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**ABF response to AHRC**

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

**Issues Paper: Employment discrimination against older Australians**

**December 2015**

**About the Australian Blindness Forum**

The Australian Blindness Forum (ABF) was formed in 1992 and is funded only by its members. ABF is an Australian public company limited by guarantee and governed by a Board of Directors. ABF is the peak body representing blindness, low vision and rehabilitation in the blindness sector.

ABF is represented in every state and territory of Australia and all major organisations providing services to Australians who are blind or vision impaired are members of ABF.

ABF combines the voice of people who are blind or vision impaired with that of the specialist service providers across the sector. As Australia’s representative to the World Blind Union, the ABF has strong connections with the international blind and vision impaired community.

ABF comprises 16 blindness sector organisations whose expertise and knowledge are reflected in the following comments.

**ABF Response (age)**

ABF appreciates the opportunity to provide a response to the AHRC in relation to the *Issues Paper: Employment Discrimination against Older Australians*.

Almost 575,000 Australians over 40 had vision loss in 2009, representing 5.8% of the population in that age group. Of these people around 66,500 were blind, with the largest proportion aged over 70 (nearly 70%). It is projected that the number of people with vision loss aged 40 or over will rise to almost 801,000 by 2020, and those who are blind will rise to 102,750.[[1]](#footnote-1)

Given Australia is an ageing population with the retirement age rising, together with the fact that the largest proportion of people with blindness or vision impairment is aged over 40, it is important to ensure that older Australians with blindness or vision impairment do not suffer employment discrimination based on either their age or their disability.

**Discussion questions**

1. **What policies, workplace practices, programs or incentives assist with increasing participation of older workers? How adequate are these policies, practices or incentives? What is the role of Government, peak business and employee groups, and individual employers?**

ABF is very concerned to ensure that any policies, workplace practices, programs or incentives do not have any age barriers or any arbitrary cut-off dates based on age. The National Disability Insurance Scheme is an example of a scheme that discriminates against older Australians with individuals only being eligible under the age of 65. This has particular ramifications for older Australians with blindness or vision impairment.

Any policies, workplace practices, programs or incentives aimed at increasing participation of older workers also need to include provision for older workers with disability. ABF supports any policies, practices, programs or incentives that will assist in the following areas:

* increasing the participation of older people with blindness or vision impairment who may have become frustrated or disillusioned with the current system and so who are **not currently participating in the labour force**. The focus in these cases is not just on obtaining a job, it also needs to be on providing education and awareness of the other benefits of being employed such as social interaction, a sense of purpose, dignity and better wellbeing.
* **supporting older people with disability already working who acquire disability** – a diagnosis of vision loss while someone is already in employment can be a difficult time. These individuals need ongoing support to keep them in their jobs and to continue to develop their careers. ABF and its member organisations have guides for employers when employing people with blindness or vision impairment which suggest employers need to be flexible and supportive, employers should modify a role in order to retain a good worker and that empathy is important because a loss of sight does not necessarily mean someone has lost their ability to do their job[[2]](#footnote-2).
* **work experience** - work experience is not just important for younger people. As stated above, most vision loss occurs as people age, with people becoming unemployed later in life as an indirect result of losing their sight. Structured work experience programs should be developed to enable people to learn new skills and to help them find their way back into employment. Work experience should not be used to justify unwaged work, but to build up skills, confidence and self-esteem.
* **improving** **referral pathways** into the employment system for older people with blindness or vision impairment. In particular, ABF would like to ensure any referral processes to disability employment services include a ‘trigger’ that automatically refers a person who identifies as having blindness or vision impairment to a specialist Disability Employment Service (DES) within the blindness sector. Accredited DES providers, such as those in the blindness sector, should also be able to take direct referrals (for people who may already use their services), rather than clients having to go through more formal referral pathways.

An employment services specialist would have technical understanding of the needs and capabilities of people who are blind or vision impaired and would be able to identify when and how assistive technology can be used (including capacity to deliver or support training in this technology) and knowledge of relevant assessments, referrals, strategies, government subsidies and blindness specific resources which are available.

1. **Are there distinct challenges faced by different sized businesses and organisations, sectors and industries in employing older workers?**

Some employers may think that there are many challenges and barriers to employing older Australians with disability but often this is due to misinformation or myths surrounding such employment.

Older people who are blind or vision impaired are excellent employees who can undertake the vast majority of tasks within any workplace and have proven their value in a wide range of occupations. Most older employees with blindness or vision impairment achieve full productivity in their placements and are extremely loyal and honest. They are observed by their fellow colleagues and those that come in contact with them as an example of what can be achieved by hiring an older employee who is blind or vision impaired. Technology today further enables older employees with blindness or vision impairment to undertake more jobs than ever thought possible.

Some solutions to perceived problems by employers are outlined below:

* Most legally people who are blind do have functional vision which can be assisted. Only around 2% of vision impaired people are totally blind.
* Screen magnification and screen reader software allows those with reduced or total vision loss to effectively operate computers.
* Electronic magnifiers can enlarge printed material. Portable devices built into a mobile phone can even scan and read printed text aloud.
* In order to ensure the safety of an older employee with blindness or vision impairment, it is important that the employee receives the same OH&S training as for other staff. Employers can also take advantage of the free services available from specialist blindness support agencies should any further assistance be required.
* Older people with blindness or vision impairment are experts at managing their loss of sight, and adapt readily to the pressures of workloads and maintain productivity levels, if given initial supports and training. If an employee is unable to maintain productivity levels, then as with any other person with a disability, government initiatives such as the supported wage system, are available.
* Existing employees may benefit from an awareness session at a staff meeting, which can be delivered by a local support agency. Existing staff need only treat older employees with blindness or vision impairment as they would all other employees.

In addition, employers need to be aware that employing an older person with blindness or vision impairment will benefit the organisation by demonstrating their Corporate Social Responsibility.

1. **What other data or information is available on employment discrimination against older Australians?**

Research undertaken by Vision Australia in 2012 indicated that 58% of people who are blind or vision impaired of workforce age are unemployed compared with 14% of the wider population (ABS ‘Persons not in the labour force, Sept 2011).[[3]](#footnote-3)

The Department of Social Services (DSS) provided data to ABF in October this year advising that, as at 31 August 2015, there were 2088 people participating in DES whose primary disability is identified as vision related. Total caseload for the programme as a whole on 31 August 2015 was 173,461. Accordingly about 1.2 per cent of the caseload is people whose primary disability is vision related[[4]](#footnote-4).

DSS said the data indicated that, overall, and without adjustment for people’s age and other characteristics, people whose primary disability is vision related do worse than the overall outcome for people in DES.

The DSS data indicated that over 50% of DES participants that identify as having a vision-related disability are in the 45-64 year old age group. This shows that older Australians with blindness or vision impairment are active in the workforce and want to be able to continue to be employed. [[5]](#footnote-5)

However, the very high unemployment rate for people with blindness or vision impairment (58%) also demonstrates that all people with blindness or vision impairment, including older people, are suffering employment discrimination and policies and workplace practices need to change in order to address this discrimination.

1. **What lessons and leading practices can we learn from other countries to address employment discrimination and increase workforce participation of older Australians?**

Unemployment rates amongst older people with blindness or vision impairment are also high in other countries. ABF is Australia’s representative to the World Blind Union which is so concerned about the high levels of unemployment amongst people with blindness and vision impairment that it has developed a two-pronged strategy to combat this problem:

1) Change awareness levels and assumptions regarding the capabilities of individuals who are blind amongst employers.

2) Change the work readiness levels and self-assurance of people who are blind and partially sighted.[[6]](#footnote-6)

ABF fully supports and endorses this strategy and believes it is applicable to all Australians, including older Australians, with blindness and vision impairment.

1. **How adequately do existing laws protect older Australians from employment discrimination? How effective are the legal remedies for older workers who have experienced discrimination? How could existing laws be amended or supplemented?**

The ABF supports every person’s right to participate in and contribute to the community. This includes older people who are blind or vision impaired having the right to obtain and retain meaningful employment and live as independently as possible.

This is consistent with:

* the United Nations Convention on the Rights of Persons with Disabilities
* the United Nations Principles for Older Persons
* the *Disability Discrimination Act 1992 (Cth)* (DDA)
* the *Age Discrimination Act 2004 (Cth)* (ADA).

ABF acknowledges that the current domestic legal framework, including the DDA and ADA, protects older people with blindness or vision impairment from discrimination by making it unlawful for employers to discriminate on the grounds of a person’s disability or age:

* in offering employment
* in their terms or conditions of employment
* by limiting opportunities for promotion, ,transfer or training, or to other benefits
* by dismissing the employee, or
* by subjecting the employee to any other detriment[[7]](#footnote-7).

However, ABF is concerned the enforcement of these protections is difficult and, in particular, it would be very difficult to detect discrimination when an employer is in the process of determining who should be offered employment. That is, it may never be expressly stated that someone was not successful in an interview process because of their age or vision impairment, even if that is the case.

In addition, the exemptions under the DDA and ADA that state it is not unlawful to refuse to employ or promote a person on the basis of their age or disability if they are unable to carry out the essential or inherent requirements of the job, even with reasonable adjustments, may be used by employers. Employers need to give full consideration to the job design and job description of the position and the actual, rather than perceived, work capabilities of the prospective employee.

1. **What difficulties are there for employers in understanding and complying with legal obligations?**

Employers may not be aware of all the legal obligations they have under the domestic legal framework that protects older people and people with disability in employment.

Employers need to developed guidelines for their own workplaces that equips them to employ older people with disability in the future and meet their obligations under the legal framework. This would include:

* improving employer awareness of the benefits of employing older people and people with disability
* improve employer awareness of the benefits of employing older people and people with disability
* reducing barriers and disincentives for the employment of older people and people with disability
* improving employment, recruitment and retention of older people and people with disability in all levels of public sector employment, and in funded organisations
* encouraging innovative approaches to employment of people with disability such as social enterprises, or initiatives to assist people with disability establish their own small business.[[8]](#footnote-8)

1. **What are the distinct challenges faced by certain groups of older Australians (e.g. women, Aboriginal and Torres Strait Islander peoples, people from culturally and linguistically diverse backgrounds or LGBTI people) in relation to employment discrimination?**

The DSS data indicated that, of the 2088 people participating in DES that have a vision related disability, 64 per cent (1331) were men, and 36 per cent (757) were women[[9]](#footnote-9).

ABF is concerned that only 36% of these 2088 people are women and so further participation of women, including older women with blindness or vision impairment in employment, needs to be encouraged.

**ABF Response (disability)**

ABF appreciates the opportunity to provide a response to the AHRC in relation to the *Issues Paper – Employment discrimination against Australians with disability*.

ABF and its member organisations support every person’s right to participate in and contribute to the community. This includes all people who are blind or vision impaired having the right to obtain and retain meaningful employment and live as independently as possible.

This is consistent with:

* the United Nations Convention on the Rights of Persons with Disabilities
* the *Disability Discrimination Act 1992* (Cth) (DDA) which prohibits any employer from discriminating against someone on the grounds of disability.

ABF believes it is important to ensure that Australians with blindness or vision impairment do not suffer employment discrimination based on their disability.

**Discussion questions**

1. **What policies, workplace practices, programs or incentives assist with increasing participation of people with disability? How adequate are these policies, practices and incentives? What is the role of Government, peak business and employee groups, and individual employers?**

ABF supports any policies, practices, programs or incentives that will assist in the following areas:

* **improving the** **transition of young people with blindness or vision impairment from school to work** – any disability employment policies, programs or services need to have a strong connection with the education system in order to facilitate a better transition for people with blindness or vision impairment from school to work or university to work. Career planning needs to start when students are in years 10 or 11 and needs to include appropriate work experience or placements like any other student in the education system. Similarly, comprehensive career planning assistance also needs to be provided to students with blindness or vision impairment throughout their university degrees.
* increasing the participation of people with blindness or vision impairment who may have become frustrated or disillusioned with the current system and so who are **not currently participating in the labour force**. The focus in these cases is not just on obtaining a job, it also needs to be on providing education and awareness of the other benefits of being employed such as social interaction, a sense of purpose, dignity and better wellbeing.
* **supporting people with disability already working who acquire disability** – a diagnosis of vision loss while someone is already in employment can be a difficult time. These individuals need ongoing support to keep them in their jobs and to continue to develop their careers. Both ABF and its members have guides for employers when employing people with blindness or vision impairment which suggest employers need to be flexible and supportive, employers should modify a role in order to retain a good worker and that empathy is important because a loss of sight does not necessarily mean someone has lost their ability to do their job[[10]](#footnote-10).
* **improving** **referral pathways** into the employment system for people with blindness or vision impairment. In particular, ABF would like to ensure any referral processes to disability employment services include a ‘trigger’ that automatically refers a person who identifies as having blindness or vision impairment to a specialist Disability Employment Service within the blindness sector. Accredited DES providers, such as those in the blindness sector, should also be able to take direct referrals (for people who may already use their services), rather than clients having to go through more formal referral pathways.

An employment services specialist would have technical understanding of the needs and capabilities of people who are blind or vision impaired and would be able to identify when and how assistive technology can be used (including capacity to deliver or support training in this technology) and knowledge of relevant assessments, referrals, strategies, government subsidies and blindness specific resources which are available.

1. **Are there distinct challenges faced by different sized businesses and organisations, sectors and industries in employing Australians with disability?**

Some employers may think that there are many challenges and barriers to employing Australians with disability but often this is due to misinformation or myths surrounding such employment.

People who are blind or vision impaired are excellent employees who can undertake the vast majority of tasks within any workplace and have proven their values in a wide range of occupations. Most employees with blindness or vision impairment achieve full productivity in their placements and are extremely loyal and honest. They are observed by their fellow colleagues and those that come in contact with them as an example of what can be achieved by hiring an employee who is blind or vision impaired. Technology today further enables employees with blindness or vision impairment to undertake more jobs than ever thought possible.

Some solutions to perceived problems by employers are outlined below:

* Most legally people who are blind do have functional vision which can be assisted. Only around 2% of vision impaired people are totally blind.
* Screen magnification and screen reader software allows those with reduced or total vision loss to effectively operate computers.
* Electronic magnifiers can enlarge printed material. Portable devices built into a mobile phone can even scan and read printed text aloud.
* In order to ensure the safety of an employee with blindness or vision impairment, it is important that the employee receives the same OH&S training as for other staff. Employers can also take advantage of the free services available from specialist blindness support agencies should any further assistance be required.
* People with blindness or vision impairment are experts at managing their loss of sight, and adapt readily to the pressures of workloads and maintain productivity levels, if given initial supports and training. If an employee is unable to maintain productivity levels, then as with any other person with a disability, government initiatives such as the supported wage system, are available.
* Existing employees may benefit from an awareness session at a staff meeting, which can be delivered by a local support agency. Existing staff need only treat employees with blindness or vision impairment as they would all other employees.

In addition, employers need to be aware that employing a person with blindness or vision impairment will benefit the organisation by demonstrating their Corporate Social Responsibility.

1. **What other data or information is available on employment discrimination against Australians with disability?**

ABF is very concerned that people with blindness or vision impairment are substantially underrepresented in the Australian workforce generally as well as in disability employment programs.

Almost 575,000 Australians over 40 had vision loss in 2009, representing 5.8% of the population in that age group. Of these people around 66,500 were blind, with the largest proportion aged over 70 (nearly 70%). It is projected that the number of people with vision loss aged 40 or over will rise to almost 801,000 by 2020, and those who are blind will rise to 102,750.[[11]](#footnote-11)

Research undertaken by Vision Australia in 2012 indicated that 58% of people who are blind or vision impaired of workforce age are unemployed compared with 14% of the wider population (ABS ‘Persons not in the labour force, Sept 2011).[[12]](#footnote-12)

The Department of Social Services (DSS) provided data to ABF in October this year advising that, as at 31 August 2015, there were 2088 people participating in Disability Employment Services (DES) whose primary disability is identified as vision related. Total caseload for the programme as a whole on 31 August 2015 was 173,461. Accordingly about 1.2 per cent of the caseload is people whose primary disability is vision related[[13]](#footnote-13).

DSS also said the data indicated that, overall, and without adjustment for people’s age and other characteristics, people whose primary disability is vision related do worse than the overall outcome for people in DES. The data indicated that:

* 22.7 per cent of people with primarily vison related disability are employed 3 months after their participation compared to 31.1 per cent for all participants
* 49.5 per cent are unemployed compared to 39.3 per cent for all participants.[[14]](#footnote-14)

Given Australia is an ageing population with the retirement age rising, it is also interesting to note that the age group with the most participants was the 55-64 year old age group for both men and women.

These figures demonstrate that people with blindness or vision impairment are suffering employment discrimination and policies and workplace practices need to change in order to address this discrimination.

1. **What lessons and leading practices can we learn from other countries to address employment discrimination and increase workforce participation of Australians with disability?**

Unemployment amongst people with blindness or vision impairment is also high in other countries. ABF is Australia’s representative to the World Blind Union which is so concerned about the high levels of unemployment that it has developed a two-pronged strategy to combat this problem:

1) Change awareness levels and assumptions regarding the capabilities of individuals who are blind amongst employers

2) Change the work readiness levels and self-assurance of people who are blind and partially sighted.[[15]](#footnote-15)

ABF fully supports and endorses this strategy and believes it is applicable to all Australians with blindness and vision impairment.

1. **How adequately do existing laws protect Australians with disability from employment discrimination? How effective are the legal remedies for Australians with disability who have experienced employment discrimination? How could existing laws be amended or supplemented?**

ABF acknowledges the current domestic legal framework, including the DDA, protects people with blindness or vision impairment from discrimination by making it unlawful for employers to discriminate on the ground of a person’s disability:

* in offering employment, including the processes of determining who should be offered employment
* in their terms or conditions of employment
* by limiting opportunities for promotion, ,transfer or training, or to other benefits
* by dismissing the employee, or
* by subjecting the employee to any other detriment[[16]](#footnote-16).

However, ABF is concerned the enforcement of these protections is difficult and, in particular, it would be very difficult to detect discrimination when an employer is in the process of determining who should be offered employment. That is, it may never be expressly stated that someone was not successful in an interview process because of their blindness or vision impairment, even if that is the case.

In addition, the exemptions under the DDA that state it is not unlawful to refuse to employ or promote a person on the basis of their disability if they are unable to carry out the essential or inherent requirements of the job, even with reasonable adjustments, may be used by employers without giving full consideration to the job design and job description and the actual rather than perceived work capabilities of the prospective employee.

1. **What difficulties are there for employers in understanding and complying with legal obligations?**

Employers may not be aware of all the legal obligations they have under the domestic legal framework that protects people with disability in employment.

Employers need to be more aware of the policies, outcomes and actions agreed upon in the National Disability Strategy, including:

* improving employer awareness of the benefits of employing people with disability
* improve employer awareness of the benefits of employing people with disability
* reduce barriers and disincentives for the employment of people with disability
* encourage innovative approaches to employment of people with disability such as social enterprises, or initiatives to assist people with disability establish their own small business
* improve employment, recruitment and retention of people with disability in all levels of public sector employment, and in funded organisations.[[17]](#footnote-17)

It would also assist employers in understanding and complying with their legal obligations if they developed guidelines for their own workplaces that equips them to employ people with disability in the future and meet their obligations under the legal framework.

1. **What are the distinct challenges faced by certain groups of people with disability (e.g. women, Aboriginal and Torres Strait Islander peoples, people from culturally and linguistically diverse backgrounds or LGBTI people) in relation to employment discrimination?**

The DSS data indicated that, of the 2088 people participating in DES that have a vision related disability, 64 per cent (1331) were men, and 36 per cent (757) were women[[18]](#footnote-18).

ABF is concerned only 36% of these 2088 people are women and so further participation of women with blindness or vision impairment in employment needs to be encouraged.

1. Access Economics Pty Ltd (with Vision2020), 2010, *Clear Focus: the economic impact of vision loss in Australia in 2009*, Melbourne, p.4. [↑](#footnote-ref-1)
2. Australian Blindness Forum, Employment Information Pack, <http://www.australianblindnessforum.org.au/Committees/Employment/Employers.html>; Blind Citizens Australia, *Hello Employer*, Blind Citizens Australia Employment Policy Suite, <http://wordpress.bca.org.au/polocy/>, accessed on 24 November 2015. [↑](#footnote-ref-2)
3. Blind Citizens Australia, *Hello Employers*, Blind Citizens Australia Employment Policy Suite, <http://wordpress.bca.org.au/polocy/>, accessed on 24 November 2015. [↑](#footnote-ref-3)
4. P.Broadhead, Department of Social Services, pers.comm., 13 October 2015. [↑](#footnote-ref-4)
5. P.Broadhead, Department of Social Services, pers.comm., 13 October 2015. [↑](#footnote-ref-5)
6. World Blind Union, Employment Position Statement, <http://www.worldblindunion.org/English/resources/Pages/Policy-Papers.aspx>, accessed on 24 November 2015. [↑](#footnote-ref-6)
7. Disability Discrimination Act 1992 (Cth), section 15; Age Discrimination Act 2004 (Cth), section 18. [↑](#footnote-ref-7)
8. These principles are based on those set out in the National Disability Strategy, Council of Australian Governments, 2010-2020. [↑](#footnote-ref-8)
9. P.Broadhead, Department of Social Services, pers.comm., 13 October 2015. [↑](#footnote-ref-9)
10. Australian Blindness Forum, Employment Information Pack, <http://www.australianblindnessforum.org.au/Committees/Employment/Employers.html>; Blind Citizens Australia, *Hello Employer*, Blind Citizens Australia Employment Policy Suite, <http://wordpress.bca.org.au/polocy/>, accessed on 24 November 2015 [↑](#footnote-ref-10)
11. Access Economics Pty Ltd (with Vision2020), 2010, *Clear Focus: the economic impact of vision loss in Australia in 2009*, Melbourne, p.4. [↑](#footnote-ref-11)
12. Blind Citizens Australia, *Hello Employers*, Blind Citizens Australia Employment Policy Suite, <http://wordpress.bca.org.au/polocy/>, accessed on 24 November 2015 [↑](#footnote-ref-12)
13. P.Broadhead, Department of Social Services, pers.comm., 13 October 2015. [↑](#footnote-ref-13)
14. P.Broadhead, Department of Social Services, pers.comm., 13 October 2015. [↑](#footnote-ref-14)
15. World Blind Union, Employment Position Statement, <http://www.worldblindunion.org/English/resources/Pages/Policy-Papers.aspx>, accessed on 24 November 2015 [↑](#footnote-ref-15)
16. Disability Discrimination Act 1992 (Cth), section 15 [↑](#footnote-ref-16)
17. National Disability Strategy, Council of Australian Governments, 2010-2020. [↑](#footnote-ref-17)
18. P.Broadhead, Department of Social Services, pers.comm., 13 October 2015. [↑](#footnote-ref-18)