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

# Submission No 55

**Name** Withheld

**Submission made by**

Older Australian looking for work

# Submission regarding Older Australians

### **Your experience**

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

Yes

No

Not sure

After 30 years in the industry I am told I do not have the experience to do even the simplest transaction. 2 years ago I could run a $400m procurement, turn 60 and even a routine sale is beyond me?

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

Yes

No

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

I have submitted a Grievance to my employer and a complaint at NSW ADB [Anti-Discrimination Board].

My problem is that I have been denied real work for years. My employer can justly say I don’t have any recent experience.

All the opportunities went to younger people. Each explainable in itself ; gender diversity/ training/ different skill sets. But the pattern is undeniable.

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

Yes

No

**Please tell us more**

At 62 years old I will be looking for work with no reference worth having and no experience or achievements to point to.

A younger person might have time to rebuild their career- I don’t have that time. Employers could rightly say we don’t want to train up someone who will be gone in 3 or 4 years.

### **Barriers**

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

Yes

No

Not sure

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

There is a perception, widely promoted in the media, that older people cannot cope with change and particularly technology:

That because you are not on Twitter you cannot use Excel.

That resistance to change is caused by an inability to cope rather than healthy scepticism.

‘You cannot teach an old job new tricks” ? - Actually he already knows those old tricks and knows which don’t work .

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

Yes

No

Not sure

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

Yes

No

Not sure

**Please tell us more**

When an employer makes a decision about employment he can keep his reasons secret. Even who or when that decision was made is secret. If it is wrong or even outright discrimination it can be kept secret. If I procured a piece of equipment this way it would be what ICAC calls “Corruption prone”. If an opportunity for corruption ( or discrimination ) exist it will be used.

If a decision is challenged the burden of proof switches to the employee. The employee must PROVE what was being thought. Discrimination has moved on ; learned from past mistakes. Overt documented discrimination is a thing of the past. The law does not cope with covert, undocumented discrimination.

A wrong doer has time to plan , twist events, cover his tracks. Making the victim PROVE not just discrimination but what kind, is difficult when you are looking back.

In my case nothing was ever said, much less written down. For 12 months they could not find any work for me to do despites hiring 4 contractors. This is beyond coincidence but it is not discrimination until I prove why they did it. They then sacked me for want of experience they denied me.

My employer no longer requires EEO knowledge in Role Descriptions.

EEO training is provided with the subtext “Don’t get us into trouble ( How to get away with it)”.

Employers have a responsibility to provide a fair workplace, that should extend to a “strict liability” style obligation to make good disadvantage where discrimination might have occurred.

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

**Incentives:**

The joy of creating something ; helping others; self-esteem from useful contribution, social interaction and yes MONEY.

**Disincentives:**

Denial of all of the above. Being parked in the corner while “bright young things” blunder along, even expected to protect them from their inexperience.

Even a small drop in income has a profound effect. A small fall in salary means a big drop in discretionary spending. Recurrent costs such as rent/ mortgage; running a car; paying utilities; school fees still have to be paid . The lost income has to come entirely out of the quality-of-life expenses like eating out, holidays and such. A small fall in salary can wipe out all of this.

### **Good practice**

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

Yes

No

Not sure

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

### **Solutions**

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

Organisations like HRC or ADB must have the power to make a determination that discrimination has likely occurred. The power to name&shame would address the imbalance of power between employee and employer.

Where an organisation has made a decision it should bear the burden of proof to justify that decision. It should not be allowed to twist the system and play ‘victim’ in an adversarial legal system.

Where an organisation fails to act on possible discrimination it should suffer the harshest penalties. If an organisation causes someone to lose a year’s pay then the penalty should be a year’s turnover.

In my case,

I will lose 4 years pay, my employer will lose 13 minutes of turnover.

My redundancy package is less than my accrued sick leave is worth – they will make a profit from my redundancy.

Even if they lose, the worst case is a pinprick that is no incentive to modify behaviour.

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

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

Firstly HRV and ADB should ‘fess up’ tell the public how powerless they are.

Employers often complain about Red Tape and disincentives to hire. I am sure the public would be surprised (and disappointed) to know just how powerless these organisations are.