Wasted Potential: recommendations to support mature-aged workers

Submission to the Australian Human Rights Commission by Professionals Australia.
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Introduction
On 10 December 2014, the Australian Government provided Australian Human Rights Commission (‘AHRC’) with terms of reference to conduct an inquiry having regard to:

- the obstacles faced by older persons and persons with disabilities in actively participating in the workforce;
- discrimination against older persons and persons with disabilities as a systemic problem and a considerable barrier to their enjoyment of human rights;
- the economic and social costs, and the costs to productivity, that result from discrimination against older persons and persons with disabilities in employment; and
- the Australian Government’s commitment to the promotion and protection of human rights of older Australians and Australians with disability.

The AHRC subsequently launched its inquiry on 15 April 2015. As part of its inquiry, the AHRC has conducted public consultations and has released the following issues papers for comment:

- Issues Paper 1 - which focusses on employment discrimination against older Australians; and
- Issues Paper 2 – which focusses on employment discrimination against Australians with a disability.

Professionals Australia welcomes the opportunity to provide a submission to the inquiry.

Background
Professionals Australia is the trading name of the Association of Professionals Engineers, Scientists and Managers, Australia (APESMA). Professionals Australia is a registered organisation of employees under the Fair Work (Registered Organisations) Act 2009.

Professionals Australia exclusively represents the industrial and professional interests of managerial and professional employees. As the voice of managerial and professional employees in the workplace, Professionals Australia is very conscious of its role in promoting the rights of these employees to be represented and to fully participate in the industrial relations system. In this regard, Professionals Australia’s submission will concentrate on matters which affect mature-aged managerial and professional employees in the workplace.

Professionals Australia’s Workplace Advice and Support Team
As part of the services provided to members, Professionals Australia offers its members access to legal and industrial advice through its Workplace Advice and Support (WAS) Team. This service is nationally coordinated and operates in accordance with a Member Service Charter which sets out members’ rights and obligations.

The WAS Team plays a crucial role in supporting individuals to navigate legal and industrial issues, understand their entitlements and how to enforce such entitlements. On a daily basis Professionals Australia’s lawyers and industrial officers provide advice and dispute resolution services in relation to a diverse range of employment related matters including discrimination at work.
This submission will draw upon the evidence collected by the WAS Team including relevant case studies and the experience of team members.

2015 Professionals Australia Mature-Age Workers Survey Report
In order to understand the issues facing mature-age workers in the workplace, Professionals Australia conducted a survey of members over the age of 45 years old.

The findings of the survey were analysed and produced into a survey report titled “Wasted Potential: the critical role of an experienced professional workforce in facing our key economic challenges” (“Mature-Age Workers Report”) which is appended to this submission. The Mature-Age Workers Report details the lived experience of Professionals Australia members in the workplace with respect to age discrimination and confirms that more needs to be done to promote greater engagement of mature-age professionals.

Supporting Mature-Aged Workers
Professionals Australia contends that Australia’s economic and social prosperity to an extent is dependent on the contribution of mature-aged workers in the workforce. It is Professionals Australia’s experience that whilst many employers have policies which seek to support mature-aged workers within their organisation, unfortunately these policies are not necessarily producing positive outcomes for mature-aged workers. In this regard, Professionals Australia is conscious of the need to bridge the gulf between good employer intentions and actual outcomes. In order to bridge the gulf, Professionals Australia surveyed its members to determine the issues mature-aged workers are facing in the workplace and finally developed recommendations which are aimed at supporting mature-aged workers to remain in the workforce.
Discussion Questions

Professionals Australia has limited its submission to providing comments with respect to select discussion questions raised in Issues Paper 1 and Professionals Australia’s experience with advising and representing members experiencing a disability in the workplace.

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

Disincentives to remaining in the workforce
Professionals Australia’s Mature-Age Workers Survey Report found several disincentives for mature aged workers to remain in the workforce, which included:

- desire for better work life balance;
- stagnant pay and conditions;
- managers and decision-makers not understanding the importance of their skills and professional training;
- lack of challenges and or excitement; and
- lack of professional recognition or status.¹

In order to address the disincentives outlined above, respondents to the Mature-Aged Workers survey nominated the following initiatives which would act as incentives to remain in the workforce:

- transition to retirement arrangements;
- greater understanding amongst managers and decision-makers of the value of the skills of mature age workers; and
- availability of part-time work.²

Professionals Australia considers that addressing these disincentives should be high priority in order to encourage mature workers to remain in the workplace. Based on the initiatives proposed by our members, Professionals Australia has developed a number of recommendations for consideration.

Creation of statutory body to promote mature aged workers
Professionals Australia notes that Australian government promotes diversity in the workplace. For example, the Workplace Gender Equality Agency (‘WGEA’) is an Australian Government statutory agency charged with promoting and improving gender equality in Australian workforces. The objectives of the WGEA are derived from the Workplace Gender Equality Act 2012 (Cth) (‘WGE Act’) which are to:

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• promote and improve gender equality (including equal remuneration between women and men) in employment and in the workplace;
• support employers to remove barriers to the full and equal participation of women in the workforce, in recognition of the disadvantaged position of women in relation to employment matters;
• promote, amongst employers, the elimination of discrimination on the basis of gender in relation to employment matters (including in relation to family and caring responsibilities);
• foster workplace consultation between employers and employees on issues concerning gender equality in employment and in the workplace; and
• improve the productivity and competitiveness of Australian business through the advancement of gender equality in employment and in the workplace.

To meet these objectives the WGEA undertakes functions including but not limited to:

• advising and assisting employers in promoting and improving gender equality in the workplace;
• developing, in consultation with relevant employers and employee organisations, benchmarks in relation to gender equality indicators;
• issue guidelines to assist relevant employers to achieve the purposes of the WGE Act;
• reviewing compliance with the WGE Act by relevant employers, review public reports lodged by relevant employers and deal with those reports in accordance with the Act;
• undertaking research, educational programs and other programs for the purpose of promoting and improving gender equality in the workplace; and
• promoting and contributing to understanding and acceptance, and public discussion, of gender equality in the workplace.

Professionals Australia considers that the functions undertaken by the WGEA are required with respect to mature-aged workers and there would be significant merit in the government considering the establishment of a standalone agency to address the issues faced by older workers.

The WGEA awards employers with an ‘Employer of Choice for Gender Equality’ citation for demonstrating leading practice in gender equality in the workplace. Professionals Australia suggests a similar citation could be adopted for employers who demonstrate leading practice in the recruitment and retention of mature-aged workers.

**Recommendation 1**

Australian Government establishes a statutory agency that:

- improves participation of mature aged workers in the Australian workforce
- supports employers to remove barriers to the full and equal participation of mature aged workers in the workforce;
- promotes, amongst employers, the elimination of discrimination on the basis of age relation to employment matters;
- foster workplace consultation between employers and employees on issues
concerning mature aged workers in employment; and

- improves the productivity and competitiveness of Australian business through the promoting the value that mature aged workers have in the workplace.

**Accountability for workplace policies**

Professionals Australia recognises that many employers implement policies that seek to increase the participation of older employees in the workforce. Despite this, as detailed in the Mature-Age Workers Survey Report, 20 per cent of respondents considered that whilst their workplace had policies that supported diversity, their employer’s organisational culture did not support the policies.³

The following comments were made by survey respondents with respect to workplace policies.

**Comments made with respect to workplace policies**

“The problem is not with the policies themselves so much as the way in which the policies are implemented by managers.”

“Saying one thing and having written policies is different from actually encouraging mature-age workers.”

“The workplace has policies to work to but it is the individuals responsible for carrying out the policies that are at fault. These people need educating to ensure policies are upheld at all levels from executive down to the lower levels of responsibility to ensure policies are upheld.”

“In our enterprise agreement, we have entitlements such as working from home, development/training, flexible working hours, part-time work, unpaid annual leave and study leave. However my manager and their manager will not let me access these entitlements.”

“Diversity policies exist, but appear to be largely spin.”

“Good policies are in place but not followed.”

Having regard to the survey results and feedback received, Professionals Australia considers that the effectiveness of workplace policies aimed at increasing the participation of mature-aged workers in the workplace requires that individuals are held accountable for the policies. Professionals Australia suggests that government, peak business and employer groups and employee organisations have an important educative role to play in ensuring that employer policies are not merely lip service.

**Recommendation 2**

Following on from the recommendation of the creation of a statutory body that promotes mature aged workers the workforce, it would be envisaged that the statutory body would provide an educative function to employers with the support of peak business and employer groups and employee organisations to ensure that employers understand their anti-discrimination obligations. It is further envisaged that the body would encourage employers to develop policies that suit their business needs and builds trust and confidence with employees that the employer understands the issues they are facing in the workplace.

**Encouraging flexible work arrangements**

The lack of flexible working arrangements available to mature-aged workers was a key issue that emerged from the Mature-Age Workers Survey Report. Respondents reported that there appeared to be employer reluctance to provide flexible working hours to more mature workers which would assist in the transition to retirement as compared to younger more junior employees.\(^4\) In addition, the Mature-Aged Workers Survey Report demonstrated that, 52.6 per cent of respondents indicated a desire to obtain flexible working arrangements to manager carer responsibilities.\(^5\) However, employers did not necessarily recognise this with 20.1 per cent of respondents specifying that that they had considered leaving the workforce in order to cater for their carer responsibilities.\(^6\)

The right to request flexible work arrangements contained in section 65 of the *Fair Work Act 2009* (Cth) enables employees to make a formal written request\(^7\) to change their working arrangements due to certain circumstances which include:

\[
\begin{align*}
\text{a)} & \quad \text{the employee being parent, or has responsibility for the care, of a child who is of school age or younger;} \\
\text{b)} & \quad \text{the employee being a carer (within the meaning of the *Carer Recognition Act 2010* );} \\
\text{c)} & \quad \text{the employee having a disability;} \\
\text{d)} & \quad \text{the employee being 55 or older;} \\
\text{e)} & \quad \text{the employee experiencing violence from a member of the employee's family; and} \\
\text{f)} & \quad \text{the employee providing care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because the member is experiencing violence from the member's family.}\(^8\)
\end{align*}
\]

Upon receipt of a written request, an employer is required to respond in writing within 21 days notifying whether the request is granted or refused.\(^9\) An employer is only able to refuse a request on reasonable business grounds, which include:

\[
\begin{align*}
\text{(a)} & \quad \text{that the new working arrangements requested by the employee would be too costly for the employer;}
\end{align*}
\]

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\(^4\) Ibid, page 16.
\(^6\) Ibid.
\(^7\) *Fair Work Act 2009* (Cth), s 65(3).
\(^8\) Ibid, s 65(1A).
\(^9\) Ibid, s 65(4).
(b) that there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;

(c) that it would be impractical to change the working arrangements of other employees, or recruit new employees, to accommodate the new working arrangements requested by the employee;

(d) that the new working arrangements requested by the employee would be likely to result in a significant loss in efficiency or productivity;

(e) that the new working arrangements requested by the employee would be likely to have a significant negative impact on customer service.\(^{10}\)

Professionals Australia acknowledges that employees have no avenue to dispute an employer’s decision not to grant a request for flexible working arrangements on the basis of “reasonable business grounds”. Given that employers can simply reject a claim without being held accountable for this decision, it is uncertain as to whether all employers are genuinely considering requests for flexible work arrangements. Professionals Australia submits that there needs to be a viable mechanism that enables employees to challenge an employer’s refusal of a request on alleged “reasonable business grounds”. Preferably this should be through the Fair Work Commission as the means through which disputes may be resolved expeditiously and cost effectively. Further, Professionals Australia proposes that breaches of section 65 should attract civil remedies. The prospect of being subject to a civil penalty could be a necessary impetus for employers to adopt flexible workplace arrangements in their workplace through proper and thorough consultation with an employee.

**Recommendation 3**

Section 65 of the *Fair Work Act 2009* (Cth) should be amended to provide a mechanism that enables employees to challenge an employer’s refusal of a request on alleged “reasonable business grounds”. Further, employer breaches of section 65 should attract civil remedies.

**Encouraging employer led transition to retirement**

Professionals Australia considers that employers should have an obligation to assist their employees to transition to retirement. Whilst a growing number of enterprise agreement contain provisions that facilitate transition to retirement, Professionals Australia considers that having regard to the magnitude to the decision to retire, that all employees should be supported in the process so far as reasonable practicable for an employer to do so. Professionals Australia suggests that the obligation to assist with transition to retirement could be based on the same obligation principles required under the *Fair Work Act 2009* (Cth) for flexible work arrangements (outlined above).

Professionals Australia envisages that employer led transition to retirement would involve:

\(^{10}\) Ibid, s 65(5A).
1. Notification of impending retirement - an employee informing their employer that they wish to transition to retirement;
2. Consultation - employer and employee having meaningful consultation regarding how the transition would occur in order to be mutually beneficial; and
3. Documentation and Implementation – documenting transition to retirement plan and implementing it.

Professionals Australia considers that transition to retirement obligations are beneficial to employers in the sense that it requires a business engage in a process of succession planning to identify and develop employees to fill positions which are to be made vacant by an retiring employee.

Professionals Australia suggests that a transition to retirement plan may include the following:
- Flexible work arrangements, job sharing and/or gradual reduction in hours of work;
- Whether accrued leave will be used during the transition period to supplement income lost by undertaking flexible work arrangements, job sharing or reduction in work hours;
- Employer financial support for retirement planning;\(^{11}\)
- Structured handover period;
- Appointment to a role focussed on training and mentoring other employees;\(^ {12}\) and
- Confirmed date of termination of employment.

**Recommendation 4**

Introduction of a legislative requirement for employers to consult and develop a transition to retirement plan with employees seeking to transition to retirement. Further, the supplementing of the proposed legislative requirement with provisions in Modern Awards which have regard to any industry or occupation specific requirements.

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?

Professionals Australia recognises that the objectives of the *Age Discrimination* Act 2004 (Cth) are to:
- a) eliminate, as far as possible, discrimination against persons on the ground of age in the areas of work, education, access to premises, the provision of goods, services

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\(^{11}\) Clause 37 of the Fair Work Ombudsman Enterprise Agreement 2011-2014, provides one-off reimbursement payment up to a total of $500 (inclusive of GST) for employees aged 54 years and over who are approaching or genuinely considering retirement to obtain financial advice from a registered financial advisor.

\(^{12}\) As per Clause 65 of the VicRoads Enterprise Agreement 7.
and facilities, accommodation, the disposal of land, the administration of Commonwealth laws and programs and requests for information;
b) ensure, as far as practicable, that everyone has the same rights to equality before the law, regardless of age, as the rest of the community;
c) allow appropriate benefits and other assistance to be given to people of a certain age, particularly younger and older persons, in recognition of their particular circumstances;
d) promote recognition and acceptance within the community of the principle that people of all ages have the same fundamental rights; and
e) respond to demographic change by:
   a. removing barriers to older people participating in society, particularly in the workforce; and
   b. changing negative stereotypes about older people.

Whilst the objectives are certainly desirable, they are purely aspirational and need to be examined in the greater context of the Australian workplace relations legal framework.

Managerial employees
Professionals Australia notes that for most employees, their most basic employment terms and conditions are provided by the National Employment Standards (NES) contained in the Fair Work Act 2009 (Cth). Pending coverage, Modern Awards provide an additional layer of protection for employees. In addition, an employer may choose to bargain with its employees to create an enterprise agreement which provides protections, terms and conditions that would leave an employee no better off than if they were simply Award covered.

Whilst many professional and some managerial employees have coverage under a relevant Modern Award, some more senior and mature-aged managerial and professional workers can sometimes find it difficult to participate effectively in the workplace relations system. Professionals Australia considers that this can be attributed to a lack of basic rights and protections that are afforded to such employees. In addition, this is often exacerbated by what is often a significant power imbalance in favour of the employer.

A major drawback for senior managerial employees is that most will not be award covered, which can result in managerial employees being more vulnerable to being dismissed without recourse. This is because they are unable to pursue a claim for unfair dismissal in instances where the manager earns in excess of the high income threshold. The majority of professional employees including those who earn in excess of the high income threshold have always enjoyed the right to seek relief when they feel that they have been unfairly dismissed by virtue of being classified in accordance with an Modern Award. However, the situation for managerial employees who are above the high income threshold and not covered by an award is very different with no unfair dismissal rights. The only option which is available for this group is to make an adverse action claim in accordance with section 340 of the Fair Work Act 2009 (Cth).

Case Study
A member contacted Professionals Australia’s WAS Team to seek assistance to respond to a ‘show cause letter’. The letter detailed a number of allegations against the member.
Professionals Australia assisted the member to draft responses to the allegations and produce evidence that demonstrated that the allegations were unfounded. The member felt that her employer was trying to terminate her employment due to her age.

After submitting the response to the allegations, the member was asked to attend a meeting to discuss her ongoing employment. The member was terminated at the meeting. Due to her age, the member felt she would struggle to obtain any future employment and was understandably disappointed that because she earned in excess of the high income threshold and did not have award coverage. As a result, the member was prohibited from making a claim of unfair dismissal.

Professionals Australia is concerned that some employers are taking advantage of the fact that many mature aged managerial employees do not often have the legal right to make an unfair dismissal claim and as such, they can often targeted to be targeted for redundancy.

Redundancy
Professionals Australia’s Mature-Age Workers Survey Report found that 20.6 per cent of respondents believed that professionals had been targeted for redundancy in their workplace due to their age.13 This statistic queries whether anti-discrimination is protecting these individuals in the workplace.

Commentary from survey respondents below suggests that employers consider mature aged workers to be an ‘expense’.

Comments made regarding mature aged workers and redundancy

“Older professionals can be targeted for redundancy because they are paid more after years of experience and pay rises. Younger replacements are cheaper because they just have not been around as long. This is purely a finance decision because experience doesn’t have a line in the spreadsheet.”

“Older age professionals tend to claim a larger salary than younger staff – understandably based on knowledge and expertise – so they can be targeted in redundancy situations.”

Taxation of Eligible Termination Payments
An issue that has been raised with Professionals Australia’s WAS Team is the taxation of eligible termination payments (ETP) due to genuine redundancy for employees over the age of 65. Currently, Section 83-175 of the Income Tax Assessment Act 1997 (Cth) and Tax Ruling (TR) 2009/2 provides that an employee that receives payments that meet conditions of a ‘genuine redundancy’ then the payment is tax free up to a limit based on the employee’s years of service with their employer. Despite this, age based limits apply which require that an employee be less than 65 years old at the time of dismissal for a redundancy payment to qualify as a genuine redundancy payment in order to receive favourable tax treatment.

Professionals Australia considers this to be a substantial financial disincentive for employees to continue to work past the age of 65. Further, it is considered that employees who are aware of the different tax treatment depending on age may accept a voluntary redundancy if they are close to age 65 and as a result may be forced into retirement if they are unable to secure future employment.

A recent case study outlined below.

Case Study

A Professionals Australia member contacted the WAS Team and indicated that he was being made redundant.

The member had 35 years of continuous service with his employer and was aged 66 years old at the time redundancy. Despite the fact that the redundancy was genuine, TR 2009/2 meant that the member was heavily taxed on his redundancy payment due to his age. The member considered that the taxation treatment was discrimination based on age.

Professionals Australia notes the case of Harste and Commissioner of Taxation [2013] AATA 544. Harste brought a claim to the Administrative Appeals Tribunal (AAT) to determine whether the Employment Termination Payment (ETP) he received was capable of being classified as a genuine redundancy and whether the initial assessment of his ETP unlawfully discriminated against him on the basis of his age. As Harste was 67 years old when he received his ETP, the AAT determined that the ETP was not capable of being classified as a genuine redundancy. With respect to Harste’s claim of discrimination, the AAT noted that the Age Discrimination Act 2004 (Cth) provides a number of exemptions including for taxation laws. Notwithstanding this, Harste questioned why parliament would pass legislation that enabled discrimination. The AAT informed Harste that if he wished to pursue the matter further, he could lobby for legislative change.

Professionals Australia does not consider that the age of an employee should be considered as part of determining whether a redundancy is genuine. Professionals Australia asserts that all employees should be subjected to the same favourable tax treatment in the event that their job is no longer required to be performed. Professionals Australia notes that a severance payment is supposed to compensate an employee for the fact that their employment is being terminated through no fault of their own. In this regard, employees should be able to retain their full entitlement on the basis that they may be unable to secure future employment.

Recommendation 5

Amendment to the Income Tax Assessment Act 1997 (Cth) to enable employees over the age of 65 years old to qualify for the tax free limit based on years of service due to genuine redundancy.
**Forms of action taken against discrimination**

Professionals Australia’s Mature-Age Workers Survey Report uncovered that when faced with age discrimination in the workplace, 54% of respondents did not take any action and 15.1% decided to leave the workplace altogether. Professionals Australia considers these statistics alarming as employers are not necessarily being held accountable to their anti-discrimination obligations and further, an employer may not even be aware that they have acted in a discriminatory way.

The experience of Professionals Australia’s WAS Team is consistent with the findings of the survey in the sense that mature workers are often reluctant to act any action on behaviour they consider to be discriminatory on the basis that no benefit would come from it. An example of this is illustrated in the case studies below.

**Case Study**

A member contacted Professionals Australia’s WAS Team to raise concerns about an email sent by the CEO of his employer. The email stated that the organisation would be moving to transition older staff members to retirement, whilst newer and younger staff members were to be retained. The member expressed concern that imposing a transition to retirement for older workers was a way to avoid having make older staff with several years of service redundant.

The member felt that as a mature worker that he could be targeted to transition to retirement, however was extremely hesitant to make a complaint about the contents of the email as he felt that it would negatively impact on his career.

**Case Study**

A member contacted Professionals Australia’s WAS Team to raise concerns that he was being discriminated by his employer on the basis of age. The member reported that he had applied several times for higher positions within his employer over a period of several years. When the member queried the reasons why he was not selected, he was not provided with cogent reasons. The member advised that all the positions were given to younger employees who he was required to mentor when they joined the employer.

The member decided that his only option was to leave his employment as the employer’s actions damaged the members trust and confidence in the employer.

Professionals Australia notes that there is protection provided against adverse action for exercising a workplace right through the general protection provisions of the *Fair Work Act 2009* (Cth). However, it is readily apparent that individuals perceive that by speaking out against discriminatory behaviour that they will somehow be targeted and understandably are not willing to take the risk of exercising their right in the first place.

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

Employers need to play a proactive role in preventing discrimination against older workers, but this role is predicated on employers understanding and complying with their legal obligations. In Victoria, this positive obligation is codified in the *Equal Opportunity Act 2010 (Vic)* which employers to take reasonable and proportionate measures to eliminate discrimination. ¹⁵ Whilst Professionals Australia acknowledges that many employers acknowledge and understand their obligations to the extent that they implement policies and procedures to assist the retention and recruitment of older workers, there is an underlying concern that employers, particularly small businesses owners, do not understand their obligation to prevent discrimination from occurring.

The overall finding of Professionals Australia’s Mature-Age Workers Survey Report was that age discrimination was widespread in the professional workforce. To some extent, Professionals Australia considers that is confirmation that some employers may not necessarily understand their obligations.

- 16.6% of respondents reported that they had received less favourable treatment on the basis of their age and 13.7% of respondents said they had experienced other age-related bias. ¹⁶
- 5.7% of respondents said they had experienced indirect discrimination on the basis of their age due to a workplace policy or rule. ¹⁷
- 20.6% of respondents agreed or strongly agreed with the statement that professionals had been targeted for redundancy in their workplace due solely or primarily to their age. ¹⁸

Employer obligations against age discrimination are found under both federal and state legislation and include the:

- *Age Discrimination Act 2004 (Cth)*;
- *Fair Work Act 2009 (Cth)*;
- *Discrimination Act 1991 (ACT)*;
- *Anti-Discrimination Act 1977 (NSW)*;
- *Anti-Discrimination Act 1996 (NT)*;
- *Anti-Discrimination Act 1991 (QLD)*;
- *Equal Opportunity Act 1984 (SA)*;
- *Anti-Discrimination Act 1998 (TAS)*;
- *Equal Opportunity Act 2010 (VIC)*; and
- *Equal Opportunity Act 1984 (WA)*.

As each of the acts referenced above operate in different ways and contain various exemptions, it is understandable that employers, particularly those without dedicated human resource practitioners may not fully appreciate what their obligations are. It is accepted in

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¹⁵ *Equal Opportunity Act 2010 (Vic)*, s 15.
¹⁷ Ibid.
¹⁸ Ibid.
law that employers come in various shapes and sizes and have different levels of resourcing available. In Victoria, determining whether an employer has discharged their duty to take ‘reasonable and proportionate measures’ to eliminate discrimination in Victoria is assessed based on the following factors:

(a) the size of the person's business or operations;
(b) the nature and circumstances of the person's business or operations;
(c) the person's resources;
(d) the person's business and operational priorities;
(e) the practicability and the cost of the measures.

Professionals Australia considers that there needs to be a strong focus on educating employers to ensure that they understand obligations and reiterates the need to have a statutory body responsible for promoting mature-aged workers in the workforce.

**Disability in the workplace**

When seeking assistance with an issues they are experiencing at work, Professionals Australia members often disclose to a member of the WAS team that they are experiencing a disability that their employer is not aware of and that may be impacting their ability to perform their duties.

Professionals Australia is concerned that many employers do not facilitate a work environment where employees are confident with disclosing a disability. Professionals Australia suggests that employers need to educate themselves to understand how to support employees who experience disabilities (with reasonable adjustments or otherwise) as failure to do so results in employees being unable to fully participate in the workplace and stigmatises disability.

**Conclusion**

By making this submission, Professionals Australia aims to contribute to the national discussion around improving the participation rates of mature-age workers in the professional workforce. The findings of Professionals Australia Mature-Aged Workers Survey provides evidence that mature-aged workers continue to experience discrimination on the basis of age in the workforce and that employers need to do more to combat discrimination.

Professionals Australia has provided a number of practical recommendations in this submission which have the potential to ensure Australia’s economic and social prosperity with mature aged-workers being empowered to actively participate in the workforce.

There is a clear need encourage policy-makers and employers to look at ways to tackle entrenched bias in work practices, provide flexible work arrangements, address cultural impediments to mature-age workers’ retention in the professional workforce and bring about the changes needed to become contemporary flexible and equitable workplaces that maximise the diversity advantage. Professionals Australia is hopeful that it’s Mature-Aged Workers Survey Report and the recommendations made in this submission will act as a catalyst for positive change.
Professionals Australia welcomes the opportunity to participate in any public hearings being held and to provide any further comments.

This submission was drafted by National Industrial Officer/Lawyer, Janet Tan.

Signed

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Director Industrial Relations
WASTED POTENTIAL

THE CRITICAL ROLE OF AN EXPERIENCED PROFESSIONAL WORKFORCE IN FACING OUR KEY ECONOMIC CHALLENGES

2015 PROFESSIONALS AUSTRALIA
MATURE-AGE WORKERS
SURVEY REPORT
ABOUT PROFESSIONALS AUSTRALIA

Professionals Australia (formerly the Association of Professional Engineers, Scientists and Managers, Australia) represents over 23,000 professional engineers, scientists, managers, veterinarians, surveyors, architects, pharmacists, information technology professionals, interpreters and translators and transport professionals throughout Australia.

Professionals Australia members are employed across all sectors of the Australian economy. This includes all tiers of government and in a diverse range of industries throughout the private sector including Roads, Rail, Water, Electricity, Information Technology, Telecommunications, Consulting Services, Laboratories, Research, Surveying, Architecture, Retail Pharmacy, Mining, Oil, Collieries, and Manufacturing.

We have three main objectives:

• to provide a strong voice for professionals. This includes considering the kind of support, policies and practices at the enterprise and structural levels that will be necessary to create a sustainable professional workforce capable of realising optimal levels of innovation, productivity and competitiveness;

• to play a leading role in encouraging dialogue between industry, government and the full range of sectors employing or engaging professionals. This means advocating for investment and structural reforms, building the platforms for cooperation and change and initiating and leading projects to foster collaboration; and

• to promote public understanding of the key role professionals play in ensuring Australia’s future. This involves influencing public policy and resource allocation decisions and promoting the value of the professional workforce to decision-makers and the wider community. We seek to highlight the critical role professionals play in enabling productivity and innovation, promoting economic prosperity, protecting the environment, improving human welfare and quality of life and protecting national security. In doing so, we raise the status of the professions and the professionals who work in them.

ABOUT THE SURVEY

In September 2015 Professionals Australia conducted a survey of members over the age of 45 years asking questions about their experiences in the workforce. The 78-question survey was sent out electronically to around 9,000 members. The survey remained open until the end of September 2015, during which time 1,671 members responded, for a total response rate of just over 18 per cent. For the majority of questions participants could choose whether or not to provide answers so all subsequent analyses are conducted only for those who provided a response to the item of interest. The survey utilised qualitative as well as quantitative methods to draw out detail and variation as well as patterns and convergences in responses.
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FOREWORD

This research confirms that there is an opportunity to promote greater engagement of mature-age professionals and that, if this opportunity is utilised, the impact will be not only a productivity dividend at the enterprise level but a significantly improved national bottom line.

Chris Walton
A sustainable, agile, highly-skilled and experienced professional workforce will be fundamental to addressing Australia’s infrastructure development and maintenance needs, to driving the improvement of our national innovative capability, supporting emerging industries as we transition to a knowledge-based economy, and ultimately increasing our productivity levels and international competitiveness. A professional workforce lacking long-term depth, experience and expert capability would act as a fundamental barrier to addressing these key economic challenges into the future and represent serious wasted potential.

So are there any serious obstacles to developing and maintaining a highly-skilled and experienced professional workforce to support these objectives, and if there are, what are they?

In their 2012 Grey Army report, Deloitte Access Economics suggests that increasing workforce engagement among older Australians is “likely to be among the most cost effective tools available to lift national incomes and living standards in coming decades.”

Research confirms that:

- while those over 55 make up around 25 per cent of the total population, they constitute only 16 per cent of the labour force;
- an increase of 3 per cent in the participation rate of workers aged over 55 would mean a $33 billion boost to GDP – around 1.6 per cent of national income;
- diverse teams consistently outperform on innovation, problem-solving, flexibility, and decision-making; and
- around 60 per cent of the complaints received by the Australian Human Rights Commission in relation to age discrimination are about treatment in the workplace or while trying to get work.

These figures confirm that there is an opportunity to promote greater engagement of mature-age professionals and that, if this opportunity is utilised, the impact will be not only a productivity dividend at the enterprise level but a significantly improved national bottom line.

Professionals Australia members are a critical part of the professional workforce. In their day-to-day activities, they develop and deliver solutions to economic and other problems the local community faces as they work across the transport, water, power, telecommunications, mining, manufacturing and coal-mining industries.

We asked our members to tell us about their experiences as mature-age workers and to detail any barriers they faced in the course of their employment – this report outlines their views.

CHRIS WALTON

CEO,
Professionals
Australia
Wasted potential
• 83.2% agreed or strongly agreed that their skills, experience and professional judgement were being wasted as long as they remained out of the workforce.
• 74.1% said they were willing to work and had a contribution to make in their specialist area.
• Of those that were currently out of the workforce, 60.6% of respondents reported that where appropriate work arrangements were available, they were keen to return to the workforce as soon as possible.

Benefits of a diverse workforce
• 98.3% said they agreed or strongly agreed that access to a broad range of experiences and perspectives was a significant benefit of a diverse workforce.
• 79.7% of respondents agreed that increased productivity was a benefit of a diverse and inclusive workforce.
• 69.9% of respondents agreed that greater innovation was a benefit of a diverse and inclusive workforce.

Recognition and reward
• 33.6% of respondents agreed or strongly agreed that in their occupation or industry, the capabilities of mature-age workers were poorly recognised.
• 37.8% agreed or strongly agreed that in their occupation or industry, the capabilities of mature-age workers were poorly rewarded.

Discrimination and bias at work
• 16.6% reported that they had received less favourable treatment on the basis of their age and 13.7% said they had experienced other age-related bias.
• 5.7% said they had experienced indirect discrimination on the basis of their age due to a workplace policy or rule.
• 20.6% agreed or strongly agreed with the statement that professionals had been targeted for redundancy in their workplace due solely or primarily to their age.

Discrimination and bias re-entering the workforce
• When asked to prioritise issues to be addressed by governments and industry, 60.3% of respondents said re-educating employers and recruitment personnel about the value of the skills, experience and professional judgement of mature-age professionals should be the first priority.
• 57.1% said re-educating recruitment agency personnel that stereotypes about older workers that are often inaccurate would be useful.
Stereotyping of mature-age professionals

- 52.1% agreed that in their workplace, there is an assumption that older workers are resistant to change.
- 40.8% said they agreed that in their workplace, there is an assumption that older workers do not have up-to-date IT skills.
- 8.5% of respondents had had the experience of being told they were too old in their workplace.

Carer responsibilities

- 52.6% of respondents said flexible work arrangements would help them better manage their carer responsibilities.
- 20.1% said they had considered leaving the workforce to allow them to better meet their carer responsibilities.

Workplace culture

- 17.8% of respondents disagreed or strongly disagreed that workplace policies encouraged diversity in the workforce including mature-age workers; 53.2% agreed or strongly agreed.
- 22.1% of respondents disagreed or strongly disagreed that the workplace culture at their workplace supported diversity policies that encouraged mature-age workers; 44.8% agreed or strongly agreed.
- Of those expecting to leave their employer, 4.4% said that workplace culture that does not value mature-age workers was a factor.

Succession planning, mentoring and skills transfer

- 79.5% of respondents said their organisation did not have succession planning arrangements in place.
- 47.6% of respondents said that in their occupation or industry, the value of mentoring younger staff to the organisation was poorly recognised.
- 67.7% of respondents said their employer did not provide any opportunity to transfer skills to younger employees.
- 72.7% of respondents reported that there was no opportunity to mentor younger employees in their organisation.

Professional development

- 24.2% said their employer was less prepared to invest in development for older staff than younger staff.
- Of those expecting to leave their employer, 5.6% of respondents said that lack of professional development opportunities was a factor.
- 41.0% of respondents reported that their employer did not currently offer development or training for mature-age professionals.

Opportunities for advancement and challenging work opportunities

- 19.8% agreed or strongly agreed that they had been sidelined in their workplace from promotion due in part or in full to their age.
- Lack of challenges or excitement was a factor for 16.2% of respondents who were expecting to leave their employer.
- 13.2% agreed or strongly agreed with the statement ‘I have been sidelined in my workplace from challenging project work due in part or in full to my age’.

Work/life balance

- 25.6% of respondents agreed or strongly agreed with the statement ‘Those who want work/life balance are not well regarded in my workplace’.
- Of those who were expecting to leave their employer, a desire for better work/life balance was a factor for 29.7%.

Flexible work arrangements

- 19.2% of respondents agreed or strongly agreed with the statement ‘Lack of access to flexible work arrangements at my work limits my capacity to balance work with my other responsibilities’.
- 31.7% said flexible working hours were not currently provided by their employer.
- Where respondents opted for a reduction in their working hours, 4.6% said it had resulted in a loss of seniority or demotion.
I have knowledge and wide experience and I’m willing to work anywhere in the country, but there’s no opportunity. It is painful to see our experience being wasted while the country needs professional expertise to update infrastructure such as roads, dams, rail, airports, mines, manufacturing plants, environment, etc.

Survey respondent

79.7 and 69.9 per cent of respondents respectively agreed that increased productivity and greater innovation were benefits of a diverse workforce.

The professional workforce is fundamental to Australia’s future beyond the mining boom and as we transition to a knowledge-based economy. The professional workforce enables productivity growth, a diverse economy and the maintenance of high-wage, high-skill industry. They are critical to the key areas of science and R&D-driven innovation and to infrastructure delivery.

Experienced professionals represent a vital and undervalued lever for strengthening Australia’s economic potential — the loss of skills and experience from the professional workforce would represent a significant failure to leverage this potential.

So what’s at stake then?
WASTED POTENTIAL

Respondents widely reported being concerned about the waste of their skills and experience and their readiness to make a contribution.

• 83.2 per cent agreed or strongly agreed that their skills, experience and professional judgement were being wasted as long as they remained out of the workforce.
• 74.1 per cent said they were willing to work and had a contribution to make in their specialist area.
• Of those that were currently out of the workforce, 60.6 per cent of respondents reported that where appropriate work arrangements were available, they were keen to return to the workforce as soon as possible.

There is such a wealth of talent in so many people that is wasted. Passing on our skills and tricks of the trade is essential.

It seems a waste to let experienced people go, while they still have years of service left.

Our society wasted 30 years of professional education and experience obtained both in Australia and internationally as I was declared redundant at age 47. I then found another non-professional position and was again declared redundant at age 55. I was at that stage the oldest worker in an office of about 25 persons.

Government policy suggests the workforce needs to work until 65+ and yet is doing little to bridge the gap in opportunities for those seriously wanting to work and being left out or discriminated against. It’s a waste of resources and very frustrating for those who want to work.

THE SKILLS AND EXPERIENCE TO ADDRESS KEY ECONOMIC CHALLENGES

Infrastructure development and maintenance

I have knowledge and wide experience and I’m willing to work anywhere in the country, but there’s no opportunity. It is painful to see our experience being wasted while the country needs professional expertise to update infrastructure such as roads, dams, rail, airports, mines, manufacturing plants, environment, etc.

Historic information is very relevant in infrastructure management and it is the older people who have this knowledge.

Driving innovation

Without good direction, confidence and support from experienced senior managers, middle management is basically unwilling to push boundaries and accept new and innovative approaches. The proper evaluation of innovative approaches is critical as this is likely where current and future benefits, efficiencies and cost reductions will lie. A collegiate approach involving a cross section of experience and age groups would be highly beneficial.

Generally, a combination of mature and newer workers will give you a team with experience and a drive for innovation.

Differing points of view give rise to innovation.

Breadth of experience is needed to ensure that innovation efforts have more chances of success.
There is a perception by some that older workers despite their experience are yesterday’s men and women – they don’t understand the need for learning via experience.

Survey respondent

LOSS OF THE BENEFITS OF A DIVERSE PROFESSIONAL WORKFORCE

Respondents reported that they saw the greatest benefit of a diverse and inclusive workforce as access to a larger talent pool and the opportunity to access a broad range of experience and perspectives.

- 98.3 per cent said they agreed or strongly agreed that access to a broad range of experience and perspectives was a significant benefit of a diverse workforce.
- 96.6 per cent agreed or strongly agreed that access to a larger talent pool was a benefit.
- 96 per cent agreed or strongly agreed that retention of experienced talented employees was a significant benefit.
- 79.7 per cent of respondents agreed that increased productivity was a benefit of a diverse and inclusive workforce.
- 69.9 per cent of respondents agreed that greater innovation was a benefit of a diverse and inclusive workforce.

Respondents nominated the following as the major benefits of a diverse and inclusive workforce:

Note: Respondents could select multiple responses.
COSTS ARISING FROM THE FALSE ECONOMY OF DEPROFESSIONALISATION

Deprofessionalisation can be defined as the diminution of professional capability in the workforce, particularly in decision-maker and management roles. It was raised as a key issue by many of the experienced professionals surveyed. Survey respondents saw the removal of experienced professionals from these roles as representing a false economy that would seriously impact the bottom line over the longer-term.

Deprofessionalisation is working to the long-term detriment of the network all so we can save money in the short-term. The long-term costs will blow out and you can expect more failures in the future which will increase costs.

Mature-age professionals bring established skills and experience to the workforce. These same factors are linked to higher pay. Management’s short-term focus of cutting costs by getting rid of these people will cost them more in the long run – they think it’s cheaper to get a graduate and skill them up.

There is a bias towards mature-age employees in general when cuts are being made to the workforce. This does not make sense from an ongoing business viability perspective as this is often when you need your most experienced team members to make a sizeable contribution.

My workplace is shedding jobs at the executive level which is tending to target mature workers and will have the effect of a brain drain.

Management due to their own lack of technical experience, do not know what they don’t know. Hence they do not appreciate the value of experience.

My workplace avoids employing skills to match the technical requirement of management positions. This results in a need to engage more with the private sector to seek advice on technical issues. The organisation is losing the benefit of professionals in management positions being able to make sound judgements involving technical and financial outcomes.

Government departments have eliminated their technical skills base, and now cannot manage complex projects. They need to employ mature-age workers with the experience to be able to control costs, timing and technical aspects of projects.

Continued de-engineering of the organisation and loss of professional status is an on-going concern. Recently at my workplace a non-engineer General Manager was installed to head up the infrastructure area, a position previously held by a qualified engineer. The concept of this person signing, and thereby authorising, documents of a technical nature, to me seems untenable, but what do I know?

DISAFFECTION AND ATTRITION DUE TO LACK OF RECOGNITION AND REWARD

- 33.6% of respondents agreed or strongly agreed that in their occupation or industry, the capabilities of mature-age workers were poorly recognised.
- 37.8% agreed or strongly agreed that in their occupation or industry, the capabilities of mature-age workers were poorly rewarded.
Experience doesn’t have a line in the spreadsheet...

Survey respondent

EMPLOYER PERCEPTIONS OF COST OVER VALUE

Respondents highlighted the widespread lack of recognition of the skills and experience of mature-age professionals, and that experience was often regarded by employers as a cost rather than acknowledged for its capacity to add value and provide savings.

Regarded as a cost and targeted for redundancy

- 20.6 per cent agreed or strongly agreed with the statement that professionals had been targeted for redundancy in their workplace due solely or primarily to their age.
- At the same time, 47.7 per cent disagreed or strongly disagreed with the statement suggesting that while targeting older professionals is occurring in some workplaces, it is by no means occurring consistently across the workforce or in the majority of workplaces.

Older professionals can be targeted for redundancy because they are paid more after years of experience and pay rises. Younger replacements are cheaper because they just have not been around as long. This is purely a finance decision because experience doesn’t have a line in the spreadsheet.

Older age professionals tend to claim a larger salary than younger staff – understandably based on knowledge and expertise – so they can be targeted in redundancy situations.

Redundancies mainly target the most expensive to retain.

Too many accountants undertake restructuring by cost reduction and then the more expensive are the first to go.

Senior professionals on employment contracts rather than part of collective agreements

With some professionals on employment contracts rather than part of collective agreements which include ‘no forced redundancy’ provisions, senior professionals on employment contract arrangements can be more vulnerable to being made redundant.

Because my employment contract doesn’t have a ‘no forced redundancy’ provision – whereas all my staff are employed via a union collective agreement which has a ‘no forced redundancy’ provision – it is easier to make my position redundant than lower level positions.
Defining the value of experience

So what is the value of experience to an employer? The survey provided an opportunity to establish how professionals themselves define the value of professional experience to their employing organisation. In response to being asked what value they add or the kind of qualities experience bring to their workplace, respondents defined the value of experience as follows:

**Historical knowledge**
- corporate memory
- learning from earlier mistakes
- good understanding and knowledge of longer-term trends, strategies, rhythms and other cycles
- knowledge of the history of particular problems, what leads to the problems, what mistakes have been made before, knowledge of incident history which includes why a process is done a particular way
- the ability to advise on where a particular approach went wrong in the past and make recommendations as to how to avoid those pitfalls when a similar approach is tried
- knowledge of previous trials and initiatives which tend to get lost through IT and filing systems changes

**Networks**
- broad and deep networks
- more extensive networks
- improved levels of networking

**Risk**
- able to be less risk averse
- good understanding of risks and reasonable decisions
- understanding of long-term risks

**Judgement**
- well-developed professional judgement
- perspective
- balanced views

**Customers**
- customer connections
- can relate to customers of similar age

**Skills and knowledge transfer**
- transfer of ‘tacit’ knowledge
- sharing of collective wisdom which is experiential and often not committed in writing

**Other**
- able to recognise unmet needs
- resiliency
- understand how to harness economic potential
- able to challenge the status quo because they are not vulnerable in terms of career progression
- ingenuity - used to undertaking creative endeavours

Often employers only consider the salary cost to them and not the additional value that experience brings.

Survey respondent
The most productive work I have seen is the pairing up of mature-age employees with younger employees where both can learn from current modern practices tempered with experience.

Survey respondent

Value of diverse teams

A number of respondents highlighted the value of working in teams characterised by diverse skills and experience:

The most productive work I have seen is the pairing up of mature-age employees with younger employees where both can learn from current modern practices tempered with experience. I have seen many projects fail due to a lack of experience and knowledge with mistakes occurring that could have been prevented if an experienced person had been involved as a mentor or member of the team. Learning from mistakes is an expensive option particularly if you have persons within the company that identify and suggest corrections before it becomes a ‘doomed to failure’ project.

A broad range of intellectual input helps solve complex socio-technological problems.

Capitalising on a broad experience base improves the business bottom line.

Variety of thought always improves outcomes.

Mixed teams that include mature-age professionals create a good environment for informed decision-making, health and safety, commercial and project risk management and generational transfer but more importantly enables international and national market development and translates into higher corporate profits and shareholder value.

Challenges managing diverse teams

While research has shown that diverse teams can be more difficult to manage than those characterised by uniformity and similarity between team members, it is also acknowledged that diverse teams consistently outperform in the areas of innovation, problem-solving, flexibility and decision-making. In line with this finding, some respondents noted the challenges associated with managing diverse teams and professionals with experience who are used to operating autonomously:

Experience tells me that I get better results if the team members are mixed and work well together and they understand and are experienced at what they do. This takes time to build but stability, efficiency and productivity go up.

Effective teams depend on the ability of managers to effectively manage highly-skilled, experienced and autonomous people.
DISCRIMINATION AND BIAS AT WORK

The survey found discrimination on the basis of age to be widespread in the professional workforce. Its forms varied from direct to indirect with the cultural stereotyping of mature-age workers as resistant to change, lacking flexibility, being out of touch with IT, non-innovative and incapable of learning particularly prevalent.

- 16.6% reported that they had received less favourable treatment on the basis of their age and 13.7% said they had experienced other age-related bias.
- 13.2% agreed or strongly agreed they had been sidelined from challenging project work due in part or in full to their age.
- 5.7% said they had experienced indirect discrimination on the basis of their age due to a workplace policy or rule.
- Of those that reported they had experienced discrimination, only 20.9 per cent of respondents had sought advice on dealing with the matter. A disturbing 17.7 per cent left their workplace and 53.2 per cent took no action at all.

Forms of discrimination

Where respondents had received less favourable treatment on the basis of their age, they reported that the discrimination had taken the following forms:

- Reduced access to job opportunities
- Not being considered for promotion
- Reduced access to training
- Targeted for redundancy on the basis of age
- Reduced access to project work
- Lack of access to travel
- Other

Note: Respondents could select multiple responses.

Forms of action taken against discrimination

- Did not take any action
- Dealt with the matter informally
- Sought advice
- Used a complaints process
- Left workplace
- Other

Note: Respondents could select multiple responses.
Reducing an organisation’s ‘age profile’ – discriminatory policy

Respondents reported employers openly stating that the age profile of their organisation was too high without having an understanding of the discriminatory implications for mature-age workers. This is of serious concern because it is possible that an organisation may implement a change to their age profile by adopting discriminatory practices. Interestingly, 8.6 per cent of respondents said their employer did not understand their anti-discrimination obligations.

Senior management openly discussed the age profile in the organisation as 'too high'.

At a staff meeting a few months ago, the senior executive heading up my department announced that one of the objectives set by the CEO was to lower the average age within the company.

There was a measure of the average age of the group and it was published against other groups. There was even a target of reducing the average age of the group.

Age-related bias arising from workplace policies

5.7 per cent of respondents said they had experienced age-related bias due to a workplace policy or rule. The areas reported mainly related to employer reluctance to provide flexible working hours and the promotion of those perceived as being prepared to work longer hours:

Lack of flextime access at higher levels – more junior employees have greater flexibility

The employer is resistant to granting part-time work as a transition to retirement.

In general, younger managers are promoted/hired due to a perceived view that they are more willing to give additional weight to work over home due to having a longer career path with the organisation. This is not a direct bias against more mature workers – but it has a biased effect.

Cultural stereotyping of mature-age professionals

The stereotyping of mature-age workers in the workplace is widespread and operates to undermine the very real diversity of their skills and experience.

- 32.2% of respondents agreed or strongly agreed that in their workplace, there is an assumption that older workers are heading for retirement and are therefore less productive.
- 52.1% agreed that in their workplace, there is an assumption that older workers are resistant to change.
- 40.8% said they agreed that in their workplace, there is an assumption that older workers do not have up-to-date IT skills.
- 8.5% of respondents had had the experience of being told they were too old in their workplace.

The following comments demonstrate some of the ways experienced professionals can be subject to negative stereotyping in the workplace:

.. once you’re over 40, you’re perceived as a walking heart-attack-in-waiting.

Survey respondent
Common stereotypes - nothing to offer the modern workplace

There is a perception that older workers, despite their experience, are yesterday’s men and women.

There is a perception that if you are older, you are “past it” and have nothing to offer an organisation.

There is a cultural assumption in Australia that when people reach their 60s they have also reached their use-by date.

There is a perception that mature-age workers are rigid, out of date, incapable of learning and that experience from more than five years ago is useless/disposable.

Managers believe that older staff have had their turn and should step aside.

There are often comments to the effect that the best years of my career are behind me.

There are insinuations that I am non-innovative.

It appears that some managers have simply come to the belief that new ideas can only come from the young.

The current management attitude seems to be that if you have been in an organisation for more than five years you are dead wood and need to be removed.

Older workers are seen as a burden.

Common stereotypes – lack of IT skills

There is a huge bias in thinking that only young people understand computing and that older people are incapable of learning, yet I maintain IT learning of equal understanding as young graduates coming into the company.

Where computer technology is concerned, all people under 25 are considered brilliant based on age.

There is an erroneous presumption that I have an aversion to new technology.

Many people believe that older workers are not up-to-date with technology, yet I sit on the technology development standards bodies! I am involved with the creation of the latest technology.

In computing there’s an assumption that if you’re not under-30 you are likely to be behind the times which is not true because I’ve always worked on cutting-edge projects, tools and systems. But the idea is there and it is easy to be pushed into a corner as being ‘out-of-touch’ even when you know from direct experience you are correct.

Common stereotypes - more prone to health issues

While respondents generally acknowledged that mature-age workers could require flexibility to accommodate health issues, there were comments which suggested employer attitudes were not always in line with real health needs:

A work area was seeking volunteers for an experiment that would involve some physical exertion, however the caveat applied was that they did not want anyone over 40. When I queried this, they said that it was to reduce the risk of any medical incidents occurring, by which I understood them to mean that once you’re over 40, you’re perceived as a walking heart-attack-in-waiting. Whilst they did have to consider the medical impact on volunteers, using a cut-off age was a crude an inappropriate method to use as the discriminator.
There may be health issues such as arthritis, high blood pressure, diabetes, etc. While they may not impact on their ability to do the job, employers have adverse views on hiring someone who may have these or other medical issues.

**Common stereotypes - resistant to change and lacking flexibility**

One of the most frequently reported ways experienced professionals were stereotyped was as reluctant or resistant to change.

*Older workers are usually portrayed as being opposed to change.*

*There is an attitude by some in their 20s and 30s that the 50-year-olds are stuck in their ways, resistant to change and “old school”.*

*Mature-age workers are generally not seen as being able to cope with change even though we have been subject to constant change throughout most of our careers.*

*There is still a widespread perception that people over the age of 50 lack flexibility and creativity.*

Respondents acknowledged that there may be ‘pockets’ of workers who were experiencing change fatigue but that this was a characteristic of the broader workforce, not just mature-age workers.

*The company is focusing on a culture change/shift with a leaning to ‘if you are older, you are part of the problem’. There would probably be pockets of older staff that would exemplify this but the brush seems to unfairly extend to those that are not like that.*

Overwhelmingly, respondents strongly favoured performance in the workplace being assessed on merit. This comment was indicative of many similar comments made by respondents:

*Judge the mature-age worker based on skills, stability, attitude and the benefits they bring to the workplace. I don’t want the government to be subsidising or providing incentives to employers to employ mature-age workers. I would want to be employed on my own merits – not my birthday.*

**DISCRIMINATION AND BIAS RE-ENTERING THE WORKFORCE**

- When asked to prioritise issues to be addressed by governments and industry, 60.3 per cent of respondents said re-educating employers and recruitment personnel about the value of the skills, experience and professional judgement of mature-age professionals should be the first priority.

- 57.1 per cent said re-educating recruitment agency personnel that stereotypes about older workers are often inaccurate would be useful.

**Barriers to returning to the workforce**

With 71.5 per cent of respondents reporting being absent from the workforce for a continuous period of six months or more, discrimination and bias faced trying to re-enter the workforce was not surprisingly raised as a key issue. Respondents identified the following as barriers to returning to the workforce:

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Doors are shut in your face before you even get a chance to get an interview. All they do is look at your birthdate and your resume is already on its way to the bin.

Survey respondent
Facilitating the return of experienced professionals to the workforce

The survey asked respondents to identify which activities or initiatives would be useful to them in returning to the workforce. They identified the following:

- Educating employers that stereotypes about older workers are often inaccurate
- Educating recruitment agency personnel that stereotypes about older workers are often inaccurate
- Access to flexible work arrangements
- Reduced hours
- Management support
- Retraining - learning new skills in relation to specialisation
- Retraining - updating outdated skills
- Opportunity to update job search skills
- Retraining - general IT skills
- Retraining - in latest version of software I’ve used previously
- Mentoring from a colleague

Recruitment agencies seen as a barrier to re-entering the workforce

Respondents widely reported recruitment agencies (and human resource departments) giving preference to younger workers when selecting candidates to put forward to employers. The following are indicative of the many comments made in this area by respondents:

Doors are shut in your face before you even get a chance to get an interview. All they do is look at your birthdate and your resume is already on its way to the bin.

The biggest problems mature workers face are the assumptions made by young human resource/recruitment company staff. Knocking off anyone over 45 is a quick way to thin out applicants.
The barriers are there when you have been made redundant and then seek to re-enter the workforce and have to compete with younger candidates – companies may prefer to take on the younger candidate who has the potential for a longer career with the company rather than the older candidate who may have a more limited work life before retirement.

I have spent over six months looking for work. I found that in general agencies discriminated even more than actual employers. The position I started in three weeks ago was advertised and managed directly by the company’s management without external agencies.

There are prejudices against mature workers in the external recruitment process particularly for less senior roles where recruiters are expecting young applicants.

It can be very hard for mature-age workers to re-enter the workforce. They are viewed as not being a long-term investment i.e. only filling in a few years before full retirement.

They tell us we’re overqualified or over-experienced – they’re not able to directly use the ‘age’ word.

WORKPLACE CULTURE IMPEDING ACCESS TO DIVERSITY POLICIES

The survey found that even where positive workplace policies existed around diversity and inclusion for mature-age workers, cultural issues within workplaces meant that accessing these provisions was often difficult. Over 20 per cent of respondents said that their workplace had policies that supported diversity but the organisation culture did not support the policies.

- 17.8 per cent of respondents disagreed or strongly disagreed that workplace policies encouraged diversity in the workforce including mature-age workers; 53.2 per cent agreed or strongly agreed.
- 22.1 per cent of respondents disagreed or strongly disagreed that the workplace culture at their workplace supported diversity policies that encouraged mature-age workers; 44.8 per cent agreed or strongly agreed.
- Of those expecting to leave their employer, 5.6% of respondents said that lack of professional development opportunities was a factor.

Disconnect between policies and their implementation

Overwhelmingly respondents reported that the main issue was not with actual workplace policies but with the way the policies were implemented:

The problem is not with the policies themselves so much as the way in which the policies are implemented by managers.

The following represents a selection of comments by respondents about how workplace culture was an impediment to accessing core workplace policies and conditions that in practice are particularly important for mature-age professionals:

Sometimes a company will say one thing included in policies but not act in accordance with that same sentiment. That is, they do not do what they say. They may say they are interested in keeping and recognising the older staff but this is not how things play out.
Saying one thing and having written policies is different from actually encouraging mature-age workers.

The workplace has policies to work to but it is the individuals responsible for carrying out the policies that are at fault. These people need educating to ensure policies are upheld at all levels from executive down to the lower levels of responsibility to ensure policies are upheld.

In our enterprise agreement, we have entitlements such as working from home, development/training, flexible working hours, part-time work, unpaid annual leave and study leave. However my manager and their manager will not let me access these entitlements.

Diversity policies exist, but appear to be largely spin.

Good policies are in place but not followed.

Work at home arrangements are available in my workplace, but my supervisor thinks it is a bad look so it is not allowed.

LACK OF SUCCESSION PLANNING, MENTORING AND SKILLS TRANSFER

The development of skilled experienced specialist professionals is characterised by a necessarily long lead time. Not only is there a significant investment in tertiary education but also in the supervision of the early-career professional by more senior professionals following graduation to guide the development of professional judgement and the application of the principles, techniques and methods learned in the course of tertiary study. Opportunities to provide support and help develop professional judgement and experience, and in turn, to be supported and developed, should extend across the span of professional careers.

In this context, the issues of succession planning, mentoring and skills transfer are particularly important to maintaining a high-skill, sustainable professional workforce and, as the survey found, are of critical importance to mature-age professionals themselves. Respondents were concerned at the lack of strategy to develop the next generation of professionals and their concern appears to have some basis with 54.5 per cent of respondents indicating that their organisation had neither skills transfer, mentoring nor succession planning arrangements in place.

Respondents highlighted their concern where mature-age workers were leaving the organisation and these processes were not in place, and that there was a poor appreciation that mentoring can directly add value to the bottom line.

Succession planning

• 79.5% of respondents said their organisation did not have succession planning arrangements in place.

Poor succession planning has, I would venture, a most significantly underrated impact on efficiency, productivity and workplace harmony/morale.

The organisation that I work for is actually top heavy with mature-age workers and it doesn’t have a specific succession plan in place. In the next few years – or perhaps sooner, depending on the redundancy situation – it will be losing an enormous amount of corporate knowledge but management doesn’t seem to know or care.
The failure of companies to use older staff in mentoring roles is a major issue.

Convincing profit-driven organisations that more experienced and therefore generally higher-salaried staff can add more value developing others than purely producing quality and quantity outputs is a challenge.

Mentoring and skills transfer

- 47.6% of respondents said that in their occupation or industry, the value of mentoring younger staff to the organisation was poorly recognised.
- 67.7% of respondents said their employer did not provide any opportunity to transfer skills to younger employees.
- 72.7% of respondents reported that there was no opportunity to mentor younger employees in their organisation.

An important part of my role now should be mentoring young staff, but with staff reductions, automation and generally no time, this is not happening at a sufficient level.

The failure of companies to use older staff in mentoring roles is a major issue. I am surprised more people don’t take advantage of transition to retirement schemes. Most people just stop. Transition should be a real win/win.

There are few formal opportunities to mentor younger staff about the role of Australian Standards, good business practice, cash flow management and timeliness i.e. excellence in professional practice.
LACK OF ACCESS TO OPPORTUNITIES FOR PROFESSIONAL DEVELOPMENT, PROMOTION AND CHALLENGING WORK

Ideally organisations will provide rewarding and challenging career paths with appropriate recognition and reward alongside project work options which extend and challenge for not only early and mid-career professionals but also for senior experienced professionals. The survey findings suggest that senior experienced professionals are not always provided with opportunities to undertake professional development or access to challenging work opportunities.

Lack of access to professional development

*Failure to understand the importance of skills currency for technical professionals*

Respondents reported that lack of access to development opportunities could arise as a result of the employer’s failure to understand the importance of skills currency for technical professionals. This was a particular concern with professional experience of less value where the skills required to apply knowledge are not kept current. Respondents noted that the need to maintain certifications and professional registration often require that knowledge be kept up-to-date but that with some employers reluctant to provide professional development for senior experienced professionals, the responsibility and cost for doing so often fell to the professionals themselves.

- 24.2% said their employer was less prepared to invest in development for older staff than younger staff.
- Of those expecting to leave their employer, 5.6% of respondents said that lack of professional development opportunities was a factor.
- 24.1% said lack of encouragement within the workplace prevented them from commencing or completing professional development activities.
- 39.3% of respondents said that financial cost to self would be a factor in preventing them undertaking professional development activities in the next five years.
- 41.0% of respondents reported that their employer did not currently offer development or training for mature-age professionals.

*Technical workers require continuous professional development. Experience is of less value if the skills required to apply the knowledge effectively are not up-to-date.*

*There is a perception that older workers do not need further professional development even though it may be a requirement for them to retain certifications.*

Survey respondent

I feel that while some of my work is interesting and challenging, I am no longer on the radar for being offered opportunities.
There seems to be a management perception that mature-age workers are not worth providing with training or re-training opportunities.

**Perceived lack of return on investment**

Respondents reported that a lack of access to development opportunities for senior experienced professionals could arise as a result of the employers believing that they would not see a return on such investment.

*When I was 59 and applying for a career development course, a factor in it being declined was ‘we won’t get a return on investment from him’.*

*During the 90s, a manager told me that I should not bother training one of our technicians because he was too old.*

*Associates who are in their late 50s and 60s have had training refused and promotions have not been forthcoming as they are assumed to be retiring soon.*

*There seems to be a management perception that mature-age workers are not worth providing with training or re-training opportunities.*

**Useful professional development activities**

Respondents were asked about which professional development activities would assist in maintaining or progressing their careers over the next five years. Responses were as follows:

Note: Respondents could select multiple responses.

The options for other professional development activities nominated by respondents included leadership training, access to high-quality journals and other professional readings, short courses and updating of computer skills.
Lack of access to promotion, challenges and further opportunity

Promotion

- 19.8% agreed or strongly agreed that they had been sidelined in their workplace from promotion due in part or in full to their age.

  *I have been verbally advised not to apply for promotion due to my age.*

  *There is an underlying bias toward a demographic of 35 to 45 for management promotions.*

  *I was overlooked for promotion and was clearly the best candidate. The HR manager even went as far to ask me why I would apply when I was going to retire shortly.*

  *Not considered for promotion ‘to give the younger staff a chance’.*

  *The attitude of management is that a mature-age worker will retire and it’s therefore a waste of time providing promotional opportunities.*

Challenges and further opportunity

- Lack of challenges or excitement was a factor for 16.2% of respondents who were expecting to leave their employer.

- 13.2% agreed or strongly agreed with the statement ‘I have been sidelined in my workplace from challenging project work due in part or in full to my age’.

  *Older people are not considered when an opportunity arises for new and interesting projects.*

  *I feel that while some of my work is interesting and challenging, I am no longer on the radar for being offered opportunities.*

  *We’re the first to be retrenched – we’re not provided with enough technical training or challenging work.*

The attitude of management is that a mature-age worker will retire and it’s therefore a waste of time providing promotional opportunities.
LACK OF WORK/LIFE BALANCE

The survey found that lack of work/life balance and access to flexible work arrangements were significant concerns for respondents.

Work/life balance

• 25.4% of respondents agreed or strongly agreed with the statement ‘Those who want work/life balance are not well regarded in my workplace’.
• Of those who were expecting to leave their employer, a desire for better work/life balance was a factor for 29.7%.
• Where respondents had approached their manager regarding better work/life balance, 21.1% were dissatisfied or very dissatisfied with the outcome.
• Of those who had chosen not to approach their manager about working fewer hours, 36.1% did so out of fear of being treated adversely by management, 7.1% did so out of fear of being treated adversely by their peers and 27.2% did so because they believed their manager was likely to refuse.

Employers and recruiters don’t support mature-age workers stepping down a level – they fear that the worker won’t be satisfied with a lower role. This can drastically affect the ability of a mature worker to choose a role that gives them greater work/life balance.

The option of transitioning to retirement or getting a better work/life balance is not supported for older employees.

Lack of access to flexible work arrangements

• 19.2% of respondents agreed or strongly agreed with the statement ‘Lack of access to flexible work arrangements at my work limits my capacity to balance work with my other responsibilities’.
• 31.7% said flexible working hours were not currently provided by their employer.

I would love to stay on working say 3 to 4 days a week but the work just isn’t structured this way – it’s all or nothing.

The biggest problem I have is work/life balance. How do I work less hours a week and still stay in the industry? I like the work but hate the hours. There is no structure or provision for a part-time role. It’s 55 to 60 hours a week or leave the industry.

There is a lack of access to flextime at higher levels which indirectly discriminates against more senior people. Less senior employees (typically younger) tend to have greater flexibility.
Career implications when accessing flexible working hours

Respondents reported losing status, seniority and access to challenging work opportunities when they utilised flexible work hours provisions in their workplace.

• Where respondents opted for a reduction in their working hours, 4.6% said it had resulted in a loss of seniority or demotion.

• 29.0% agreed that those who do not want to work long hours were not well regarded in their workplace.

As soon as I opt for fewer hours, my ability to achieve promotion and/or career development is pretty well gone.

Unfortunately most older workers do not get the opportunity to work part-time in their field of expertise. You can get part-time work in a lesser field but then you do not get the challenges.

I want to work part-time but my employer will only do that if I accept a lower hourly rate of pay.

Senior/manager roles are rarely designed to be carried out on reduced hours – the expectation is these roles more than others work maximum or longer hours.

I want to work part-time but my employer will only do that if I accept a lower hourly rate of pay.
DISINCENTIVES TO REMAINING IN WORKFORCE

The survey explored the question of whether there were any significant patterns in why senior experienced professionals were considering leaving the workforce in three ways; firstly in general terms by asking whether or not and why people were considering leaving their current employer and what would alter their intention to do so, secondly by asking respondents about the main issues that should be addressed by governments and industry, and thirdly, by asking about the specific financial disincentives to remaining in the workforce.

Reasons for considering leaving employer

60.2 per cent of those surveyed expected to leave their employer within five years.

The top three factors that influenced respondents’ expectations to leave their employer were as follows:

- desire for better work/life balance (29.7%);
- stagnant pay and conditions (21.2%); and
- managers and decision-makers not understanding the importance of their skills and professional training (20.3%).

Note: Respondents could select multiple responses.

I am highly-qualified and experienced in one of (perhaps the) most sought after professions in the world (data scientist) with strong international peer support and acknowledged performance; yet I lost my job due to a lack of understanding by managers of what I did, and my age precludes me from being considered for most paid employment. I estimate I have at least 10 years of productive potential before me, and a strong desire to work.

Survey respondent
How these factors could be best addressed

The survey asked respondents to nominate what conditions or initiatives would act as incentives to remaining with their employer. 42 per cent of respondents nominated transition to retirement arrangements. The top three conditions or initiatives nominated as most likely to alter their intention to leave were as follows:

- transition to retirement arrangements (42.0%);
- greater understanding amongst managers and decision-makers of the value of my skills and professional training (32.7%); and
- availability of part-time work (32.0%).

Main issues to be addressed by governments and/or industry

The top three priorities for respondents were as follows:

- re-educating employers and recruitment personnel (60.3%);
- the retention of mature-age workers in the technical professions (55.8%); and
- discrimination against older workers in the workplace (49.1%).

Note: Respondents could select multiple responses.
Financial/tax disincentives

- 16.5% of respondents said the rules around tax, super, insurance and workers compensation relating to older workers presented a significant challenge for their employer.

Respondents reported a range of factors operating as financial disincentives to them remaining in the workforce.6

Superannuation

Many mature-age professionals are in a defined benefits superannuation scheme which gives the maximum benefit for retirement at age 60 so there is little economic incentive to keep working beyond that age.

Old defined benefits superannuation plans require persons to retire at a set age. If you remain at work then the return is poor (after lost super opportunities are taken into account).

The lack of ability to salary sacrifice to spouse’s superannuation is an issue for me.

Disability and income protection insurance

My employer’s insurer cut off disability and income insurance at 65.

Workers’ compensation

The current Workcover policies do not encourage workers to stay on beyond 65. If you are over 65 and injure yourself at work, it is up to the insurance company as to whether they want to pay workers’ compensation to you and if they choose to it is capped at 52 weeks whereas for workers under 65 it is capped at 104 weeks.

The loss of workers’ compensation cover once a person passes 65 can impact dramatically on a person’s ability to work past 65.

Tax treatment of redundancy

If you’re over 65 years old the ATO won’t recognise your redundancy as genuine and the tax treatment is not favourable.

There is a serious ATO regulation that penalises employees over the age of 65 by way of no concessional tax on termination/retrenchment payments. There is therefore a strong financial incentive to retire before the age of 65.

Transition to retirement arrangements

Current taxation arrangements hinder public servants from a range of transition to retirement arrangements. Current public sector regulations restrict the range of transition to retirement options.
DIFFICULTIES ACCOMMODATING CARER RESPONSIBILITIES

34.5 per cent of respondents had carer responsibilities of some form and 53.1 per cent said these responsibilities had impacted their working life.

Respondents reported that their carer responsibilities were in relation to:

- Children: 65.9%
- An elderly parent: 31.1%
- Spouse or partner: 18.3%
- Grandchildren: 11.4%
- Other: 5.8%

Note: Respondents could select multiple responses.

Where respondents said the carer responsibilities were other than the four categories referred to above, some of the other options listed included caring for a disabled brother, an invalid sister-in law, an adult son with disabilities, a mentally ill brother, a terminally-ill sister and other elderly relatives.

- 52.6% of respondents said flexible work arrangements would help them better manage their carer responsibilities.
- 20.1% said they had considered leaving the workforce to allow them to better meet their carer responsibilities.
- 31.3% said their carer responsibilities had negatively impacted their careers.

Professionalism and carer responsibilities

The survey also found evidence of a perception that professionalism was somehow inconsistent with having responsibilities beyond professional working life. Respondents reported that where they had carer responsibilities that impacted their working lives, a failure to maintain a separation between personal and professional life was seen as ‘unprofessional’.

Companies expect you to focus on your job. An inability to keep your personal affairs separate to your professional life is seen as unprofessional.

Survey respondent
Addressing the barriers to greater engagement of the mature-age professional workforce identified in this report will ensure our high-skill experienced professional workforce plays the central role it should in meeting the complex contemporary economic challenges we face as a nation. A failure to do so would represent seriously wasted potential.
The 2015 Mature-Age Workers Survey provides valuable insight into factors affecting the retention of senior experienced professionals in the workforce.

The survey highlights how the retention and engagement of mature-age workers may be hampered by cultural barriers, inflexible working practices and employer perceptions of cost over value.

The survey found widespread instances of serious and sometimes overtly discriminatory stereotyping of experienced professionals – they were widely regarded as being resistant to change, lacking IT skills, being more prone to having health issues and having outdated skills not relevant to the modern workplace.

Respondents reported employers lacking an understanding about the bottom-line impact of skills transfer from senior experienced professionals to early and mid-career professionals. There was also a disturbing view that having carer responsibilities was inconsistent with professionalism in the workplace.

Providing access to challenging work, advancement opportunities, professional development activities, the chance to mentor younger staff and the opportunity to work in diverse teams were all suggested by respondents as ways to maximise the contribution of senior experienced professionals in the workplace.

In highlighting these issues, Professionals Australia aims to contribute to the national discussion around improving the participation rates of mature-age workers in the professional workforce. The survey shows that addressing the lack of access to core conditions that would be instrumental in promoting the retention and engagement of mature-age workers provides an opportunity to leverage the potential contribution of this group at the workplace level.

We hope this report encourages policy-makers and employers to look at ways to tackle entrenched bias in work practices, provide flexible work arrangements, address cultural impediments to mature-age workers’ retention in the professional workforce and bring about the changes needed to become contemporary flexible and equitable workplaces that maximise the diversity advantage.

Addressing the barriers to greater engagement of the mature-age professional workforce identified in this report will ensure our high-skill experienced professional workforce plays the central role it should in meeting the complex contemporary economic challenges we face as a nation. A failure to do so would represent seriously wasted potential.
SAMPLE CHARACTERISTICS

The purpose of the mature-age workers survey was to explore the career experiences of workers over the age of 45 years to ensure their needs were clearly identified and could be recognised in the development of policy by government, industry and professional associations.

Sample characteristics

Profession breakdown (%)

- 23.8% in Engineering
- 31.3% in Business/management
- 3.2% in Science
- 3.7% in ICT
- 2.6% in Pharmacy
- 0.8% in Architecture

41.7% had tertiary qualifications in Engineering, 31.3% in Business/management, 3.2% in science, 3.7% in ICT, 2.6% in Pharmacy and 0.8% in Architecture.

OTHER CHARACTERISTICS OF THE SAMPLE

- 5.4% had a Doctorate/PhD, 25.7% had a Masters degree, 19.2% had a Graduate Diploma, 34.3% had a Bachelor degree (including Hons.) and 9.6% had a diploma
- Females comprised 13.2% and males 86.8% of respondents
- 73.5% worked full-time, 5.8% worked part-time and 2.6% were casual employees
- 41.9% worked in the private sector, 52.2% in the public sector and 1.7 in the education sector
- 61.9% of respondents worked for large employers that employed over 500 employees, 20.0% worked for employers with between 101 and 500 employees, 18.1% worked for employers that had fewer than 100 employees
- Industries that respondents worked in included Consultancy and technical services (13.9%), Transport (12.0%), Electricity and gas supply (11.0%), Water, sewerage and drainage (9.2%), Public administration (9.0%), Health (6.0%), Construction (5.0%), Manufacturing (4.8%), Communications (4.7%), Defence (4.4%), Research (1.9%) and Education (1.5%).
REPORT PREPARATION
This report was compiled by Dr. Kim Rickard, PhD, BA and Mr. Alex Crowther MSc, BSc (Hons).

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REFERENCES
6. The accuracy of the statements made about financial disincentives have not been verified but presented as respondents have detailed them.