



Australian
Human Rights
Commission

**WILLING
TO WORK**

Booklet 4: what you can do about employment discrimination

Australian Human Rights Commission

Please tell us what you think



This is booklet 4 of 4.



How to use this document



This information is written in an easy to read way.
We use pictures to explain some ideas.



This document has been written by the Australian Human Rights Commission (the Commission).
When you see the word 'we', it means the Commission.



Some words are written in **bold**. We explain what these words mean. There is a list of these words on page 27.



This Easy Read document is a summary of parts of other documents.



You can find the longer documents at www.humanrights.gov.au/willing-work-issues-papers.



You can ask for help to read this document.
A friend, family member or support person may be able to help you.

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What is this document about?

This is booklet 4 in a series of 4 booklets.



Booklet 1: About the National Inquiry and how to tell us what you think



Booklet 2: About employment discrimination and older Australians



Booklet 3: About employment discrimination and Australians with disability



Booklet 4: About discrimination and what you can do if you experience it.



The booklets are part of a large review we are doing. This review is called the National Inquiry.



The review looks at employment **discrimination** against:



- older Australians



- Australians with disability.



Discrimination is when you are treated unfairly because of your race, beliefs, sexuality, disability or age.



The Inquiry will help us make suggestions on how more older people and people with disability can take part in the **workforce**.



The workforce includes all the people who are working at the moment, and all the people who are looking for jobs.



You can read all about the National Inquiry in Booklet 1. It also tells you how you can take part.

This booklet talks about what you can do when employment discrimination happens.

We have included some 'Things to think about' at the end of this booklet.



They may help you to work out what you want to say if you take part in the National Inquiry.

Laws that protect older Australians

Laws around the world



There are a number of important human rights **treaties** around the world that help protect the rights of older people.

Treaties are formal agreements, or arrangements, between two or more countries.



The *United Nations Principles for Older Persons* (1991) looks at the employment rights of older people.

These principles say that you should:



- have the opportunity to work, or earn money



- be able to choose when you leave the workforce



- be able to take part in your community



- share your knowledge and skills with younger people



- be given opportunities to improve your abilities, so they are the best they can be



- take part in making new **policies** that affect you. Policies are government plans for how things will be done.

Australian laws



In Australia there are laws about discrimination. They help to make sure you are treated fairly.



The *Age Discrimination Act 2004* (ADA) says it is against the law to discriminate against you because of your age.

Discrimination can be direct, or indirect.



Direct discrimination is when you are not treated as fairly as a person who is younger than you in the same, or similar, situation.



Indirect discrimination is when there is a rule or policy that is the same for everyone but has an unfair effect on you, because of your age.

The ADA covers situations where you have been discriminated against because of your age, including:



- not being employed



- not being given very good employment conditions



- not being offered opportunities for promotion or training



- being fired



- being left open to other types of disadvantage.



The ADA says it is not against the law to discriminate against an older person in certain situations.

For example, if you are not able to complete the **inherent requirements** of the job because of your age.



Inherent requirements are tasks or skills that you must have to do a certain job.



The *Fair Work Act* stops employers from doing negative things to you because of your age.

Some examples include:



- refusing to employ you



- changing the requirements of your job so that you can't do it anymore



- firing you.

Policies and services for older Australians



In the past, work has been done to raise awareness about the challenges that older people face in the workforce.



But there are still lots of gaps in government policies for older workers.

Here are some of the current policies that apply to older people and employment.

Restart Wage Subsidy



The subsidy started in 2014. It provides financial support to employers who give jobs to people over 50 years old who have been looking for work or have been on a pension.

Age Pension



The Age Pension

The Pension provides financial support and concessions for people aged 65 years and over.



Because of the ageing population, the government has decided to change the age that you can receive the Age Pension.



It will slowly increase so that in 2023 you will need to be aged 67 years or over to receive the Pension.



It will keep increasing so that by 2035 you will need to be aged 70 years or over to receive the Pension.



There are other policies that affect how older people can take part in the workforce.



For example, there are different types of insurance for workers.



They are different depending on where you live in Australia.



Many of them do not provide the same cover once a person turns 65.



Things like this put older people off from staying in, or coming back to, the workforce.



Sometimes a worker will receive a **redundancy**.

A redundancy is when you are no longer needed at your job because there is no more work to do.



If this happens, you will receive a redundancy payment.



But people over 65 are taxed a bigger amount on their redundancy payment.

This means less money for retirement.



And it encourages people to leave the workforce if they are offered a redundancy before they turn 65.



There also aren't many training opportunities that are aimed at older workers.

This makes it hard for older people to get new skills so they can:



- change careers



- get a new job.

These are all problems that need to be looked at.

Laws that protect Australians with disability

Laws around the world



Around the world, there are different laws and **agreements** that help people with disability to be treated fairly.



An agreement is a legal arrangement between different groups.



The *United Nations Convention on the Rights of Persons with Disabilities* is an international agreement.



It sets out the rights of people with disability. Including the right to work.



It says that you have the right to work in the exact same way as people without disability.



You should be paid the same amount of money for doing the same work.



You should be provided with safe and healthy working conditions.



And have the same opportunities as people without disability.



There is also an important document for Indigenous people around the world.



It is called the Declaration on the Rights of Indigenous Peoples.



It covers the rights of Indigenous people with disability, including the right to be employed without discrimination.

Australian laws



In Australia there are laws about discrimination.

They help to make sure you are treated fairly.



The *Disability Discrimination Act 1992 (Cth)* (DDA) says it is against the law to discriminate against you because you have a disability.

Discrimination can be direct, or indirect.



Direct discrimination is when you are not treated as fairly as a person without disability in the same, or similar, situation.



Indirect discrimination is when there is a rule or policy that is the same for everyone but has an unfair effect on you, because of your disability.



It is against the law for an employer to discriminate against you in any of these ways:



- not offer you as many opportunities for promotion or training



- fire you because of your disability



- leave you open to other types of disadvantage.



Employers are required by law to provide **reasonable adjustments**.



Reasonable adjustments are changes made to a workplace that allow you to do your job.

The type of adjustment will depend on your disability. Some examples are:



- flexible working hours



- access to special equipment



- extra training.



The DDA says it is not against the law to discriminate against a person with disability in certain situations.

For example, if you are not able to complete the inherent requirements of the job, even with reasonable adjustments.



The *Fair Work Act 2009* stops employers from doing negative things to you because of your disability. Some examples include:



- refusing to employ you



- changing the requirements of your job so that you can't do it anymore

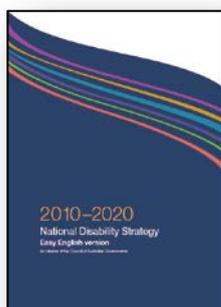


- firing you.

Policies and services for Australians with disability



There are a number of Government policies and services that are designed to help people with disability.



National Disability Strategy 2010-2020

This is a 10 year plan for improving life for Australians with disability, their families and carers.

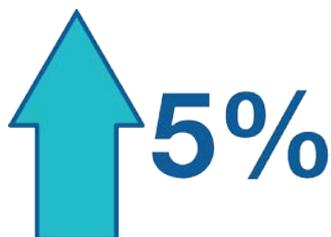


An important part of the strategy is increasing employment for people with disability.



National Disability Agreement

This is an agreement between all levels of government.



They agree to increase the number of people with disability taking part in the workforce by 5%.



The aim is for this to happen by the year 2018.



National Mental Health Policy (2008) and Fourth National Mental Health Action Plan (2009-2014).

This Action Plan and Policy look at how people with mental illness can take part in the workforce.



There are also services that aim to increase the number of people with disability taking part in the workforce.

Disability Employment Services



This is a network of service providers that support people with disability to look for, and keep, a job.



They also help employers to do things that will support employees with disability.



Australian Disability Enterprises

These are businesses that employ people with disability. They are often called ADEs.



The Government pays to support people with disability in these workplaces.



Employment Assistance Fund

This fund provides financial help to people with disability who need to make reasonable adjustments in their workplace.



JobAccess

This a services that provides advice about employing people with disability.



RecruitAbility

In 2011 the Australian Public Service (APS) launched its Disability Employment Strategy.

One part of the strategy is the RecruitAbility scheme.



The scheme supports people with disability who are applying for jobs with the APS.

The scheme also provides support to people once they are in a job.



National Disability Insurance Scheme (NDIS)

The NDIS started in some parts of Australia in 2013. It provides some types of support for people with disability to take part in employment. The NDIS will start in all parts of Australia by 2018.



Disability Support Pension (DSP)

The DSP provides financial support for people who are unable to work for more than 15 hours a week.

What can you do if you've experienced workplace discrimination?



If you feel that you have experienced employment discrimination, you can complain.

There are several ways to do this.



The first is through us.



There is information on how to make a complaint on [our website](#).

If we are not able to settle the complaint it can be taken to the:



- Federal Circuit Court



- Federal Court of Australia.



There are anti-discrimination agencies in each state or territory in Australia that will handle complaints.



If an agency can't settle a complaint, it can be taken through the court system.



**Fair Work
Commission**

Complaints can also be given to the Fair Work Commission.



**Fair Work
OMBUDSMAN**

Or the Fair Work Ombudsman.

Things to think about

How good do you think the current laws are?

Do they protect the following people from employment discrimination:

- Australians with disability?
- older Australians?

How could the laws be changed so they are better?

Are the options for complaining about employment discrimination good enough?

How well do they work?

Are complaints settled in a fair way?

What problems do employers face in making sure they understand and obey the laws?



Word list



Agreement

An agreement is a legal arrangement between different groups.



Discrimination

Discrimination is when you are treated unfairly because of your race, beliefs, sexuality, disability or age.



Direct discrimination

When you are not treated as fairly as a person without disability, or a person who is younger than you, in the same or similar situation.



Indirect discrimination

When there is a rule or policy that is the same for everyone but has an unfair effect on you, because of your disability or age.



Inherent requirements

Tasks or skills that you must have to do a certain job.



Policies

Plans for how things will be done.



Reasonable adjustments

Changes made to a workplace that allow you to do your job.



Redundancy

When you are no longer needed at your job because there is no more work to do.



Treaties

Formal agreements, or arrangements, between two or more countries.



Workforce

All the people who are working at the moment, and all the people who are looking for jobs.

Contact us



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