (Cat. no. 6202.0) data are in *seasonally adjusted* terms [↑](#footnote-ref-8)
9. ABS *Persons Not In the Labour Force, Underemployed Workers and Job Search Experience, Australia,* February 2014 (Cat No 6226.0.55.001) [↑](#footnote-ref-9)
10. Borland (2014), Dealing with unemployment: What should be the role of labour market programs? *Evidence Base*, Issue 4; Bernhard, Gartner & Stephan (2008), Wage Subsidies for Needy Job-Seekers and Their Effect on Individual Labour Market Outcomes after the German Reforms, *IZA Discussion Paper* No. 3772; *OECD Employment Outlook 2003*, Chapter 3: Making Work Pay, Making Work Possible, p. 115; *OECD Employment Outlook 2014*, Germany; and *OECD Employment Outlook 2014*,Netherlands. [↑](#footnote-ref-10)
11. Eppel & Mahringer (2013), Do wage subsidies work in boosting economic inclusion? Evidence on effect heterogeneity in Austria, *WIFO Working Papers*, No. 456, pp. 25–26. [↑](#footnote-ref-11)
12. In 2013, 663,000 Australians aged 45 to 64 were not working due to poor health. Of these, 40 per cent suffered from chronic pain caused by bad backs and arthritis. Schofield et al., ‘Premature retirement due to ill health’, *British Medical Journal*, 2013; ‘Impact of chronic disease on labour force participation’, *Medical Journal of Australia*, 2008. [↑](#footnote-ref-12)