Age Discrimination

Edited by Justin Healey

ISSUES IN SOCIETY
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Age Discrimination is Volume 360 in the ‘Issues in Society’ series of educational resource books. The aim of this series is to offer current, diverse information about important issues in our world, from an Australian perspective.

KEY ISSUES IN THIS TOPIC
Australians of all ages have a human right to be treated fairly and have the same opportunities as everyone else. In spite of such rights, age discrimination still occurs widely in Australia. People are often treated unfavourably because of their age, or because of assumptions made about people of that age.

Common examples of age discrimination include preferring to hire younger over older workers regardless of their competence, refusing to consider job applications from people over pension age, or sacking younger workers once they reach the age when adult wages will apply.

There needs to be a huge shift in attitudes towards older workers, as Australia’s population ages and in the process faces growing skills shortages. Workplaces need to learn to value the skills and experience of older workers.

This book examines the growing size of Australia’s ageing population and the issues older people face in relation to participation in society and specifically in the workforce. What barriers do older Australians face, and what positive steps can be taken to eliminate age discrimination?

SOURCES OF INFORMATION
Titles in the ‘Issues in Society’ series are individual resource books which provide an overview on a specific subject comprised of facts and opinions.

The information in this resource book is not from any single author, publication or organisation. The unique value of the ‘Issues in Society’ series lies in its diversity of content and perspectives.

The content comes from a wide variety of sources and includes:

➤ Newspaper reports and opinion pieces
➤ Website fact sheets
➤ Magazine and journal articles
➤ Statistics and surveys
➤ Government reports
➤ Literature from special interest groups

CRITICAL EVALUATION
As the information reproduced in this book is from a number of different sources, readers should always be aware of the origin of the text and whether or not the source is likely to be expressing a particular bias or agenda.

It is hoped that, as you read about the many aspects of the issues explored in this book, you will critically evaluate the information presented. In some cases, it is important that you decide whether you are being presented with facts or opinions. Does the writer give a biased or an unbiased report? If an opinion is being expressed, do you agree with the writer?

EXPLORING ISSUES
The ‘Exploring issues’ section at the back of this book features a range of ready-to-use worksheets relating to the articles and issues raised in this book. The activities and exercises in these worksheets are suitable for use by students at middle secondary school level and beyond.

FURTHER RESEARCH
This title offers a useful starting point for those who need convenient access to information about the issues involved. However, it is only a starting point. The ‘Web links’ section at the back of this book contains a list of useful websites which you can access for more reading on the topic.
WHO ARE AUSTRALIA’S OLDER PEOPLE?

An extract from Reflecting a Nation: Stories from the 2011 Census released by the Australian Bureau of Statistics

The Australian population is ageing as a result of increasing life expectancy and sustained low fertility following the post-war baby boom. Population ageing has been an issue that has strongly influenced a range of social policies for over twenty years. It has led to compulsory superannuation for wage and salary earners, and progressive removal of barriers to continued employment, such as a fixed retirement age and economic disincentives. The demand for aged care has been increasing at the same time as the market economy has been calling on the skills of women, who had customarily been major providers of unpaid care in their households and extended families. In response, more of this care is moving into the market sector, with increasing numbers of trained aged and child care service providers.

Population ageing had been increasing steadily since the early 1970s, continuing through to 2011. Population ageing had been increasing steadily since the early 1970s, continuing through to 2011. This trend was only interrupted during the period 2007 to 2008, when the median age for males fell slightly and did not increase for females, a period corresponding with a spike in the birth rate. The post-war Baby Boomers are now beginning to enter the older age group (65 years and over) and will continue to increase its relative size.

An ageing population has implications for public policy and the economy in a wide range of areas. For older people, these include health, housing, income security, residential services and opportunities for social, cultural and economic participation (including labour force). The traditional income tax base supporting social security is also shrinking relative to the potential demands of an ageing society. Young people remain longer in education before they take on full-time jobs in an economy increasingly based on knowledge and skills, and older people may often experience difficulty in finding employment (Endnote 1). For all Australia’s people to have security into the future, increased productivity will be required, affecting the whole economy and society: investment in research, development and national infrastructure; support for all people to develop to their potential, to ensure their good health and economic capacity; and a greater concentration on preventive health and continuing education at all ages, to lower the burden of health care costs and encourage people of all ages to function more effectively (Endnote 2).

This story, however, focuses on Australia’s older people – those aged 65 years and over. Information on population change over time is drawn mainly from ABS Estimated Resident Population data, while for broader characteristics information from the 2011 and earlier...
Censuses of Population and Housing is used. An overview of our ageing society will provide a setting for a series of questions: Who are Older Australians? How do they live? And where? The first question is the topic for this article.

**Baby Boomers will entirely constitute the 65-69 group for the 2016 Census and will contribute to a larger aged population in the years to come.**

**Australia’s changing population**

In 1901, older people constituted 4.0% of Australia’s population. This proportion increased to 6.4% in 1921, 7.4% in 1941 and 8.5% in 1961, before slowly declining to 8.3% in 1971. Between 1971 and 2011, the proportion of Australia’s population aged 65 years and over increased to 14%. For those aged 85 years and over it more than tripled, from 0.5% to 1.8%. In 2011, women aged 65 years and over formed 15% of the total population of women, while older men constituted a smaller proportion of all men, 13%.

The population pyramid below shows the age and sex structure of the Australian population in 1991 and 2011.

A clear change is shown between the 40-44 years and the 45-49 years age groups. Each of the younger age groups below 45 years form a smaller proportion of the population in 2011 than in 1991, for both males and females. This is particularly apparent for children. This pattern reverses for each of the age groups from 45-49 years. However, the relationship between the sexes is often not symmetrical, markedly so for the age groups over 75 years.

The 65-69 years age group is on a cusp between two of the major influences on population ageing, increasing life expectancy and the ageing of the Baby Boomers. Increasing life expectancy, due to declining death rates over the last twenty years for both males and females in most age groups (Endnote 3), is having its effect on numbers in all the older age groups. The proportional effect of this is greatest on the two oldest age groups, 80-84 years and 85 years and over. Beginning from a low base, these age groups have respectively increased their proportion of the older population by 22% and 66% since 1991, and by 29% and 114% since 1971.

The first year of the Baby Boom cohort (people born in 1946) entered the 65-69 age group in 2011. Baby Boomers will entirely constitute the 65-69 group for the 2016 Census and will contribute to a larger aged population in the years to come.

Notable in the history of older people in Australia is the difference in the experiences of men and women, beginning with their representation in the population. Women outnumber men substantially in the aged population, forming 54% of all aged 65 years and over, and 66% of those in the 85 years and over group. Life tables back to the 1880s (Endnote 3) indicate a higher life expectancy for women, although prior to 1933, because there were fewer women in the whole population, there were fewer older women than older men. Since then, women have been more prevalent in older age groups.

However, from 1981 the gap between the number of males and females has been reducing in most 5 year age groups, and since 1986 in the oldest age group, 85 years...
and over. This is reflected in the greater recent decline in the standardised death rates for men than for women, although men’s death rates still remain higher.

Women outnumber men substantially in the aged population, forming 54% of all aged 65 years and over, and 66% of those in the 85 years and over group.

Over the years, for each of the 5 year age groups in the older population, the ratio of women to men peaks at a particular time, and then declines. A progressive pattern of peaking and decline strongly suggests a cohort effect working through. The peaking effect appears to begin with the 65-69 age group in 1961. The birth period for the age group at each peak point lies between 1892 and 1901. These people, therefore, were aged between 14 and 22 years in 1914. Loss of life among young men during the First World War has always had an effect on the sex ratios in these cohorts. However, the ratio was closer to parity when those in the 1892-1896 cohort were aged 65-69 years in 1961, then increased strongly with ageing, reaching a level of 2.6 or more when they were in the combined 85 years and over groups for the years 1979 to 1989. This illustrates the progressively different life outcomes for the women and men who survived this war (whether they were born in Australia, or were the German Jews, British or Italian migrants who arrived between the wars).

(Endnote 4). The passing of this generation through each age group has contributed to the gradual decrease in the disproportion of the ratio between older men and women which had built up sharply to the high level of 1.36 and over between 1963 and 1988.

ENDNOTES


Age discrimination: know your rights

The Age Discrimination Act makes it against the law to be treated unfairly because of your age in different areas of public life, according to this guide from the Australian Human Rights Commission.

What is age discrimination?

Age discrimination is when a person is treated less favourably than another person in a similar situation, because of their age.

For example, it could be ‘direct age discrimination’ if an older applicant is not considered for a job because it is assumed that they are not as up to date with technology as a younger person.

It is also age discrimination when there is a rule or policy that is the same for everyone but has an unfair effect on people of a particular age. This is called ‘indirect discrimination’.

For example, it may be indirect age discrimination if an employer requires an older person to meet a physical fitness test – which more young people are able to meet – if the fitness standard is not an inherent requirement of the job.

How am I being protected from age discrimination?

The Age Discrimination Act makes it against the law to treat you unfairly because of your age in different areas of public life, such as work, education and buying goods and services.

Negative stereotypes often lie at the heart of age discrimination. That’s why an important part of the Commission’s work is to help foster positive community attitudes towards both young and older Australians.

What does the Age Discrimination Act do?

The Age Discrimination Act aims to ensure that all Australians – young and old and everyone in between – are treated equally and have the same opportunities as others.

The Act protects you against discrimination in many areas of public life, including:

- **Employment** – getting a job, terms and conditions of a job, training, promotion, being dismissed
- **Education** – enrolling or studying in a course at a private or public school, college or university
- **Accommodation** – renting or buying a house or unit
- **Getting or using services** – such as banking and insurance services, services provided by government departments, transport or telecommunication services, professional services like those provided by lawyers, doctors or tradespeople, services provided by restaurants, shops or entertainment venues.

What about discrimination at work?

The Age Discrimination Act covers situations where you feel that, because of your age, you have been:

- Refused employment
- Dismissed
- Denied a promotion, transfer or other employment-related benefits
- Given less favourable terms or conditions of employment
- Denied equal access to training opportunities
- Selected for redundancy
- Harassed.

It doesn’t matter if you are applying for a job, are an apprentice or trainee, on probation, work part-time or full-time, or if you are a casual or permanent employee – you are protected by the Act.

**Elizabeth was 17 years old.**

She was employed by a recreational centre as a customer service attendant on a casual basis.

She claimed she had not been given shifts for approximately four months because she had been replaced by younger workers.

The company confirmed that it had employed new workers but said that they were the same age as Elizabeth and were not employed to replace her.

They suggested that there were concerns about her work performance and thought she was not interested in ongoing work as she had not contacted them to inquire about future shifts.

The complaint was resolved through conciliation with an agreement that the employee keep her job and be transferred to work in a different branch of the company.

The law covers all types of employers, including the Commonwealth and state governments and the private sector.

It also covers contract and commission-based work and recruitment and employment agencies.

Employers should have policies and programs in place that aim to prevent discrimination and harassment of both young and mature age workers – in fact, all workers – in the workplace.

When is age discrimination not against the law?

**Exemptions**

Like other anti-discrimination laws, the Age Discrimination Act says that, in some circumstances, treating someone differently because of their age won’t be against the law. This is known as an exemption.

The exemptions in the Act include:

- Things done in compliance with Commonwealth laws, including laws about taxation, social security and migration
- Things done in compliance with state and territory laws
- Certain health and employment programmes
- Youth wages or direct compliance with industrial agreements and awards.

For example, as a person must be over 18 years old to work in a bar, it...
would not be discrimination if a bar owner refused to employ a person because they are under 18 years of age.

**Positive discrimination**

The Act also says that it is not against the law to provide a genuine benefit to people of a particular age group or to do something that helps to meet an identified need of people of a certain age group.

Examples of ‘positive discrimination’ may include discounts and concessions provided to older Australians for services and/or facilities and special accommodation assistance provided to homeless teenagers.

**What if I’m not able to do the tasks that make up the job?**

It is not against the law to refuse someone a job if, because of their age, they can’t perform the ‘inherent requirements’ of the position. In other words, you must be able to carry out the essential duties of the job.

For example, a young person may not be able to meet the ‘inherent requirements’ of a courier job if they are not yet eligible for a driver’s licence.

**What can I do if I experience discrimination?**

You may want to deal with the situation yourself by raising it directly with the person or people involved or with a supervisor, manager or discrimination/harassment contact officer.

**Making a complaint to the Commission**

If this does not resolve the situation, or you do not feel comfortable doing this, you can make a complaint to the Australian Human Rights Commission. You can also have someone, such as a solicitor, advocate or trade union representative make a complaint on your behalf.

It does not cost anything to make a complaint to the Commission.

Your complaint needs to be put in writing.

The Commission has a complaint form that you can fill in and post or fax to us. Or you can lodge a complaint online at our website. If you are not able to put your complaint in writing, we can help you with this.

The complaint should say what happened, when and where it happened and who was involved.

A complaint can be made in any language. If you need a translator or interpreter, the Commission can arrange this for you.

**What will happen with my complaint?**

When the Commission receives a complaint about something that is covered by the *Age Discrimination Act*, the President of the Commission can investigate the complaint and try to resolve it by conciliation.

The Commission is not a court and cannot determine that discrimination has happened.

The Commission’s role is to get both sides of the story and help those involved resolve the complaint.

Commission staff may contact you to get further information about your complaint.

Generally, the Commission will tell the person or organisation the complaint is against (the respondent) about your complaint and give them a copy of the complaint.

The Commission may ask the respondent for specific information or a detailed response to your complaint.

Where appropriate, the Commission will invite you to participate in conciliation. Conciliation is an informal process that allows you and the respondent to talk about the issues and try to find a way to resolve the complaint.

If your complaint is not resolved, or it is discontinued for another reason, you can take your complaint to the Federal Court of Australia or the Federal Magistrates Court.

**What can I do to prevent discrimination?**

Everyone can play a role to help ensure that people of all ages have the same opportunities as others.

The Commission undertakes a wide range of activities to build awareness about the rights and responsibilities of individuals.
Nora was a 60-year-old woman who had been employed as a casual for two years with a club until she was made redundant.

She alleged that this was because of her age and claimed a younger person was later employed in her position. The club said that Nora’s employment had been finalised for operational reasons. The complaint was resolved through conciliation with the club agreeing to reinstate Nora to her former position, pay financial compensation and provide her with a letter of apology.

and organisations under the Age Discrimination Act, especially in the workplace.

On our Age Positive website (www.humanrights.gov.au/age-positive) we actively promote positive stories about older people, using them to remind the public of the varied and important ways older people contribute to Australian society.


You can find out more about what we’re doing by visiting: www.humanrights.gov.au/age

Where can I get more information?
The Australian Human Rights Commission’s contact details are:

Postal address
Australian Human Rights Commission
GPO Box 5218
Sydney NSW 2001

Street address
Level 3,
175 Pitt Street
Sydney NSW 2000
Phone: (02) 9284 9600 or 1300 369 711
TTY: 1800 620 241 (toll free)
Fax: (02) 9284 9611
Email: communications@humanrights.gov.au
Website: www.humanrights.gov.au

Complaints
Complaint Info line: 1300 656 419 (local call)
Email: complaintsinfo@humanrights.gov.au
Online: You can make a complaint online by going to www.humanrights.gov.au/complaints_information/online_form/index.html

If you are deaf or hearing impaired you can contact us by TTY on 1800 620 241. If you need an Auslan interpreter, the Commission can arrange this for you.

If you are blind or have a vision impairment, the Commission can provide information in alternative formats on request.

If you are thinking about making a complaint, you might also want to consider getting legal advice or contacting your trade union.

There are community legal services that can provide free advice about discrimination and harassment. Contact details for your closest community legal centre can be found at www.naclc.org.au/directory

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Ageism, or age discrimination is stereotyping and discriminating against individuals or groups because of their age. It is a set of beliefs, attitudes, norms, and values used to justify age based prejudice, discrimination, and subordination. This may be casual or systematic. The term was coined in 1969 by Robert Neil Butler to describe discrimination against seniors, and patterned on sexism and racism. Butler defined ageism as a combination of three connected elements. Among them were prejudicial attitudes towards older people, old age, and the ageing process; discriminatory practices against older people; and institutional practices and policies that perpetuate stereotypes about older people. The term has also been used to describe prejudice and discrimination against adolescents and children, including ignoring their ideas because they are too young, or assuming that they should behave in certain ways because of their age.

Ageism in common parlance and age studies usually refers to negative discriminatory practices against old people, people in their middle years, teenagers and children. There are several forms of age-related bias. Adultism is a predisposition towards adults, which is seen as biased against children, youth, and all young people who are not addressed or viewed as adults. Jeunism is the discrimination against older people in favour of younger ones. This includes political candidacies, jobs, and cultural settings where the supposed greater vitality and/or physical beauty of youth is more appreciated than the supposed greater moral and/or intellectual rigor of adulthood. Adultcentricism is the “exaggerated egocentrism of adults.” Adultocracy is the social convention which defines ‘maturity’ and ‘immaturity,’ placing adults in a dominant position over young people, both theoretically and practically. Gerontocracy is a form of oligarchical rule in which an entity is ruled by leaders who are significantly older than most of the adult population. Chronocentrism is primarily the belief that a certain state of humanity is superior to all previous and/or future times.

Based on a conceptual analysis of ageism, a new definition of ageism was introduced by Iversen, Larsen & Solem in 2009. This constitutes the definition of the term ageism in modern discourse, establishing it as a common parlance term for age discrimination. It states that ageism is a form of age-based discrimination that is “negative or positive stereotypes, prejudices and/or discrimination against (or to the advantage of) elderly people on the basis of their chronological age or on the basis of a perception of them as being ‘old’ or ‘elderly.’ Ageism can be implicit or explicit and can be expressed on a micro-, meso- or macro-level.”

Other conditions of fear or aversion associated with age groups have their own names, particularly: paedophobia, the fear of infants and children; ephbophobia, the fear of youth; and sometimes referred to as an irrational fear of adolescents or a prejudice against teenagers; and gerontophobia, the fear of elderly people.

Implicit Ageism

Implicit ageism is the term used to refer to the implicit or subconscious thoughts, feelings, and behaviours one has about older or younger people. These may be a mixture of positive and negative thoughts and feelings, but gerontologist Becca Levy reports that they “tend to be mostly negative.”

One way that implicit people with deficiencies in intellect, cognitive and physical performance, and other areas required for autonomous, daily functioning, People who engage in this type of speech treat older members of society as if they have regressed to an infantile state, or treat younger members of society as if they have never progressed beyond an infantile state.

Ageist Stereotyping

Ageist stereotyping is a tool of cognition which involves categorising into groups and attributing characteristics to these groups. Stereotypes are necessary for processing huge volumes of information which would otherwise overload a person, and they are often based on a ‘grain of truth’ (for example, the association between ageing and ill health). However, they cause harm when the content of the stereotype is incorrect with respect to most of the group or where a stereotype is so strongly held that it overrides evidence which shows that an individual does not conform to it. For example, age-based stereotypes prime one to draw very different conclusions when one sees an older and a younger adult with, say, back pain or a limp. One might well assume that the younger person’s condition is temporary and treatable, following an accident, while the older person’s condition is chronic and less susceptible to intervention. On average, this might be true, but plenty of older people have accidents and recover quickly and really young people (such as infants, toddlers and small children) can become permanently disabled in the same situation. This assumption may have no consequence if one makes it in the blink of an eye as one is passing someone in the street, but if it is held by a health professional offering treatment or managers thinking about occupational health, it could inappropriately influence their actions and lead to age-related discrimination.

Managers have been accused, by Erdman Palmore, as stereotyping older workers as being resistant to change, not creative, cautious, slow to make judgements, lower in physical capacity, uninterested in technological change, and difficult to train. Another example is when people are rude to children because of their high pitched voice, even if they are kind and courteous. A review of the research literature related to age stereotypes in the workplace was recently published in the Journal of Management.
AGEIST PREJUDICE
Ageist prejudice is a type of emotion which is often linked to the cognitive process of stereotyping. It can involve the expression of derogatory attitudes, which may then lead to the use of discriminatory behaviour. Where older or younger contestants were rejected in the belief that they were poor performers, this could well be the result of stereotyping. But older people were also voted for at the stage in the game where it made sense to target the best performers. This can only be explained by a subconscious emotional reaction to older people; in this case, the prejudice took the form of distaste and a desire to exclude oneself from the company of older people.20

BENEVOLENT PREJUDICE
Stereotyping and prejudice against different groups in society does not take the same form. Age-based prejudice and stereotyping usually involves older or younger people being pitied, marginalised, or patronised. This is described as ‘benevolent prejudice’ because the tendency to pity is linked to seeing older or younger people as ‘friendly’ but ‘incompetent.’ This is similar to the prejudice most often directed against women and disabled people. Age Concern’s survey revealed strong evidence of ‘benevolent prejudice.’ 48% said that over-70s are viewed as friendly (compared to 27% who said the same about under-30s). Meanwhile, only 26% believe over-70s are viewed as capable (with 41% saying the same about under-30s).21

The figure for friendliness of under-30s is, conversely, an example of ‘hostile prejudice’.

HOSTILE PREJUDICE
‘Hostile prejudice’ based on hatred, fear, aversion, or threat often characterises attitudes linked to race, religion, disability, and sexual orientation. An example of hostile prejudice toward youth is when someone presumes that a young person committed a crime without any evidence. Rhetoric regarding intergenerational competition can be motivated by politics. Violence against vulnerable older people can be motivated by subconscious hostility or fear; or, within families, by impatience and lack of understanding. Equality campaigners are often wary of drawing comparisons between different forms of inequality. But it is unquestionably true that abuse and neglect experienced by vulnerable older people (which is closely linked to hostile prejudice) kills more people each year than the shocking but relatively isolated cases of public violence motivated by race, religion, or sexual orientation.

The impact of ‘benevolent’ and ‘hostile’ prejudice tends to be different. The warmth felt towards older or younger people and the knowledge that many have no access to paid employment means there is often public acceptance that they are deserving of preferential treatment – for example, less expensive movie and bus fares. But the perception of incompetence means older and younger people can be seen as “not up to the job” or “a menace on the roads,” when there is little or exaggerated evidence to support this. Prejudice also leads to assumptions that it is ‘natural’ for older or younger people to have lower expectations, reduced choice and control, and less account taken of their views.

DISCRIMINATION
Age discrimination refers to the actions taken to deny or limit opportunities to people on the basis of age. These are usually actions taken as a result of one’s ageist beliefs and attitudes. Age discrimination occurs on both a personal and institutional level.3

On a personal level, an older person may be told that he or she is too old to engage in certain physical activities, like an informal game of basketball between friends and family. A younger person may be told they are too young to get a job or help move the dining room table. On an institutional level, there are policies and regulations in place that limit opportunities to people of certain ages and deny them to all others. The law, for instance, requires that all young persons must be at least 16 years old in order to obtain a driver’s licence in the United States. There are also government regulations that determine when a worker may retire. Currently, in the US, a worker must be 67 years old before becoming eligible for Social Security retirement benefits, but some company pension plans begin benefits at earlier ages.

A 2006/2007 survey done by the Children’s Rights Alliance for England and the National Children’s Bureau asked 4,060 children and young people whether they have ever been treated unfairly based on various criteria (race, age, sex, sexual orientation, etc). A total of 43% of British youth surveyed reported experiencing discrimination based on their age, far eclipsing other categories of discrimination like sex (27%), race (17%), or sexual orientation (6%).22

Ageism has significant effects in two particular sectors: employment and health care.

Employment
The concept of ageism was originally developed to refer to prejudice and discrimination against older people and middle age, but has expanded to include children and teenagers.21

Like racial and gender discrimination, age discrimination, at least when it affects younger workers, can result in unequal pay for equal work. Unlike racial and gender discrimination, however, age discrimination in wages is often enshrined in law. For example, in both the United States23 and the United Kingdom24 minimum wage laws allow for employers to pay lower wages to young workers. Many state and local minimum wage laws mirror such an age-based, tiered minimum wage. Midlife workers, on average, make more than younger workers do, which reflects educational achievement and experience of various kinds (job-specific, industry-specific, etc). The age-wage peak in the United States, according to Census data, is between 45 and 54 years of age. Seniority in general accords with respect as people age, lessening ageism.

Statistical discrimination refers to limiting the employment opportunities of an individual based on stereotypes of a group to which the person belongs. Limited
employment opportunities could come in the form of lower pay for equal work or jobs with little social mobility. Younger female workers were historically discriminated against, in comparison with younger men, because it was expected that, as young women of childbearing years, they would need to leave the work force permanently or periodically to have children. 

Labour regulations also limit the age at which people are allowed to work and how many hours and under what conditions they may work. In the United States, a person must generally be at least 14 years old to seek a job, and workers face additional restrictions on their work activities until they reach age 16. Many companies refuse to hire workers younger than 18. 

While older workers benefit more often from higher wages than do younger workers, they face barriers in promotions and hiring. Employers also encourage early retirement or layoffs disproportionately more for older or more experienced workers.

Age discrimination in hiring has been shown to exist in the United States. Joanna Lahey, professor at The Bush School of Government and Public Service at Texas A&M, found that firms are more than 40% more likely to interview a young adult job applicant than an older job applicant.

In a survey for the University of Kent, England, 29% of respondents stated that they had suffered from age discrimination. This is a higher proportion than for gender or racial discrimination. Dominic Abrams, social psychology professor at the university, concluded that ageism is the most pervasive form of prejudice experienced in the UK population.

According to Dr. Robert M. McCann, an associate professor of management communication at the University of Southern California’s Marshall School of Business, denigrating older workers, even if only subtly, can have an outsized negative impact on employee productivity and corporate profits. For American corporations, age discrimination can lead to significant expenses. In Fiscal Year 2006, the US Equal Employment Opportunity Commission received nearly 17,000 charges of age discrimination, resolving more than 14,000 and recovering $51.5 million in monetary benefits. Costs from lawsuit settlements and judgements can run into the millions, most notably with the $250 million paid by the California Public Employees’ Retirement System (CalPERS) under a settlement agreement in 2003.

In the UK, age discrimination against older people has been prohibited in employment since 2006. Since then, the number of age discrimination cases rose dramatically. The laws protect the anyone over the age of 16 who is young as well as old. There were over 6,800 claims submitted to the Employment Tribunal in 2010/11 compared with just 900 in 2006/2007 (immediately after the Regulations came in force). However, the figures for 2011/2012 show a 47% fall in the number of claims, and commentators have suggested that the repeal of the Default Retirement Age may be the reason behind this. However there is still scope for indirect discrimination, such as requiring 10 years relevant work experience, which no one under age 26 can have.

Some political offices have qualifications that discriminate on the basis of age as a proxy for experience, education, or accumulated wisdom. For example, the President of the United States must be at least 35 years old; a United States Senator must be at least 30; and a United States Congressman must be at least 25.

Health care

There is considerable evidence of discrimination against the elderly in health care. This is particularly true for aspects of the physician-patient interaction, such as screening procedures, information exchanges, and treatment decisions. In the patient-physician interaction, physicians and other health care providers may hold attitudes, beliefs, and behaviours that are associated with ageism against older patients. Studies have found that some physicians do not seem to show any care or concern toward treating the medical problems of older people. Then, when actually interacting with these older patients on the job, the doctors sometimes view them with disgust and describe them in negative ways, such as ‘depressing’ or ‘crazy.’ For screening procedures, elderly people are less likely than younger people to be screened for cancers and, due to the lack of this preventative measure, less likely to be diagnosed at early stages of their conditions.

After being diagnosed with a disease that may be potentially curable, older people are further discriminated against. Though there may be surgeries or operations with high survival rates that might cure their condition, older patients are less likely than younger patients to receive all the necessary treatments. It has been posited that this is because doctors fear their older patients are not physically strong enough to tolerate the curative treatments and are more likely to have complications during surgery that may end in death. However, other studies have been done with patients with heart disease, and, in these cases, the older patients were still less likely to receive further tests or treatments, independent of the severity of their health problems. Thus, the approach to the treatment of older people is concentrated on managing the disease rather than preventing or curing it. This is based on the stereotype that it is the natural process of ageing for the quality of health to decrease, and, therefore, there is no point in attempting to prevent the inevitable decline of old age.

Differential medical treatment of elderly people can have significant effects on their health outcomes, a
Australia has had age discrimination laws for some time. Discrimination on the basis of age is illegal in each of the states and territories of Australia. At the national level, Australia is party to a number of international treaties and conventions that impose obligations to eliminate age discrimination. The Australian Human Rights Commission Act 1986 established the Australian Human Rights Commission and bestows on this Commission functions in relation to a number of international treaties and conventions that cover age discrimination. During 1998-1999, 15% of complaints received by the Commission under the Act were about discrimination on the basis of age.

Age discrimination laws at the national level were strengthened by the Age Discrimination Act 2004, which helps to ensure that people are not subjected to age discrimination in various areas of public life, including employment, the provision of goods and services, education, and the administration of Australian government laws and programs. The Act, however, does provide for exemptions in some areas, as well as providing for positive discrimination, that is, actions which assist people of a particular age who experience a disadvantage because of their age.

In 2011, for the first time a position of Age Discrimination Commissioner was created within the Australian Human Rights Commission. The new Commissioner’s responsibilities include raising awareness among employers about the beneficial contributions that senior Australians as well as younger employees can make in the workforce.

differential outcome which somehow escapes established protections against ageism.

EFFECTS OF AGEISM

Ageism has significant effects on the elderly and young people. The stereotypes and infantilisation of older and younger people by patronising language affects older and younger people’s self-esteem and behaviours. After repeatedly hearing a stereotype that older or younger people are useless, older and younger people may begin to feel like dependent, non-contributing members of society. They may start to perceive themselves in terms of the looking-glass self – that is, in the same ways that others in society see them. Studies have also specifically shown that when older and younger people hear these stereotypes about their supposed incompetence and uselessness, they perform worse on measures of competence and memory. These stereotypes then become self-fulfilling prophecies. According to Becca Levy’s Stereotype Embodiment Theory, older and younger people may also engage in self-stereotypes, taking their culture’s age stereotypes – to which they have been exposed over the life course – and directing them inward toward themselves. Then this behaviour reinforces the present stereotypes and treatment of the elderly.

Many overcome these stereotypes and live the way they want, but it can be difficult to avoid deeply ingrained prejudice, especially if one has been exposed to ageist views in childhood or adolescence.

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There is no specific binding international instrument in the area of age or older people, however, the main international human rights instruments (ICCPR and ICESCR) provide for the right to be free from discrimination on the grounds of, amongst other attributes, ‘other status’, which is said to include age.

There is a growing global push for a binding International Convention on the Rights of Older People.

In addition, the United Nations Principles for Older Persons have been developed and are supported by Governments within Australia. These principles recognise rights to independence, participation, care, self-fulfilment and dignity of older persons.

There is a growing global push for a binding International Convention on the Rights of Older People. Most recently, the General Assembly of the United Nations passed a resolution in December 2010 which resulted in the establishment of an Open Ended Working Group on Ageing. The Working Group’s mandate includes reviewing existing protection of older people’s human rights and considering how it may address any gaps. The Working Group had its first meeting in New York in April 2011 and is expected to have a second meeting in August 2011.

Ageism in Australia

Australia’s legal framework for protection against age discrimination has been described as possessing a low level of uniformity, enforceability and enforcement of both State and federal age discrimination legislation. The broadness of some of the exceptions and exemptions to the Age Discrimination Act 2004 (Cth) undermine the effectiveness of the Act and the legislation does not adequately address systemic discrimination or promote substantive equality.

Ageism can be described as ‘a process of systematic stereotyping of, and discrimination against people’ simply because they are older. As described by the Australian Human Rights Commission, older individuals are ‘lumped together’ or thought of as all being the same just because of their age. This can lead to them being treated unfavourably.

Unfortunately ageism and age discrimination, that is, unlawful discrimination against an individual or group on the basis of their age, are entrenched features of Australian society. The broader community, including older people themselves, are often not aware of the myths and stereotypes they have accepted about the abilities and capacities of older people. Older workers often struggle against ageist attitudes of employers to be accepted for jobs for which they are well qualified.

Ageism can be described as ‘a process of systematic stereotyping of, and discrimination against people’ simply because they are older.

The Australian Human Rights Commission has identified age discrimination as the foremost barrier to the workforce participation of mature age workers. Planning of public facilities, access to public transport, including safe bus stops and accessible vehicles, and location of services do not take the needs of older people into account sufficiently. Age discrimination is also described as prevalent in assessing suitability for medical rehabilitation services, specifically for stroke and cardiac patients.
As well as discrimination, older people suffer exclusion, social isolation and elder abuse. Elder abuse, as defined by the World Health Organisation is ‘any act that causes harm to an older person that is carried out by someone they know and trust, such as family, friends or a carer’ and may include physical, financial, psychological or sexual mistreatment and neglect. It is a human rights issue which requires an effective response from Government. Preventative strategies informed by human rights principles should be developed in all aspects of the private and public lives of older people, whether it be health, finance, education, care and support services or recreation.

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Stance</th>
<th>Explanation</th>
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<tr>
<td>Continue to strengthen mechanisms for the effective incorporation of international human rights obligations and standards into its domestic legislation (recommendation 86.20).</td>
<td>Already reflected</td>
<td>Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.</td>
</tr>
<tr>
<td>Take measures to ensure equality, respect and participation in all rights and opportunities, and reduce social disparities which detract from the full and equal enjoyment of human rights (recommendations 86.49 and 86.50).</td>
<td>Already reflected</td>
<td></td>
</tr>
<tr>
<td>Bring Australia’s legislation and practices into line with international obligations (recommendation 86.17).</td>
<td>Accepted</td>
<td>Australian Government practice is to satisfy itself that legislation and policies necessary to implement a treaty are in place before Australia becomes bound by it.</td>
</tr>
<tr>
<td>Strengthen Australia’s measures to promote multiculturalism and social inclusion, ensure equal and the full enjoyment of basic human rights of Australian citizens including Aboriginal and Torres Strait Islander peoples, and if necessary effectively combat racial discrimination (recommendations 86.60 and 86.63).</td>
<td>Accepted</td>
<td>Australia’s new multicultural policy includes a National Anti-Racism Partnership and Strategy, establishment of the Australian Multicultural Council, a ‘multicultural ambassadors’ program and a Multicultural Youth Sports Partnership Program.</td>
</tr>
<tr>
<td>Incorporate Australia’s international human rights obligations into Australian domestic law (recommendations 86.18–86.19).</td>
<td>Accepted-in-part</td>
<td>The Australian Government incorporates international obligations into domestic law to the extent considered necessary, noting that some obligations are reflected in policy.</td>
</tr>
<tr>
<td>Develop a comprehensive poverty reduction and social inclusion strategy integrating economic, social and cultural rights (recommendations 86.32 and 86.33).</td>
<td>Accepted-in-part</td>
<td>The Australian Government’s social inclusion agenda promotes economic, social and cultural rights, including by reducing disadvantage and increasing social, civic and economic participation.</td>
</tr>
<tr>
<td>Incorporate Australia’s international human rights obligations into domestic law through the adoption of a comprehensive Human Rights Act (recommendation 86.22).</td>
<td>Rejected</td>
<td>The Australian Government considers that existing mechanisms, together with new requirements under Australia’s Human Rights Framework, provide for the protection and promotion of human rights. It does not intend to introduce a Human Rights Act.</td>
</tr>
</tbody>
</table>

**Social inclusion and elder abuse**

As well as discrimination, older people suffer exclusion, social isolation and elder abuse. Elder abuse, as defined by the World Health Organisation is ‘any act that causes harm to an older person that is carried out by someone they know and trust, such as family, friends or a carer’ and may include physical, financial, psychological or sexual mistreatment and neglect. It is a human rights issue which requires an effective response from Government. Preventative strategies informed by human rights principles should be developed in all aspects of the private and public lives of older people, whether it be health, finance, education, care and support services or recreation.

**What the UN Human Rights Council recommended in the Universal Periodic Review**

In January 2011 Australia was reviewed by the UN Human Rights Council during the Universal Periodic Review (or UPR) (a process whereby the human rights performance of all UN member states is reviewed by other states).

In June 2011 Australia provided its response to the 145 recommendations made by the Human Rights Council. The Government has accepted over 90 per cent of the recommendations and has committed to incorporating the recommendations it has accepted into the National Human Rights Action Plan.

The HumanRightsCouncil did not make any specific recommendations on Older People but a number of general recommendations are relevant. Australia has responded to these general recommendations as set out in the above table.
The federal government’s proposed changes will effectively simplify the system by streamlining five anti-discrimination Acts into one. Under the changes, age discrimination laws will be held to the higher standards currently covering disability, sex and race discrimination.

National Seniors chief executive Michael O’Neill cautiously welcomed the proposed changes but said further information was needed.

“Recent National Seniors research reveals that workplace age discrimination amongst the over 50s is alive and well but notoriously difficult to prove,” O’Neill said.

“Many employers associate older age with disability, illness or limited capacity, and youth with health, energy and vitality,” he said.

“Many employers associate older age with disability, illness or limited capacity, and youth with health, energy and vitality.”

“Stronger anti-discrimination laws will allow older Australians who have been unfairly treated in job search or the workplace, some recourse.”

Under changes to the complaints system once the complainant has established a *prima facie* case, the onus will be on the respondent to justify unfavourable treatment.

“At this stage we have some questions around the parameters within which a complainant must initially establish a *prima facie* case.

**Australia has the lowest workforce participation rate for the over 55s of all English-speaking OECD countries.**

“National Seniors is looking forward to contributing to the Senate Inquiry.”

The changes also propose that aged care providers will no longer be permitted to discriminate on the grounds of sexual orientation and gender identity when delivering care for same-sex couples.

National Seniors research shows a person in their 50s who becomes unemployed will remain unemployed three times longer than someone of a younger age.

Australia has the lowest workforce participation rate for the over 55s of all English-speaking OECD countries.
Australia is experiencing a demographic shift with life expectancy 25 years longer than it was a century ago. We are seeing an increase in the size of the older population in Australia as a result. This lengthened life expectancy is to be celebrated. But it comes with challenges, with a substantial impact on Australia’s health system and the aged care sector.

In April 2012, the federal government released its aged care reform agenda. This was in response to the Productivity Commission’s inquiry into aged care services in Australia. This position paper outlines a human rights approach for the implementation of the aged care reforms.

A human rights approach is the implementation of a set of essential principles that provides a baseline for human rights protection. It is an approach that can result in improvements in service delivery standards. The approach can provide a framework to guide decision-making, encourage the collection of disaggregated data to inform policy decisions and promote age sensitive programmes.

The approach adopted in this paper reflects that developed by the United Nations Committee on Economic Social and Cultural Rights in General Comment No.14, “The right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

By adopting a human rights approach we are able to better understand how health services can be delivered in a manner that is non-discriminatory and promotes equality; ensures that services are available, accessible, appropriate and of good quality; and have adequate monitoring mechanisms and ensure government accountability.

The paper briefly discusses these elements and then applies them to selected components of the aged care reforms. The selected components include consumer directed care, advance care planning, special needs groups, accessible services and human rights training for health workers.

The aged care reform package can be strengthened by incorporating a human rights approach to the delivery of services for older Australians.

The aged care reform package can be strengthened by incorporating a human rights approach to the delivery of services for older Australians. The aim would be to promote people-centred decision-making and real change in organisational culture.

The specific areas of the reform package that can easily accommodate a human rights approach include:

➤ The incorporation of indicators to monitor the implementation of consumer directed care. These indicators will be essential to determine the accessibility and quality of these services and to ensure the rights of older recipients of these services are protected and their decisions respected.

➤ The implementation of advance care training programs that extend beyond general practitioners to include health workers in the acute care sector and in the aged care sector. This would facilitate a process of effective communication between the acute care sector and the aged care sector and promote respect for the end-of-life decisions of older Australians.

➤ The development of a national program for improvement of health literacy to promote the participation of older Australians in consumer directed care.
The development of disaggregated indicators, at least on the grounds of sex, race, ethnicity, sexuality, socio-economic status, place of abode and urban/rural/remote location. These indicators will provide detailed information on the human rights issues of availability, accessibility and acceptability of aged care services to the whole of the older Australian population as well as to the special needs groups.

Improvement of the effectiveness of the Broadband for Seniors Initiative to ensure that older Australians are confident internet users and can effectively engage with the Telehealth program.

The development of indicators related to the charters of rights contained in the User Principles 1997 (Cth). These indicators should be included in the set of national quality indicators that will monitor the quality of aged care services.

Human rights training for health workers to ensure they are culturally competent, respect difference and diversity in the older Australian population and understand and respect human rights.

We are at the very beginning of the implementation of the aged care reforms. It is a time that offers us a significant opportunity. One that can ensure the human rights of all older Australians in receipt of aged care services are protected and their choices respected.

ENDNOTE

Age Discrimination Issues in Society

Anti-discrimination legislation is designed to deal with acts, or failures to act, but it’s harder to use the law to tackle the values and attitudes that underpin actions. And this is particularly true of ageism, because the attitudes that shape our treatment of older people are widespread, entrenched and often unquestioned, both at the personal level, and within the systems that service and support older people.

Is there a difference between the ageism experienced by the ‘very young’, the ‘late middle-aged’ and the ‘quite old’? Teenagers and people in their 60s may find it hard to get work because of their age. They may also share the experience of not being listened to or taken seriously, of being marginalised, again because of their age.

But people entering advanced age experience an insidious form of ageism when a range of their human rights are infringed because others assume that:
➤ Older people can’t look after themselves
➤ Older people need to be protected (from themselves as well as from other people)
➤ Older people make poor decisions
➤ Older people don’t know what’s best for them.

To label these attitudes stereotypical is not to deny the realities of ageing: as we age, most of us do become frailer, we may experience mental decline, and so we may be in need of both physical care and support, and increased protection. But this vulnerability, and these needs, should not be presumed solely on the basis of a person’s age. And the way these needs are met should continue to be respectful of our rights as human beings.

We can successfully resist stereotypes about old age (we might even laugh about them) when we begin to encounter them personally in our late 60s, but once we get to our late 70s or mid-80s, they can begin to erode our human rights. Paternalistic and overprotective attitudes to older people can interfere with our right to decide where and who we live with, our right to freedom of movement and association, our right not have our wishes and decisions arbitrarily interfered with or overridden, our right to privacy, and not least, our right to dignity.

Current approaches to older people’s rights often talk about the need to respect dignity. One way we can do this is to respect an older person’s right to make their own (sometimes risky) decisions. The ‘dignity of risk’ is a term that is used in the disability and mental health and, increasingly, the aged care sectors, to describe an individual’s right to choose to take some risks in engaging in life experiences; it includes the idea of making an informed choice, and the idea of accepting the possibility of harm or failure. An older person who has to call on family members or community services for support or assistance often finds their ‘dignity of risk’ coming into conflict with what everyone else sees as the older person’s ‘best interests’. It might also conflict with what professionals see as their duty of care, especially as organisational culture becomes more risk-averse.

Thus, although you have lived with and managed risk all your adult life, you might suddenly find yourself at 75 being told you can’t do what you want because it’s ‘too risky’ and/or because other people have a responsibility to keep you safe.

This might first happen to you when:
➤ An adult child disagrees with a financial decision you’ve made
➤ Your family disapproves of your new friend or relationship

AGEISM IS A HUMAN RIGHTS ISSUE

Ageism has been described by the Australian Human Rights Commission as “a process of systematic stereotyping of, and discrimination against people” simply because they are older. So we are talking about attitudes and values as well as actions, observes Jennifer Lord

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You go to hospital after a fall and they won’t let you go back home
You enter residential care for support, and find yourself treated like a child.

Ageism of this kind is hard to challenge via anti-discrimination legislation, because it doesn’t involve access to employment or education, and only sometimes provision of goods and services. It’s to do with day-to-day interactions with other people, and the way they treat you; it’s to do with relationships and where the power lies in those. It involves infringement of or lack of respect for human rights and needs to be recognised and dealt with in a human rights framework, and via human rights education at a community level.

<table>
<thead>
<tr>
<th>COMMON AGEIST ASSUMPTIONS</th>
<th>COMMON INCORRECT ASSUMPTIONS</th>
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<tbody>
<tr>
<td>➤ Older people are all the same.</td>
<td>➤ A physical disability indicates a cognitive disability.</td>
</tr>
<tr>
<td>➤ Older people are like children.</td>
<td>➤ Loss of speech indicates loss of hearing and/or cognition.</td>
</tr>
<tr>
<td>➤ Physical and mental decline is an inevitable consequence of ageing.</td>
<td>➤ Older people do not have the same privacy/modesty/confidentiality concerns as others.</td>
</tr>
<tr>
<td>➤ Older people do not have the same social needs as other age groups.</td>
<td>➤ Inappropriate responses to questions or comments indicate poor cognition or failure to cooperate rather than failure to hear.</td>
</tr>
<tr>
<td>➤ Older people do not communicate as well as younger people.</td>
<td>➤ Conversation with an older person is boring.</td>
</tr>
<tr>
<td>➤ Older people do not have diverse sexual needs.</td>
<td>➤ All older Aboriginal people are Elders.</td>
</tr>
<tr>
<td>➤ It is normal for older people to be withdrawn or sedentary.</td>
<td>➤ Being kind is the same thing as showing respect.</td>
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</table>

But ageism is also something for which we need to take individual responsibility. Check your own attitudes to ageing and aged people. The next time you see an elderly person’s rights being disregarded, and you accept it as a fact of life, part and parcel of being old, ask yourself ‘What if this were happening to me?’

Jennifer Lord is the Service Promotion Officer at Seniors Rights Victoria, a community legal and advocacy service set up in 2008 under the Victorian Government’s Elder Abuse Prevention Strategy.

First posted on the National Human Rights Action Plan website, August 2011
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Paternalistic and overprotective attitudes to older people can interfere with our right to decide where and who we live with, our right to freedom of movement and association, our right not have our wishes and decisions arbitrarily interfered with or overridden, our right to privacy, and not least, our right to dignity.

Ageism: nobody is immune

Ageism hinders people from seeing the potential of ageing and anticipating their own ageing, suggests Jessica Ferguson

Australia is experiencing an ageing population, with a predicted 24% of people being aged 65 years or older in 2056 compared to just 13% in 2007 (Australian Bureau of Statistics, 2009). With this in mind, it is quite concerning that ageism is widely reported by older Australians, with studies finding that as many as 80% of people over the age of 60 have reported experiencing ageism (Dobbs et al, 2008).

WHAT IS AGEISM?
Ageism was first defined in 1969 by Butler as the stereotyping and discrimination against people because they are old. Ageism is the final discrimination that a person will suffer and is unlike other prejudices as everyone may be subjected to ageism if they live long enough (Palmore, 2001). Ageism can manifest in many different forms, including ageist humour, holding negative attitudes towards older people and being patronising to an older person (McGuire et al, 2008).

AGEISM IN THE HEALTH CARE SETTING
Considerable evidence demonstrates that health care professionals show discrimination towards their older patients (Nelson, 2005). Health care professionals can be reluctant to help older people and label them as inactive, disagreeable, economically burdensome and dull (Ward, 2000). It is also believed that health care professionals may distance themselves from older people as a way to remove themselves from those close to death or those that they feel powerless to help (Kane & Kane, 2005).

The pessimistic and negative views that health care providers hold towards older people have a significant impact on an older person’s health (Reeve, 1999). A range of factors can be attributed to the continued failure to improve the health care of older people. Health care professionals have been found to search more rigorously to investigate problems in younger patients than they do with their older patients (Kane & Kane, 2005). Older people have been found to be on more medications than younger people with the same symptoms (Grant, 1996).

Some health care professionals’ decisions regarding referrals are based solely on age rather than the needs of the patient (Scott, 2011). Also, older people who obtain a disability such as a visual or hearing deficit are less likely to be offered rehabilitation, equipment and training to manage their day to day lives (Kane & Kane, 2005).

THE EFFECT OF AGEISM ON THE OLDER ADULT
Ageism and the associated stigma infuse the body and soul of the older person so that the individual accepts being devalued (Dobbs et al, 2008). When an older person is frequently labelled in negative ways, such as senile, lonely, poor, demented, disabled, sexless, sad, ill and dependent they have been found to adopt these myths and negative definitions associated with ageing.

Ageism also prompts older adults to believe that any deterioration in their health status is a normal part of getting older and, as a result, they become more passive members of society (Grant, 1996). This only helps to reinforce societies beliefs, displaying that older people can be the strongest practitioners of ageism as they accept the stereotypes and inevitably become frail (Kane & Kane, 2005).

Older people with positive attitudes about their ageing have been found to live up to 7.5 years longer than those with negative attitudes regarding ageing (Dittmann, 2003). Ageism hinders people from seeing the potential of ageing and anticipating their own ageing (McGuire et al, 2008). If people were to believe that some of the ‘inevitable deterioration’ that is part of ageing is avoidable, it is to be expected that they will be more active in their self-care (Grant, 1996). They may also see that ageing does not have to be a time to be devalued, but instead a time for continued growth, development and fulfilment (McGuire et al, 2008).

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18 Age Discrimination

Issues in Society | Volume 360
Most of us have no direct experience of psychiatry or severe mental illness. So our attitudes and experiences are shaped by what we are exposed to: mass media portrayals. Reality rarely makes good drama (remember *Big Brother*) so film and television content makers take some significant liberties with their depictions.

Most of us have no direct experience of psychiatry or severe mental illness. So our attitudes and experiences are shaped by what we are exposed to: mass media portrayals.

The power of cinema can't be underestimated – just look at the difficulty electroconvulsive therapy (ECT) has faced at the hands of *One Flew Over the Cuckoo’s Nest*. This highly effective and safe treatment for severe depression continues to bear the scars of its past. Even in 2011, patients routinely cite this 1975 film as a reason for not considering this therapy.

Similarly, most younger people have little daily contact with people over 65, apart from infrequent contact with their grandparents. As such, their perceptions of older people, ageing and dementia are likely to be drawn from portrayals in the mainstream media.

Consider the last time you saw an elderly character on television. If this was during a commercial, chances are they were promoting health insurance, funeral services or incontinence pads. If your experience was during an actual program, the character was likely frail, hospitalised, a hapless victim of crime, befuddled, or demented. Or perhaps all of the above.

There are currently more than 300,000 Australians living with dementia. With the ageing of the population this number is expected to double by 2030. It’s a condition that causes boundless suffering – not only to the patients themselves but to the carers who see their loved ones decline cognitively, functionally and behaviourally as the disease runs its course.

Globally, the annual costs attributed to dementia are equivalent to the GDP of Turkey.

Despite their prevalence, dementing illnesses are rarely portrayed in cinema. Over the past decade, only ten films featuring dementia and Alzheimer’s disease storylines have had a mainstream box-office release in either the United States or the United Kingdom. Between them, they grossed a little over $120 million dollars (two-thirds of which was accounted for by *The Notebook*).

All ten films tended to paint sympathetic images of dementia. Carers in (*Iris*, *Away From Her*, *The Notebook*) are almost saintly in their self-sacrifice. While sufferers, such as Dame Iris Murdoch in *Iris*, tend to be shown as bearing their burden with good grace and acceptance.

As a psychiatrist for the elderly I can tell you that these portrayals are by no means typical of either the patient or carer experience in this wide spectrum of disorders.
For someone preparing for the journey with the illness, viewing these films alone would do little to prepare them.

**The small screen**

Cinematic depictions of dementia are rare but they appear quite commonly on television, with portrayals tending to fall into two categories. In the first, the disease creates a crisis for a lead character, one of whose parents has usually been diagnosed with the illness (*House*: Episode 20, season 3; *The West Wing*: episode 78).

More commonly, dementia sufferers are regular characters on prime-time television, almost invariably within sitcoms but occasionally in ‘dramadies’. These characters provide comic relief, either as a lead character (think of Betty White in *The Golden Girls* and William Shatner in *Boston Legal*) or as a recurrent secondary character such as Grandpa, from *The Simpsons*. These characters are figures of fun; their memory lapses more comic than tragic.

From a plethora of negative portrayals of dementia on the small screen an unlikely champion has emerged: *Mother and Son*, which screened on the ABC between 1984 and 1994.

While undeniably a comedy, this program struck a more appropriate balance between humour, pathos and despair than most other series that have come before or after. Genuinely funny moments were counterpointed with the dynamic realities of carer stress, altered family dynamics, frustration and burnout.

*Mother and Son* is a more realistic portrayal of these issues than many films that attempted to explore this same territory in a more dramatic format.

**Out of sync with reality**

The perception of our aged citizens as being frail, confused and thus incompetent reinforces a pervasive ageism within our society. The elderly themselves are exposed to these negative portrayals of ageing. They see their suffering trivialised and thus receive the message that that their lives are not worthwhile.

Dementia has struggled to achieve the attention it deserves from policy makers. While negative, unrealistic and trivialised portrayals of dementia remain so pervasive and influential in our televisual and cinematic consciousnesses, it’s unlikely to ever gain prominence in the hierarchy of budget allocations.

There is a gulf between fiction and reality, and it’s time we woke up to this.

Steve Macfarlane is Director of Aged Psychiatry, Caulfield Hospital (Alfred Health) & Associate Professor of Psychiatry at Monash University.
**Introduction**

A significant age shift is occurring in Australia’s population profile. Australian Bureau of Statistics (ABS) data indicate that Australian society is ageing, and over the next decades, large numbers of people will be approaching retirement age while fewer younger people will be entering the labour market.

In 1901, only 4 per cent of Australians were aged 65 years or older. By June 2010, this proportion had risen to 13.5 per cent, and is projected to increase to between 21 per cent and 23 per cent by 2041.1

In order to meet the skill demands of the workforce, Australian workers will be in demand for longer periods throughout the life cycle. In recent years the average retirement age for men and women has hovered around 50 for women and 60 for men.2 These ages will have to shift upwards if we are to maintain a functioning workplace and economy. Data also indicate that as Australians live longer and healthier lives, we are more inclined to remain in the workforce for longer to meet both financial and personal objectives.3

Older workers have always been an important part of the Australian workforce, contributing knowledge and skill based on years of experience and expertise. Nonetheless as expected, labour force participation declines as people age; dropping sharply once people reach their 60s.

In the year to June 2010, 71 per cent of Australians aged 55-59 years were participating in the labour market. These rates drop to 51 per cent for people in the 60-64 age group and to 24 per cent for people aged 65-69.

The number of people who continue to work beyond the age of 70 is comparatively low, ranging between 2.7 per cent and 4.5 per cent since the 1980s.4

Trend data show that Australians intend to work for longer and retire later in life than in previous decades. In 2011, the average age at which people intended to retire was 62.9 years (63.5 years for men and 62.0 years for women).5 However, the data also show that we leave the workforce earlier than we estimate or intend.6 In other words, certain factors prevent us from working as long as we would like, or for as long as we imagine we will work.

There are good reasons for Australia’s decision-makers and law-makers to remove any impediments to the workforce participation of older workers. One motivating factor for governments is the projected costs of ageing to the economy. The Treasury’s *Intergenerational Report*, estimates that approximately $60 billion will be added to government spending by 2049-50. Two thirds of this amount is attributed to an ageing population, with predicted increases in Age Pension costs, health care and aged care.7

Given the costs to the economy alone, it is clear that encouraging people to stay in the workforce for longer periods is now an important national priority.

There is also a compelling human rights argument for...
governments to ensure that older people have access to employment without discrimination. Research points to the fact that older Australians are particularly vulnerable to poverty. The 2006 Australian Census shows increases in the number of older people who were homeless. Over 18,000 people aged 55 or over were homeless on Census night in 2006; 4,000 more than on Census night in 2001.

The ABS also reports that government pensions and allowances are by far the most common source of personal retirement income for both men and women. Two-thirds of retirees rely on the Age Pension as their main source of income. Fifty-eight per cent of female age pensioners and 54 per cent of male pensioners are paid at the full pension rate, meaning that these retirees have limited or no other source of income.

Governments and employers have a responsibility to ensure that older people are protected from poverty by providing social security income and by ensuring there are employment and training options for older workers. Article 25 (1) of the Universal Declaration of Human Rights makes specific reference to the right of older people to an adequate standard of living and security in old age.

A number of employment-specific conventions also contain provisions relating to the rights of older people to career guidance and training without discrimination. Remaining in the workforce for longer periods is the most effective way for older Australians to improve their standard of living. Employment provides an income stream that is above and beyond the pension income and, in most instances, employment also means contributions to superannuation for retirement. However, working for longer is subject to some barriers for older Australians.

This paper outlines some of the areas where action needs to be taken to remove the limits and provide the appropriate protections for people in the workforce as they age.

**Government action to increase the workforce participation of older Australians since the 1980s**

Since the 1980s, successive governments have developed incentives and removed barriers to keep older people in work. Government policy has focused on increasing the workforce participation rates of all Australians, including older people and women. This has led to increases in the workforce participation of both these groups.

The overall labour force participation rate of people aged 45-64 years has increased steadily over the last twenty years, from 56 per cent in 1983 to 69 per cent in 2003. This increase in participation has been driven largely by the increased participation of women ... In 2003, the participation rate for women aged 45-64 was 60 per cent, well above the proportion participating in the labour force in 1983 (35 per cent).

The current Australian Government is continuing to develop policies to encourage older people to stay in work. Recent moves to increase the eligibility age for the Age Pension is likely to have a significant impact on work participation rates of older people who do not have retirement savings. In fact, lifting the eligibility age will create an imperative rather than an incentive for some people to remain in the labour market.

The qualifying age for the Age Pension is set to rise to 67 years for both men and women by 2023 and the pension age for women has been rising from 60 years to 65 years since 1995. While increasing the pension age will offset some of the costs of an ageing population, the costs to Government are continuing to rise.

Despite the higher Age Pension qualifying age, Australian government spending on age-related pensions is projected to rise from 2.7 per cent of gross domestic product (GDP) in 2009-10 to 3.9 per cent in 2049-50.

In addition to lifting the Age Pension, the Australian Government has introduced various tax policies aimed at keeping older people in the workforce. These include, the Mature Age Worker Tax Offset that reduces the amount of payable tax for Australians who are 55 years and older and the Senior Australians Tax Offset which increases the amount of money that workers can earn before tax is payable once they have reached pension age.

The Australian Government has also developed a number of superannuation contribution schemes aimed at workers aged 50 years and older. The various transition-to-retirement schemes and concessional contribution schemes have allowed older Australians to make contributions to their superannuation at considerable tax advantage while they are still working. These measures potentially assist employees and people who are self-employed. (Note however, the 2012-2013 budget deferred the increased concessional contributions cap for over 50 year olds until 2014. The $25,000 concessional cap will apply to everyone until July 2014 when the cap is expected to increase to $50,000 for over 50 year olds).

In September 2011, the Australian Government delivered a long overdue equity measure by introducing a Bill into Parliament that will abolish the age limit on the payment of the superannuation guarantee to working Australians. This measure will come into effect on 1st July 2013.

**Other factors keeping older people in the workforce**

In addition to various policy levers, there is some indication that the Global Financial Crisis is keeping older people in work so that they can recoup their lost superannuation savings. This includes people over the age of 50 who made concessional contributions to boost their superannuation funds only to see their savings diminish with the decline of global share markets. Those people who took advantage of the $1 million transitional non-concessional contribution cap in 2007-08 did so just before the Global Financial Crisis.

According to research undertaken by The Australian newspaper, older people nearing retirement age are currently revising their retirement timelines and working...
for longer periods to recoup their superannuation savings. The consequence has been an expanded mature age labour market and a workforce participation spike in the over 55 age group since 2009.23

**The benefits of an older workforce**

There are economic benefits for individuals and governments when older people remain in the workforce. People who work longer accrue more superannuation savings and are less reliant on the pension during retirement. Workers also provide an increase to tax revenue.

There are also strong correlations between workforce participation and health status. Data indicates that working is a protective factor against physical ill health and poor mental health. The data show that people staying in the workforce past retirement age tend to have better health status compared with those not working. Poor health can also impact on a person’s ability to participate in paid work.

Labour force participation rates are consistently lower for people with chronic conditions and as people age; they are more likely to have a chronic National Health Priority Areas (NHPA) condition or injury ... arthritis or osteoporosis, asthma, cancer, cardiovascular disease, diabetes, injury, mental health and obesity.24

A healthy older generation has positive economic implications for governments. Over the next 40 years approximately two-thirds of all projected increases in government spending is expected to be on health. This reflects pressures from an ageing population and increases in demands on health services and new technologies.25

**An underemployed older workforce**

There is room to increase the workforce participation rates of older people. ABS data tell us that in the year to June 2010, there were on average 58,100 people aged 55 years and over who were unemployed.44 During this period, 46 per cent of unemployed older people had been looking for work for six months or more, compared with 32 per cent of those aged less than 55 years.45

In the June quarter of 2010, 97,100 Australians aged 55 years were underemployed.45 Data indicate that older people are underemployed for longer periods than younger workers. Older women are also more likely to be underemployed than men.

While older workers are less likely to be underemployed than younger workers, on average older workers tend to remain underemployed for longer. In September 2009, 41 per cent of older underemployed workers had been underemployed for more than a year, compared with 30 per cent of younger underemployed workers.

Among older underemployed workers, women were more likely to have been underemployed for more than a year (50 per cent) than men (33 per cent).29

The unemployment of older Australians has both social and economic implications. National Seniors Australia estimates the loss in these terms:

An economic loss of $10.8 billion a year to the Australian economy for not utilising the skills and experience of older Australians. This comprises:

- A loss of $8.7 billion a year for not utilising the skills and experience of older Australians who want to work but were not looking for work as at September 2008 (161,800 in total).
- A loss of $2.1 billion a year for not utilising the skills and experience of 39,331 who were unemployed and looking for full-time work as at March 2009; which doesn’t include the loss for not utilising the skills and experience of 17,073 unemployed older Australians looking for part-time work.30

According to the ABS, ill health, disability, or caring responsibilities mean that some older people are unable to participate in the labour force even though they would like to remain in work.31

Older workers also report the need for flexibility in their working hours or part-time arrangements so that they can fit in caring responsibilities or manage sickness or disability.32

A recent measure to increase the hours that people can work on the Disability Support Pension will create greater workforce fluidity and may have specific benefits for older Australians who are affected by disability or ill health.

*From 1 July 2012, the Government will also provide greater incentives to work by allowing all DSP recipients to work up to 30 hours a week without their payment...*
being cancelled or suspended. DSP recipients will also be able to receive a part pension while they work, subject to income testing arrangements. Currently, DSP recipients granted after 11 May 2005 can only work up to 15 hours a week before their payment is suspended or cancelled.

Similarly, the Age Pension Work Bonus scheme assists pensioners to take up part-time or casual work while still retaining the pension. A person who is eligible for the pension and under the age of 75 can earn up to $250 a fortnight (capped at $6,500), without the additional income being assessed under the pension income test. In the main, these are welcome initiatives. However, the age limit of 75 years on the Pension Work Bonus Scheme sets an arbitrary impediment for people who want to continue working beyond their mid-70s.

Governments must continue to take a leadership role in all policy portfolios that impact upon older Australians. This means developing incentives and removing age barriers within their own jurisdictions while encouraging employers and commercial insurers to make equal provisions for all workers, without discrimination in relation to age.

ENDNOTES


Successive editions of Treasury’s Intergenerational Reports (IGRs) have noted that Australia’s intergenerational compact was at risk in coming decades on two fronts:

- From a quantity challenge: Australia’s ageing population means there will be a big increase in numbers of the aged relative to numbers of workers.
- From a price challenge: As the Australian Government heavily subsidises health spending for the aged in particular, the fact that the cost of delivering health care tends to rise over time relative to other costs in the economy means an additional strain.

A five percentage point lift in mature age participation would see around $48 billion in extra GDP – or 2.4% of national income.

Those potential problems associated with an ageing population are now well known. And so too are the potential solutions – Australia needs to see a lift in its productivity growth and its participation rates. In particular, mature age participation can play a key role in tipping the balance between the number of future retirees and the number of workers available to support them.

The numbers are big:

- An extra 3 percentage points on participation among workers aged 55 and over would result in a $33 billion boost to GDP – or around 1.6% of national income.
- A 5 percentage point lift in participation among this group would see around $48 billion in extra GDP – or 2.4% of national income.

The latter would rank with the gains that Australia has achieved from some of the major economic reforms of times past. And remember, those gains come on top of an expected $55 billion or 2.7% boost from participation among the over 55s already factored into the latest IGR.

RECENT TRENDS IN MATURE AGE PARTICIPATION

Is that achievable? The good news is that attitudes to older workers have been changing in Australia over time, alongside related changes to the social, cultural and institutional context surrounding those attitudes.

Broadly speaking, the last 30 years have seen two trends in mature age participation:

- A broad increase in participation among Australians in their 50s and 60s, particularly over the past decade.
- A dramatic increase in female participation rates, which have been lifted by both increased mature age participation in the last decade and increased overall participation by younger women over the course of the previous two decades.

Indeed, gains in labour force participation over the last decade have tended to outpace expectations for them – particularly among older Australians. In other words, rapid changes in the structure of Australia’s workforce are no longer simply an expectation, they are increasingly becoming a reality – one that is already reshaping workplaces.

FUTURE MOVEMENTS IN MATURE AGE PARTICIPATION

But where to next? Future developments in participation among older workers will be particularly important.
to Australia’s overall economic future, as these older age groups will be growing fast at a time when population growth in younger age groups is predicted to slow.

There are a number of reasons to expect continued improvements in mature age participation over time:

➤ First, some additional flow-through of higher participation rates among women can be expected in coming years.
➤ Second, increases in the age pension age are ongoing, with the age for women increasing to 65 before the age for both women and men rises to 67 by mid-2023.
➤ Third, traditional attitudes to retirement are increasingly becoming obsolete as Australians adjust to significant increases in longevity.

With rising life expectancies, and improvements in health care and other technologies, there is every reason to expect that age will be less of a factor in future retirement decisions.

**ECONOMIC BENEFITS OF GREATER MATURE AGE PARTICIPATION**

Increasing mature age participation and employment has a range of benefits for the economy, the Government and, of course, for individual Australians with a desire to continue working.

Changes in mature age participation are already predicted to have significant benefits for the Australian economy in coming decades. Deloitte Access Economics sees these expected increases producing a $53 billion or 2.7% increase in national income by 2024-25.

Those gains are impressive. Given the substantial economic benefits expected to emerge from increasing mature age participation, it is useful to consider what might be achieved should further increases be encouraged by greater than expected gains over time.

➤ If Australia achieves a further 3% increase in mature age participation over and above that currently expected, the national economy would be $33.0 billion, or 1.6%, larger.
➤ Should mature age workforce participation lift an additional 5%, the national economy would be $47.9 billion, or 2.4%, larger.

The latter would represent a major change in Australia’s workforce, with participation among Australians in their 70s lifting by a half and participation among those aged 50-59 closing in on that of Australians in their 30s and 40s. It is therefore no surprise that the resulting economic benefits would rank with the gains that Australia has achieved from some of the major economic reforms of times past.

Those figures highlight the large and growing benefits of promoting higher mature age participation and employment.

Moreover, by remaining in employment for longer, older Australians can not only increase their current income, but can also save more to support themselves once they do decide to retire. In turn, improving retirement incomes not only raises living standards for future retirees, but can also assist in reducing welfare costs for future governments.

These benefits serve as a timely reminder that effective policies aimed at promoting increased workforce engagement among older Australians are likely to be among the most cost-effective tools available to lift national incomes and living standards in coming decades.

**Increasing participation among older workers: The grey army advances, Executive summary, 25 July 2012**

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CONSULTATIVE FORUM ON MATURE AGE PARTICIPATION

Presentation at the Consultative Forum on Mature Age Participation by Professor Rosalind Croucher, President of the Australian Law Reform Commission

The inquiry

On 7 March 2012, the Attorney-General of Australia, the Hon Nicola Roxon MP, asked the Australian Law Reform Commission (ALRC) to inquire into and report on Commonwealth legal barriers to older persons participating in the workforce or other productive work.

The ALRC was asked to consider all relevant Commonwealth legislation and related legal frameworks that directly, or indirectly, impose limitations or barriers that could discourage older persons from participating, or continuing to participate, in the workforce or other productive work and to provide its Final Report by 31 March 2013.

Key themes

Law reform work needs to be anchored in a framework of principle. In this field, the Government’s overarching objective is to keep people in work, and paying taxes, longer – rather than being on old age pension. (A complementary theme may be to support people into self-funded retirement rather than being on old age pensions.)

The Consultative Forum document of December 2011, Ageing and the Barriers to Labour Force Participation in Australia, refers to the Productivity Commission’s emphasis on ‘the employment participation of mature age people (aged 50 years and over) as an important way of lessening the economic challenges of an ageing population’: ‘It will increase the ability of people to fund their own retirement and lessen reliance on Government pensions. Further, a high proportion of mature age people in employment will increase the Government’s revenue base, as well as potentially lowering the costs associated with ill health.’

At the international level, UN Principles emphasise:

➤ ‘Independence’ – opportunity to work; participation in decision making about when and what pace to withdraw from labour force; and access to training
➤ ‘Participation’ – in formulation of policies; and ability to serve as volunteers.

These relate strongly to the principle of ‘self-agency/autonomy’, that the ALRC identified as a key principle in the inquiry into family violence and Commonwealth laws, completed in November 2011. I also note that under our Act the ALRC is directed to have regard to ‘all of Australia’s international obligations that are relevant to the matter’.2

The Turninggreyintogold report of the Advisory Panel on the Economic Potential of Senior Australians (2011) emphasises:

➤ Participation
➤ Lifelong learning (encore careers, training)
➤ Volunteering and philanthropy.

Similarly, the emphasis here is on self-agency, the ability to make choices, and to be allowed to participate fully.

Specific focus of the inquiry

The Terms of Reference focus on Commonwealth law and age-based limitations on, or disincentives to, participation in the workforce or other productive work.

We have interpreted this as requiring the identification of:

➤ Limitations on participation
➤ Disincentives to participation (and incentives to leave), and
➤ Incentives to remain in the workforce.

As a preliminary note I should mention the work in relation to the consolidation of Commonwealth anti-discrimination laws. This is happening at the same time as our Inquiry.

An exposure draft bill is expected over the coming months. There is a range of possible amendments to the age discrimination component of any consolidated Act that were raised in the Government’s Discussion Paper and submissions to the process – the ALRC is monitoring these and will be considering them in the course of the Inquiry. In particular, there is an exemption with respect to insurance under the current ADA and changes to anti-discrimination law may have a flow-on effect on the general protections provisions (or the use of those provisions) under the Fair Work Act 2009 (Cth).

Limitations

Limitations may be relatively easy to identify – specific ages acting as a limitation. Here is a sampling of examples uncovered by the team already.

Workers’ compensation

This is a matter on which Commissioner Susan Ryan has spoken often.

Each state and territory has their own workers’ compensation scheme and the Commonwealth has three schemes. Most jurisdictions (including the Commonwealth) have retirement provisions which restrict access to workers’ compensation, in particular income replacement payments, when a worker reaches the age of 65. The original rationale for such provisions is that once an injured worker reaches the retirement age of 65 they have access to their superannuation or other forms of income support – they are no longer a ‘worker’ or ‘in the workforce’ to attract workers’ compensation. However, a number of issues arise.

Where an older person wishes to remain in the workforce (or to volunteer) after 65 and the person is injured, he or she is not eligible to receive workers’ compensation – this is a disincentive to ‘participation’, a key theme. Instead the person has to rely upon any private support, such as superannuation or sickness benefits,

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or the age pension. But when the age is increased for the latter until 67, it will only be private resources in the main.

**Veterans’ entitlements**

A service pension under the **Veterans’ Entitlements Act 1986** (Cth) is essentially an income support payment payable subject to a means test, yet available five years earlier than the Age Pension in recognition of premature ageing of service personnel. It is currently available to male veterans who are 60 years or older, and to women who are 55 years or older. The payment of a service pension was originally premised on the notion that armed service led to premature ageing and earlier susceptibility to diseases which affected the aged. In order to retain consistency with the incremental increase to Age Pension age to 67 (by 2023) – and to create incentives to remain in paid employment – it may be argued that the ages for eligibility for the service pension under the **Veterans’ Entitlement Act** also be increased incrementally.

**Insurance**

Income protection insurance protects the insured in the event that he or she is unable to work due to sickness or injury. However income protection insurance is generally unavailable to persons aged over 65 years. This leaves those people who choose to continue their economic participation after the age of 65 unable to cover themselves in the event of illness or injury. This may necessitate reliance upon retirement savings and/or the Age Pension and consequently can act as a ‘push factor’ out of paid employment.

The difficulty the ALRC faces here is that such age limits in insurance policies are determined by private insurance companies. That insurance companies are able to set such age limits is because of the exemption in s 37 of the **Age Discrimination Act 2004** (Cth). Section 37 contains an exemption in relation to age-based discrimination in the terms and conditions on which an insurance policy is offered or refused where the discrimination is based upon actuarial or statistical data on which it is reasonable for the discriminator to rely or in a case where no such actuarial or statistic data is available, and cannot reasonably be obtained – the discrimination is reasonable having regard to any other relevant factors.

**Superannuation**

This is an active policy space. There are a number of age-based rules in superannuation laws which limit superannuation contributions for older persons. The Australian Government has recently announced that it intends to remove one such limitation: the upper age limit for the applicability of the superannuation guarantee (i.e. mandatory employer contributions), which is currently set at 70 years. But other age-based rules remain – particularly in relation to voluntary superannuation contributions.

For example:

- Superannuation funds may not accept voluntary (pre-tax and after-tax) superannuation contributions from persons aged over 75, nor from those aged 65 and over unless they meet certain conditions.
- Low income earners 71 and over are ineligible for the government co-contributions that other low income earners receive when they make voluntary (after-tax) superannuation contributions to their funds.
- Employers cannot claim a tax deduction for superannuation contributions they make on behalf of employees aged 75 and over.

These rules act as barriers to the accumulation of superannuation for older people, and potentially impede their ability to prepare for retirement. But do these age-based rules act, in themselves, as barriers to continued employment? Perhaps not directly – but they do send a strong message about society’s expectations around retirement and retirement age. This message may be at odds with the realities posed by the increasing longevity of Australians.

**Disincentives**

The idea of ‘disincentives’ is more difficult. An incentive to leave work may be a disincentive to continue working. Is this necessarily contrary to the Government’s objective?

What if the incentive to leave does not impose a burden on Government, in the sense of the person’s ‘retirement’ being self-funded and the opportunity to volunteer is thereby created? How much is a ‘law reform’ problem?

Here are some examples the team has identified.

One overarching issue in this Inquiry is the operation of the tax-transfer system. It is well documented that means testing for various income support payments can be a disincentive to work. That is, when a person spends more time in paid employment, his or her taxable income increases, which can increase the amount of tax paid and mean that he or she no longer satisfies the means test for a certain payment. This can therefore reduce his or her level of income support (such as the Age Pension) and other concessions and supplements tied to that payment (such as concession cards). Some measures have been put in place to maintain incentives to work, including various tax offsets and provisions that enable a person to retain their concession card for a period of time after commencing work. This equation raises actuarial questions that may be out of the ambit of the ALRC’s expertise – and not so much a ‘law reform’ problem.

Access to superannuation benefits may constitute a direct incentive to exit the workforce. The age that persons may access superannuation benefits – once they have retired or under the transition to retirement rules – is gradually increasing from 55 to 60. (If a person has not retired at 65, however, he or she may access their superannuation even though continuing in the paid workforce.)

If this age setting is too low, it may provide an incentive for early retirement. It may also send an outdated message about expectations of retirement age. The ‘Australia’s Future Tax System’ review – chaired
Incentives

The other important idea is the idea of ‘incentives’ to enter/re-enter or remain in the workforce.

The key incentives the ALRC is examining include:
➤ The operation of the Job Services Australia system
➤ Flexible working arrangements including the right to request under the National Employment Standards (NES)
➤ Individual flexibility arrangements in enterprise agreements and the scope in awards), and
➤ Workplace barriers and employer responsibilities under OHS legislation – given the potential workplace modifications that could be made to accommodate mature age workers the ALRC is interested in stakeholder views on the appropriateness of including information on mature age workers and OHS issues in Codes of Practice and other guidance material.

Just looking at one of these, the right to request flexible working arrangements under the NES, this was something the ALRC looked at in the Inquiry on Commonwealth Laws and Family Violence, tabled last month. Given that this is on the agenda for the Forum, I thought it would be useful to share with you our conclusions here.

The National Employment Standards enshrine 10 statutory minimum requirements that apply to all national system employees, and encompass areas such as working hours and arrangements, leave, and termination and redundancy pay. The NES are an absolute legislative safety net and cannot be excluded by an enterprise agreement or modern award. As a result, any amendments to the NES would have a wide-ranging impact on the entitlements of mature age employees.

An example – flexible work arrangements. Under the NES, employees who satisfy the service requirements – being a parent or otherwise having responsibility for a child who is under school age, or who is under 18 and has a disability – may request that their employer change their working arrangements to assist with the care of that child. Section 65(5) of the Fair Work Act provides that such a request may only be refused on ‘reasonable business grounds’.

In our previous inquiry, focused on family violence, the ALRC identified concerns with the existing provision. First, in its current formulation the right is based on parental or child care-related responsibilities. However, stakeholders suggested that the section could be amended to include other bases upon which an employee could request flexible working arrangements. Some overseas jurisdictions, for example, have enacted legislation which entitles victims of family violence to reduce or reorganise their working hours, change workplaces and make other flexible working arrangements.

Secondly, the current NES provision is procedural rather than substantive. It provides that an employee and, if that request is refused, be provided with a written statement of reasons.

Thirdly, there are limited enforcement mechanisms available. Section 44 of the Fair Work Act provides that an order cannot be made under the civil remedies provisions in relation to contraventions of s 65(5).

Since our inquiry was completed, the Fair Work Amendment (Better Work/Life Balance) Bill 2012 was introduced in February by Adam Bandt MP. This Bill would amend the Fair Work Act by extending the right to request flexible working arrangements to all employees and strengthening the right to request for employees with caring responsibilities.

The legislation would:
➤ Give employees who have been in their job for 12 months enforceable rights to request flexible working arrangements, including the number of hours they work, the scheduling of those hours and the location of work
➤ Provide for employers to respond to a request within 21 days
➤ In the case of carers looking after another person, allow employers to refuse flexible arrangements only where there are serious countervailing business reasons
➤ For all other employees, allow employers to refuse on operational grounds, and
➤ Give Fair Work Australia the ability to hear and determine any disputes if an employer refuses a request.

A significant feature of the Bill is that it removes the ‘flexible working arrangements’ requirement that is a part of the existing NES provision.
arrangements’ provisions from the NES and moves them to a new Part of the *Fair Work Act*.

The Bill was referred to the House of Representatives Standing Committee on Education and Employment. The ALRC made a submission based on our work in the Commonwealth Family Violence Inquiry.

Also coming in after we completed our work was the report of the Advisory Panel on the Economic Potential of Senior Australians, dated 12 December 2011. Of note is Recommendation 15, which recommends that the federal government work with industry to extend flexible work arrangements to people aged 55 and over, by amending the NES to include the right to request flexible work for this age group or through best practice industry standards.

In our Commonwealth Family Violence report, we recommended a whole-of-government five-phased approach to reform of employment-related legislative, regulatory and administrative frameworks; but emphasised that none of the phases are mutually exclusive, nor must they necessarily be sequential.

Ultimately, recognising the specific role of the NES, the ALRC recommended that as the final phase of implementation of reforms the Australian Government should consider amending s 65 of the *Fair Work Act* to provide that an employee who is experiencing family violence, or who is providing care or support to another person experiencing family violence, may request the employer for a change in working arrangements to assist the employee to deal with circumstances arising from the family violence.

**Inquiry process**

The law reform process involves a number of steps: sizing up the problem within the constraints of the Terms of Reference; defining the conceptual/policy landscape in which the development of law reform recommendations will occur; consultation, consultation, consultation; and, finally, the report, containing recommendations for reform. Most importantly, we never start with answers, only questions.

Once the ALRC has completed its work on any inquiry, a report is presented to the Attorney-General, who must then table it in each House of Parliament ‘within 15 sitting days’ of that House after having received it.9 Once tabled in Parliament, the report becomes a public document.10 The report will not be self-executing – rather, each inquiry provides recommendations about the best way to proceed, but implementation is a matter for others.11 But we do keep watch. Each Annual Report now provides a table of ‘Implementation Status’ of all ALRC Reports.12

On the one hand, ALRC reports and consultation documents give leverage at a high public level for achieving reform, providing a voice, through the consultative processes and their embodiment in the public documents (consultation papers and Report), in a coherent public way for key stakeholders on the issue the subject of each inquiry.

We are just at the beginning in this Inquiry. It is the point where we have lots of questions and many people to talk to. One of the most important features of ALRC inquiries is the commitment to widespread community consultation.13 The nature and extent of this engagement is normally determined by the subject matter of the reference – particularly whether the topic is regarded as a technical one, of interest largely to specialists in the field, or is a matter of interest and concern to the broader community.

We will have at least two consultation rounds throughout this inquiry before we report at the end of March next year. We will be releasing a short Issues Paper at the end of April. Then we ‘hit the road’ talking to key stakeholders, government agencies, community groups, academics, lawyers, and so on. In August we will pull all our preliminary thinking together in a Discussion Paper in which we will put out draft recommendations as ‘proposals’ – flying some ideas way up the mast, maybe to bring them down a little, or a lot, but really testing the waters (happily to mix my metaphors). We will then hit the road again, with a wider round of consultations, finally leading to the report early next year. We seek, and press, for submissions to both our consultation documents, and this provides us rich material to inform our thinking and also to quote in our work.

The inquiry process is described on the ALRC website: [www.alrc.gov.au](http://www.alrc.gov.au)

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**ENDNOTES**

3. Clarke Veterans’ Entitlements Review p. 248. It is also available on grounds of permanent unemployment at any age and pulmonary tuberculosis at any age.
4. ‘[D]ata on life insurance shows that salary continuance coverage for workers older than the pension or retirement age is also very limited. Benefit periods for workers aged 65 or more are generally limited to between six months and two years and some schemes provide no coverage for older workers. There is a trend to increase this age restriction, but it is quite limited.’ Aon Hewitt, ‘Time for a change in executive remuneration design?’ HR Connect Australia Volume 1, Issue 2, 2011. See also the work of Commissioner Susan Ryan ‘Remove age discrimination, and we’ll have more financially independent older people and a more productive economy’, published in The Equality Law Reform Project (10 October 2010).
5. Age Discrimination Act 2004 (Cth) s 37(3).
6. In order to be eligible to request flexible work arrangements, the employee must have 12 months of continuous service, or for a casual employee, be a long-term casual employee with a reasonable expectation of continuing employment on a regular and systemic basis: *Fair Work Act 2009* (Cth) s 65.
7. Ibid s 65(1), (2). The Note to s 65(1) states that examples of changes in working arrangements include changes in hours of work, patterns of work and location of work.
10. Ibid s 23.
11. However, the ALRC has a strong record of having its advice followed. About 59% of the Commission’s previous reports have been fully or substantially implemented, about 29% of reports have been partially implemented, 4% of reports are under consideration and 8% have had no implementation to date: Australian Law Reform Commission, *Annual Report 2005-06*, 38.
12. See the tables in the *Annual Reports* available on the ALRC website: [www.alrc.gov.au](http://www.alrc.gov.au)

Prepared in conjunction with the ALRC legal officer team: Sara Peel, Krista Lee-Jones and Amanda Alford.

First published 26 March 2012
Australian Law Reform Commission
Increasing mature age labour force participation is a key strategy open to policy makers to address the economic implications of Australia’s ageing population. Encouragingly, Australia’s level of mature age employment compared to other OECD countries has improved considerably in the past decade. However there remains room for continued improvement, to enable the economy to fully benefit from the skills and experience offered by mature age workers.

Improving mature age labour force participation is one of the key challenges identified for our economy in *Australia to 2050: Future Challenges*, the 2010 Intergenerational Report. In this context, in February 2010, the Australian Government established the Consultative Forum on Mature Age Participation as a vehicle to provide evidence-based advice on ways to overcome the barriers to employment participation confronting many mature age people. One key outcome of the Forum’s work has been the identification and measurement of 14 key barriers faced by mature age Australians in the workplace or looking for a job, and the development of recommendations to overcome these barriers – all of which are included in this report.

The table below summarises the findings of the Forum, outlining the barriers identified and the Forum’s proposed actions to address the barriers.

<table>
<thead>
<tr>
<th>BARRIER</th>
<th>DESCRIPTION</th>
<th>RECOMMENDATION AND COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discrimination in employment on the basis of age</td>
<td>Can manifest itself both directly and indirectly in the recruitment and retention of staff. Often, age discrimination interacts with other barriers.</td>
<td>1. <strong>Reviewing legislation and legal frameworks</strong>&lt;br&gt;On 8 February 2012, the Attorney-General announced an inquiry into legal barriers to mature age persons participating in the workforce – namely for people aged 45 years and over. Under the Terms of Reference, the Australian Law Reform Commission will identify these barriers and consider reforms to address them in Commonwealth laws, including: social security, superannuation, insurance, compensation and employment. The Age Discrimination Commissioner, the Hon Susan Ryan AO, has been appointed as a Part-time Commissioner to assist with the Inquiry. The Commission is due to report by the end of March 2013. This fulfils one of the earliest recommendations of the Forum, which was brought to Government in November 2010. 2. <strong>Education and communication</strong>&lt;br&gt;The Forum recommends that the Government deliver a community education and awareness-raising campaign to help address age discrimination. This would include direct targeting of information to employers and private recruitment firms, with a mass media component to affect broader attitudinal change.</td>
</tr>
<tr>
<td>Care-giving responsibilities</td>
<td>Significantly impacts the ability to secure and retain employment – in particular for those with disrupted careers due to child care and other caring responsibilities.</td>
<td>3. <strong>Productivity Commission review</strong>&lt;br&gt;The Forum recommends that the Government task the Productivity Commission to examine the broad thematic issues around caring, beyond employment and beyond mature age carers. The Forum notes that Recommendation 15, and associated comments, would also apply to this barrier.</td>
</tr>
<tr>
<td>Flexibility of employment arrangements</td>
<td>Is an important factor enabling mature age people to extend their working lives or to increase the employment participation of older Australians who face other barriers.</td>
<td>4. <strong>Corporate Champions</strong>&lt;br&gt;The Forum notes the early findings of the Corporate Champions pilot. Through this pilot employers who agree to demonstrate leadership in the employment of mature age people are provided with one-on-one support to recruit and retain mature age people and to manage their ageing workforce. Early findings suggest that employers are gaining a stronger understanding of the benefits of providing flexible work options with some employers implementing transition to retirement options in their Enterprise Agreements and increasing access to part-time working arrangements. The Forum recommends that the Government establish the Corporate Champions initiative as an ongoing program over a medium to long term (4-5 years) to build momentum and enhance results.</td>
</tr>
<tr>
<td>Issues around private recruitment firm practices</td>
<td>The increasing role of private recruitment agencies in job search has opened avenues for age-based discrimination to be experienced at the recruitment stage.</td>
<td></td>
</tr>
<tr>
<td>Job search assistance</td>
<td>Mature age job seekers can have trouble finding employment because of outdated job search skills, and may discourage them from seeking employment.</td>
<td></td>
</tr>
<tr>
<td>Leisure time trade-off</td>
<td>Efforts to increase employment participation of mature age Australians are challenged by a tendency for many to retire early to pursue leisure activities.</td>
<td></td>
</tr>
<tr>
<td>Mental health barriers</td>
<td>Evidence has demonstrated the connections between mental illness and early retirement, job loss, unemployment, or difficulties re-entering employment.</td>
<td></td>
</tr>
<tr>
<td>Mismatch of skills and experience with industry demands</td>
<td>Changes in the economy in recent decades, including a decline in manufacturing, means that some mature age people have skills less suited to the modern economy.</td>
<td></td>
</tr>
</tbody>
</table>

5. **Education and training within the private recruitment industry**
The Forum recommends education and training for private recruitment firms, linked to the communication campaign outlined in Recommendation 2. Through this campaign, private recruitment firms could be encouraged to report publicly on their efforts to address age discrimination and on the age diversity of their clients and their own workforce.

6. **Leadership in private recruitment**
The Forum recommends that key recruitment industry associations lead the way in bridging the gap in successful placements between employers and mature age job seekers. This could be facilitated through industry-specific forums that bring industry-focused groups, recruiters and clients together.

7. **Rewards and recognition**
The Forum recommends that the Government establish a national rewards and recognition program for private recruitment firms and employers who show leadership in the employment of mature age people.

8. **Promoting existing programs**
The Forum notes that there is low awareness among employers of the help available to recruit and retain mature age people. The Forum recommends greater promotion of existing programs (for example Experience+) to support mature age job seekers and workers. This process should reflect developments achieved from Recommendations 4, 14 and 20.

9. **Stronger support for mature age people not eligible for income support**
The Forum recommends that the Government invest more in job search assistance and training for mature age people who wish to participate in the workforce but who are not eligible for income support. This could include Age Pensioners, people with partner income and self-funded retirees who want to find a job.

10. **Stream 2 assistance through Job Services Australia**
In addition to Recommendation 19, the Forum recommends that the Government provide fully eligible mature age job seekers with a minimum of Stream 2 assistance through Job Services Australia or that the Government review/recalibrate the Job Seeker Classification Instrument to ensure that more mature age job seekers have access to Stream 2 (or equivalent) or above.

11. **Financial and career planning**
The Forum recommends that the importance of making informed lifestyle decisions in the lead up to retirement be promoted to mature age people, including the importance of financial and career planning in the lead up to retirement.

12. **Research into the retirement decision-making process**
The Forum notes that there is a gap in the research about the retirement decision-making process and recommends research in this area, including further examination of the financial, health and lifestyle consequences of early retirement and the extent to which retirees and pensioners are returning to paid work and why.

13. **Support for the national Mental Health Policy and Action Plan**
The Forum supports the National Mental Health Policy and Action Plan which aims to enable recovery, prevent and detect mental illness early and ensure that all Australians with a mental illness can access effective and appropriate treatment and community support to enable them to participate fully in the community. The Forum acknowledges the life-span approach adopted by the Policy and Action Plan.

14. **Further examination of the skills and training needs and barriers faced by mature age people**
The Forum recommends that the Government task the National Skills Standard Council and the National Workforce and Productivity Agency to examine the skills and training needs and barriers faced by mature age job seekers and workers.
<table>
<thead>
<tr>
<th>Physical illness, injury and disabilities</th>
<th>Have a major impact on early retirement, job loss, unemployment, and can create difficulties re-entering employment.</th>
</tr>
</thead>
<tbody>
<tr>
<td>15. Changes to the National Employment Standards</td>
<td>The Forum recommends extending the National Employment Standards (NES) to include the right to request flexible work to people with disability/caring responsibilities (regardless of the age of the person cared for). The Forum further recommends that employees should also be given the right to appeal the decision through Fair Work Australia.</td>
</tr>
<tr>
<td>It should be noted that this recommendation was not unanimous. The Business Council of Australia, the Australian Industry Group and the Australian Chamber of Commerce and Industry opposed the recommendation and suggest instead that education and communication be used to increase employer understanding of, and willingness to provide, flexible work options for mature age people with caring responsibilities.</td>
<td></td>
</tr>
<tr>
<td>16. Practical help for employers</td>
<td>The Forum recommends that the Government establish independent officers to be located within various industry groups and associations across Australia to provide practical advice and assistance to employers around workforce ageing issues. The dominant focus should be age however officers could also provide broader diversity support. This could include the development of information products (industry-based) to support workers across the life cycle.</td>
</tr>
<tr>
<td>17. Support for workers in physically demanding roles</td>
<td>The Forum recognises the policy intent of the Job Transition Support, which is designed to help workers in physically demanding roles retrain and move into a new role with the same or a new employer. The Forum notes the low take-up of this program and recommends that the program be redesigned to reduce complexity and to make it easier for employers and workers to access.</td>
</tr>
<tr>
<td>18. Encouraging greater participation</td>
<td>The Forum notes that in addition to regular job search, job seekers aged under 50 who have been unemployed for 12 months or more (and who are being assisted by Job Services Australia) are required to participate in activities designed to help them remain socially connected, to increase their skills and to find a job. Job seekers aged 50 years and over, however, have no requirement to participate in these activities. The Forum recommends that the requirements for mature age job seekers be strengthened to encourage greater participation in activities that will help them re-engage with employment.</td>
</tr>
<tr>
<td>19. Strengthening income support participation requirements</td>
<td>The Forum notes that mature age job seekers aged 55 years and over who are able to work may choose to do 30 hours per fortnight of voluntary work, part-time work or a combination of both to satisfy their income support participation requirements. These job seekers are not required to look for a job and generally receive no further assistance from their employment service provider but are expected to accept referrals to interviews for paid employment (up to full-time) if offered. On average, mature age job seekers who choose the voluntary/part-time work option are unemployed for 1.5 times longer than mature age job seekers who choose to actively participate in employment services. For employment service providers, the current arrangements are difficult because they do not have contact with the job seeker to allow them to refer the job seeker to interviews for paid work. The Forum notes that the requirements of the job seeker and the requirements of the employment service provider do not align and recommends that this be addressed.</td>
</tr>
<tr>
<td>20. Improving access to current training programs</td>
<td>Experience+ Training allows employers to provide training to mature age workers to build their capacity to supervise or mentor an Australian Apprentice or Trainee. More Help for Mature Age Workers allows mature age workers who have trade skills but no formal qualifications to have their skills assessed and to undertake gap training, if needed, to gain a qualification. In addition to Recommendation 14, the Forum recommends that these programs be adjusted to increase flexibility and to allow more mature age people to benefit from training support.</td>
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</table>
### Superannuation

| Individual superannuation decisions, as well as Government policies, can significantly impact retirement timing decisions. |

<table>
<thead>
<tr>
<th>21. Removing age limits on the superannuation guarantee</th>
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<tbody>
<tr>
<td>The Government has announced that the superannuation guarantee age limit will be abolished. From 1 July 2013, eligible employees aged 70 years and over will receive the superannuation guarantee for the first time. Making superannuation contributions compulsory for mature age employees is designed to improve the adequacy and equity of the retirement income system, and provide an incentive to older Australians to remain in the workforce for longer. Amendments to the Superannuation Guarantee (Administration) Amendment Bill 2011 and the Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Bill 2011 were made to give effect to these reforms. These changes fulfil an early recommendation of the Forum to remove the superannuation guarantee age limit so that superannuation guarantee contributions can be made at any age.</td>
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</table>

### Tax transfer system

| In Australia there is evidence that the tax transfer system is complex and may act as a disincentive for mature age people to work. |

<table>
<thead>
<tr>
<th>22. Removing age caps on work-related insurance, licensing and workers compensation</th>
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<tbody>
<tr>
<td>The Forum notes the important work underway by Safe Work Australia to review the application of workers’ compensation legislation to ensure that older workers are not disadvantaged, and acknowledges the complexity of working across jurisdictions to achieve this goal. The Forum recommends that changes to workers compensation, work-related insurances and work-related licences be made so that older workers are not disadvantaged. The Forum stresses that the time for such change is now.</td>
</tr>
</tbody>
</table>

### Workplace barriers

| Improving the quality of workplaces with physically demanding occupations and inappropriate conditions can attract and retain mature age people in the workforce. |

<table>
<thead>
<tr>
<th>23. Expanding access to the Employment Assistance Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Employment Assistance Fund provides financial help to employers for workplace assessments, modifications, adaptive equipment or other special work-related equipment to help a worker who has a health condition, injury or disability to their job or access employment. The Forum recommends that eligibility for this program be extended to allow older workers who do not meet the current eligibility criteria but who would benefit from this type of assistance to help them continue in their job, to access this support.</td>
</tr>
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### A STRONG EVIDENCE BASE

The Forum’s development of appropriate responses to the above barriers has been informed by a strong evidence base. Following the Forum’s interim report, published in December 2011, the first nationally representative survey of the barriers to employment faced by mature age people was conducted.

The National Seniors Productive Ageing Centre undertook the survey on behalf of the Australian Government and the Forum to assess: 1. the prevalence of the barriers to labour force participation facing mature age workers, 2. the degree to which the barriers interact and are related with each other, and 3. to uncover the characteristics of mature age people who face barriers in either the workplace or in job search. This kind of evidence, as summarised herein, provides important information for policy makers to better target interventions to overcome the barriers identified by the Forum.

The Forum ended on the 30 June 2012. The new Advisory Panel on Positive Ageing will continue the important work started by the Forum, consulting with communities, employers and mature age people on a range of policy issues to help drive the Government’s ageing agenda. The Panel will support a strategic approach to maximising the potential of an ageing population.

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**The authors of this report are Dr Jeromey Temple and Dr Tim Adair from the National Seniors Ageing Centre (NSPAC).**

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This report has been published by the Department of Education, Employment and Workplace Relations (“the Department”) for the purpose of disseminating the report of the Consultative Forum on Mature Age Participation. The report does not necessarily reflect the considered views of the Department or indicate a commitment to a particular policy or course of action. This report is not a substitute for independent professional advice and readers should obtain any appropriate professional advice relevant to their particular circumstances.

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Prepared on behalf of the Consultative Forum on Age Participation.

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www.productiveageing.com.au
Government must show leadership on older workers, say seniors

Older Australians are calling on the federal government to show leadership in improving the employment prospects of mature age workers, following the release of yet another report on the issue. A press release from National Seniors Australia

The report, Working Past Our 60s: Reforming Laws and Policies for the Older Worker, was released by Age Discrimination Commissioner, Susan Ryan, in Melbourne this afternoon.

National Seniors Australia chief executive Michael O’Neill said it was time for the Commonwealth to stop producing reports, lead by example and get on with introducing practical change.

“The issues in today’s report – age limits on workers compensation, insurance, and professional licensing – are the issues we were talking about a decade ago.

“It’s all starting to feel like Ground Hog Day.

“Australians are ageing differently now – we’re healthier and stronger than ever before, and many of us enjoy and want to keep working well beyond 65,” he said.

“It’s time government put down its pens and got on with the business of removing these long-identified legislative barriers.”

Beyond that, O’Neill said employer attitudes would prove to be the biggest hurdle for older workers.

“Mature age workers, often the first to go in redundancy exercises, can end up languishing on unemployment lists three times longer than their younger colleagues,” said O’Neill.

“ABS figures show that almost 40 per cent of all discouraged job seekers, people who want to work but have given up looking, believe that employers consider them too old.”

“Unfortunately, age discrimination is often covert and very difficult to prove,” he said.

National Seniors research, quoted in today’s report, reveals an annual loss of $10.8 billion to the economy in not utilising the skills and experience of older workers. Workers compensation age limits (mostly 65) currently exist in every state and territory except Queensland and Western Australia. The superannuation guarantee age limit will be abolished from 2013. However people aged over 75 are still precluded from making additional concessional and non-concessional contributions to their super.
The Financial Services Council released research which shows older workers are being discriminated against in the work force at a time when they are finding it hard to build the superannuation they need for retirement.

Conducted by Westfield Wright for the Financial Services Council, the study found almost three in 10 (28 per cent) older workers had experienced discrimination being made redundant before others the most frequently cited example. Other forms included lack of training/development opportunities, verbal abuse and inflexibility towards health and physical needs.

Discrimination was most acute among mid-managers earning the average Australian wage of $70,000 a year.

By 2050 there will only be 2.7 working Australians for every citizen over 65. Without action, this will have serious implications for the quality of life of every Australian.”

While attitudes among employers varied, the study found cost, particularly in the current economic environment, and workplace culture were behind decisions to recruit younger staff.

This was a key concern among older workers who were trying to save as much superannuation as they could before they retired. Close to 50 per cent of over 50-year-olds said they were dissatisfied with the amount they had put aside for their retirement, with more than half of those feeling very concerned.

John Brogden, CEO of the Financial Services Council, said attitudes towards older workers needed to change because Australia was facing an ageing population crisis.

“At current trends, by 2050 there will only be 2.7 working Australians for every citizen over 65. Without action, this will have serious implications for the quality of life of every Australian,” Mr Brogden said.

“We need to end the concept of full-time work followed by full-time retirement. Australians remaining in the workforce for longer periods will stretch retirement incomes by supplementing superannuation through part-time work as well as reduce our nation’s skills shortage.

“However the solution is not a new raft of anti-discrimination laws. Instead, the focus should be on more flexible work practices and finding other paths of employment such as consulting or mentoring to encourage further workforce participation by older workers."

“Older workers also need to be flexible and recognise they cannot have it all – the flexible work hours and slower paced job on the same salary as they earned before is unrealistic.”

“The solution is not a new raft of anti-discrimination laws. Instead, the focus should be on more flexible work practices and finding other paths of employment such as consulting or mentoring to encourage further workforce participation by older workers.”
Being constantly referred to as the “f*cking geriatric” by workmates, is one of the stories to emerge from new research that reveals age discrimination is alive and well in the workplace.

While this case involving a 50-year-old labourer was blatant, age discrimination is more often covert and notoriously difficult to prove, writes the late Professor Sol Encel in his report, *The Elephant in the Room*, conducted for National Seniors Australia.

It’s time for the people who judge a person’s ability by their age to realise they’re the ones out of date.

Releasing the report today, National Seniors chief executive, Michael O’Neill, said that while the 2004 federal age discrimination laws were meant to help older workers, in some ways they had made it more difficult.

“With the age discrimination laws in place, employers are now much more sophisticated in how they exclude older workers. For example they may use recruitment agencies to screen applicants, employ code terms such as ‘overqualified’ or frame advertisements denoting youth.”

“And then, surprisingly in this day and age, there are still those employers who just come out and say ‘you’re too old’.”

“The costs to the nation are huge. In a human sense we’re creating an underclass more likely to experience social isolation, ill health and financial insecurity. In monetary terms, not employing these people who want to work translates into a $10.8 billion annual loss to the economy.”

“Negative stereotypes of older workers have been around for decades. The world has moved on. It’s time for the people who judge a person’s ability by their age to realise they’re the ones out of date,” said O’Neill.

The report calls on policy makers to:

1. Examine the issue of ‘disguised discrimination’ and strengthen the relevant anti-discrimination legislation to reduce the likelihood of covert discrimination
2. Ensure individuals can make their own work or retirement choices in the light of their own health, aspirations, financial status and family situations
3. Promote greater awareness by employees of their rights to complain about age discrimination.

The report comes only ten days after Prime Minister Julia Gillard’s Sydney Institute speech in which she indicated possible cuts to the disability pension in the May budget.

Long-term unemployment is a harsh reality for older workers. Despite determination, it takes the over-50s three times longer than younger workers to get back into the workforce. After years of trying, if they’re below 65 many will end up on a disability pension.
The phenomenon of population ageing is often summarised in a simple ratio. Known as the dependency ratio, it measures the proportion of those of traditional working age (15-64 years) to those above it (65 years and over). In Australia, as in most other countries, this dependency ratio is on the increase, having risen from 15% in 1980 to 20% in 2012. By 2050 it is expected to reach 36%.

Yet who we consider to be of traditional working age can change over time. Arguably more important than the dependency ratio is the proportion of people actually in the labour force supporting those who aren’t.

For example, despite the rising proportion of older people, Australia’s total labour force participation rates have increased over the last few decades, from 61% in 1980 to 65% in 2012, driven by greater numbers of women working. Women still have some way to go to catch up with men. But even as that happens, if we wish to offset the declines in total participation that result from population ageing, we need some of the older people to remain in the labour force.

Despite the rising proportion of older people, Australia’s total labour force participation rates have increased over the last few decades.

Many older people already want to work longer but encounter barriers to doing so. The barriers and incentives that lead to their inactivity come at a high cost of foregone potential. In a briefing paper on the trends and prospects for mature age labour force participation, co-written with Professor John Piggott at the Centre of Excellence in Population Ageing Research, we estimate this cost to be around $30 billion, or 2.4% of GDP in 2012.

Besides dismantling mature age employment barriers related to health, discrimination, and skills, there are some key institutional issues that government can tackle. These result from the carrots and sticks that make up the tax, benefit and retirement income system.

The most important of these are the three ages at which pension income can be accessed: 55 (increasing to 60) for superannuation access; 65 (increasing to 67) for age pension access; and 60 for tax-free superannuation benefits. These can be thought of as two sticks and a carrot.

Australia is increasing the access ages for the two sticks. But the access
age for tax-free superannuation has been left untouched at 60. As Professor Piggott has noted before, "once the standard superannuation age reaches 60, in 2024, the carrot will have lost its crunch".

There is indeed evidence that for mental health outcomes, a bad job can be as bad as or worse than inactivity.

These levers are not only more amenable to policy intervention, but also appear to have a greater impact. When New Zealand increased access to its pension from 60 to 65, mature age participation rates shot up much faster than in Australia, and now stand considerably higher; 76% for those aged 55-64 compared to Australia’s 53%. A key explanation is that New Zealand doesn’t rely on a widespread superannuation scheme, which in Australia can be accessed much earlier.

But to what extent can we push for longer working lives? Some, such as my fellow contributor to The Conversation, raise concerns about leaving older people to the ravages of the labour market. There is indeed evidence that for mental health outcomes, a bad job can be as bad as or worse than inactivity.

Still, the quality of jobs in Australia is not necessarily worse than in other advanced economies. For example, the incidence of temporary contracts among 55-64 year olds, a key indicator of job insecurity, stands at 4.6% – about half the rate of the OECD average.

Indeed, there doesn’t seem to be a relationship between a country’s mature age participation rate and incidence of mature age mental health issues. While Belgium has one of the lowest participation rates of 55-64 year olds in the OECD of 36%, Sweden has one of the highest, at 76%; yet both have the same incidence of mental health problems among 55-64 year olds.

It is important to remember that population ageing takes time. And society, as well as the labour market, can change and adapt over time. We know from health and education data that today’s older people are much better off than in the past. And looking at labour market data shows that while the proportion of unemployed 55-59 year olds who have been looking for a job for more than 12 months is at 34%, twice that for 25-34 year olds, this rate has declined more than for any other age group over the last decade.

Should labour markets become more turbulent and we find that older people increasingly struggle to engage with employment, then addressing labour supply and demand barriers seems more fitting than to simply retire them.

The latter response is a mistake made in the past in the now familiar story across the OECD in the 1980s, of retrenchment and labour market exit of older workers to apparently make way for the young. This was in line with the debunked logic that there is only a certain number of jobs to go around.

Ever since the baby boomer generation, we have been redefining the timing of key life events ... later marriage, child-bearing, and longer, healthier lives, will mean longer productive lives too.

From Shades of Grey, a series from ‘The Conversation’ website that examines the challenges posed by Australia’s ageing workforce.

Rafal Chomik is Senior Research Fellow, ARC Centre of Excellence in Population Ageing Research at University of New South Wales.

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Posted 28 September 2012.
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Older workers may be our economic salvation – or a pipeline to poverty

Increasing the participation of older workers for purely economic reasons can lead to poverty, explains Ben Spies-Butcher

Economists claim that older workers may be our salvation against the perils of population ageing. A recent report from Deloitte Access Economics has claimed a 5 per cent increase in participation by older workers could increase GDP by $48 billion over 12 years.

But the history of women entering the workforce shows striving for equal participation can be a double-edged sword. Prosperity can accompany greater equality – between men and women, young and old – but without broader economic and social change it can mean growing inequality and insecurity amongst those left behind.

Before the concern over the ageing population began building during the 1990s, Australian governments were preoccupied with another challenge – globalisation. Open markets threatened the traditional economic model, which had protected manufacturing; had seen the development of a stable export trade with our former colonial master – Britain; and had guarded wages and working conditions through a centralised system of court arbitration.

Over the next 30 years, Australia gradually restructured its economy. Markets were opened, wages were deregulated, new export markets were expanded. While many experts hail this process as successful in generating higher incomes, it also resulted in considerably greater financial inequality and insecurity.

Market deregulation threatened to make it even worse. In New Zealand and the USA, it saw a much more dramatic decline in equity and social connection. Australia instead pursued a more moderate reform agenda. Wages were held down, and casualisation did increase. But other measures were taken to cushion the effects on workers. A key part of this cushion was a deliberate move to push women into work.

Even the feminist movement, particularly the ‘femocrats’ involved in policy making, saw an opportunity to advance gender equality with economic arguments. While individual wages might stall, having a second income promised to increase family incomes. And increasing the number of women workers promised to ease labour shortages, particularly in the growing services sector.

Prosperity can accompany greater equality but without broader economic and social change it can mean growing inequality and insecurity amongst those left behind.

Over the 1980s and 1990s Australia’s female participation rate rose 13 percentage points, double the OECD average. These workers have proven invaluable in some of the industries where employment is growing fastest – health, education, retail, and childcare. It has also played a significant role in raising family incomes, and giving women greater financial independence and life choice.

It seems the current Labor government is following a similar formula in promoting the employment of older workers.

Population ageing potentially lowers economic growth, not only because more Australians will be over our traditional retirement age of 65, but because participation rates for those older workers (50-65) are lower than for the young.

But our experience with women workers suggests some caution is needed in promoting this new agenda. When older workers are welcomed, discrimination reduces and experience is valued, proving that there are clear benefits...
to increasing workforce participation.

But these changes are also likely to see new forms of inequality, and create new economic pressures that mean many, especially those with fewer skills, those who work in manual labour and those with disabilities, will feel compelled to work in insecure or disappearing jobs.

Both these forces were evident in the transition to a more gender equal workforce. Until recently the inclusion of more women in the workforce led to a decline in the gender wage gap and a change in social norms, which saw reduced gender discrimination. These changes have not yet gone far enough – and on many levels have stalled – but it has been a positive shift.

On the flip side, the rise in the number of double income families has sent house prices up, effectively forcing most families to have two earners. Women have also been concentrated to low paid, casual jobs, and have lacked access to childcare. Rather than changing work so that women are welcomed, much of the change has come from financial pressures that force women (and men) to work in unfriendly environments.

We have to think carefully about the broader changes that come from changing work patterns. Recent research has found that 3 in 10 older workers face direct discrimination. That is unacceptable, and a key reason why older people don’t stay in the workforce for longer.

Alongside policies to encourage employers to welcome older workers, the government has also been wielding the stick. It will be increasing the age at which we become eligible for the pension to 67. Many white collar, professional workers might welcome this. Many will want to work longer, and those that can’t will be able to access superannuation from 60 to ease out of the workforce.

That’s not the case for many unskilled and manual workers, who will struggle to find work and whose bodies will groan in their traditional jobs. It will mean an increasing divide amongst older households.

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We want people to work because they find meaning, purpose and acceptance in what they do – not because they will be evicted if they don’t.

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Over time, this will only get worse as younger generations – where many workers will never be able to afford a home – will reach retirement age. Better educated and secure workers will continue to work in highly paid jobs, in secure housing, without a mortgage. Others will struggle on in private rentals, casual work and frequent unemployment.

Older people remaining in the workforce is to be welcomed – but doing so for purely economic reasons can be a recipe for poverty and social exclusion. Equality and economic participation can go hand in hand, but this requires addressing both issues simultaneously. We want people to work because they find meaning, purpose and acceptance in what they do – not because they will be evicted if they don’t.

From Shades of Grey, a series from ‘The Conversation’ website that examines the challenges posed by Australia’s ageing workforce.

Ben Spies-Butcher is Lecturer in Economy and Society, Department of Sociology at Macquarie University.

Earlier this year the Australian Human Rights Commission released *Working Past Our 60s*, a discussion paper on reforming workplace laws and policies for older workers. The report highlights a number of institutional barriers to their employment, the removal of which would undoubtedly assist in lifting older workers’ employment participation rates to levels closer to those of other industrialised nations.

In the past, older workers have borne the brunt of industrialised nations’ efforts to grapple with the effects of economic restructuring, with policymakers encouraging their early labour market withdrawal. They have been over-represented in declining industries, under-represented in those experiencing growth and affected by reduced demand for unskilled workers.

Organisational delayering, downsizing of operations and process re-engineering has fragmented the traditional employment relationship and undermined the ability of older workers to sustain positions in the labour market. While the large-scale devastation of certain kinds of manufacturing and production industries in the 1980s has ended, global forces continue to shape the employment landscape in ways that may not be conducive to older workers’ job prospects.

**While older workers may nowadays be somewhat closer to the labour market than they once were, their employability generally remains poor.**

But current thinking is that early retirement is not tenable if industrialised economies are to remain competitive and to respond well to the ageing of populations. The European Commission, for instance, has estimated that an increase in the effective age of retirement of one year would reduce the expected increase in expenditure on public pensions by between 0.6 and 1 percentage points of GDP. The economic gains alone resulting from ‘active ageing’ could thus be enormous.

But is this achievable without the risk of hardship for some older workers? Working later also seems at first glance like an attractive prospect for older workers when one considers benefits such as income and social participation. To achieve longer work lives major reforms are needed and in this regard the present Federal Government has introduced a raft of generally useful initiatives. This latest official report identifies other, remediable factors that discourage the labour force participation of older workers.

However in the rush to promote the benefits of working later, the reality of older workers’ experiences should not be neglected. It is easy to point to gaps in arguments concerning the value of blocking off early exit pathways and instead exposing older workers to the labour market via promoting re-entry and retention. Unfortunately, past policy changes have often been driven more by concern for the economic consequences of population ageing than for the wellbeing of all older people.

It is possible to mount a serious challenge to those who would make a case for active ageing. It is difficult to argue with the principle; after all, it appears to offer something to everyone. But for older workers serious risks are present.

While older workers may nowadays be somewhat closer to the
labour market than they once were, their employability generally remains poor. Some unemployed workers will be, in effect, retired but lack the financial wherewithal to withdraw from the labour market. 'Activation' in terms of offering the 'right' of older people to work, when there is no work to be had (due to age discrimination, a lack of skills currency, or failing health) may simply be condemning many to labour force participation, but with little or no prospect of meaningful opportunities.

In addition, although policymakers would point to the individual benefits of working, if this is not quality work then this may reduce the prospect of a healthy and secure old age. Here the Australian Human Rights Commission report makes a contentious statement, arguing that "working is a protective factor against physical ill health and poor mental health". True to a point, but this surely depends on the kinds of work available for older people.

Flexible working has long been promoted in Australia and elsewhere as an approach that has appeal to older workers as they transition to retirement. But the problem lies in how flexibility is defined. It is not always possible for older people to exercise much choice and control over their labour market status. Many, for instance, find themselves trapped in involuntary part-time work for long periods, particularly women.

Many of the jobs to which older workers gravitate do not fall into the 'quality work' category. Despite the shift to a knowledge-based economy, many workers are still to be found in physically demanding jobs or in work environments that carry occupational health and safety risks, make it difficult to maintain skills currency, and as a consequence do not lend themselves to prolonged working lives, with a serious prospect of social exclusion and poverty.

The European Commission has acknowledged the potential risks when it notes that "Transition rates into both unemployment and inactivity are considerably higher for older workers in jobs of low quality". Evidence of continuing inequality in terms of types of employment opportunity would seriously undermine the case of those pointing to a simple measure of employment activity as indicative of changing labour market prospects for older people.

The new policy rhetoric of working until the age of 70 or beyond must also surely ring hollow to job-seekers aged in their 50s or those whose life expectancy, due to a combination of social and health risk factors, is likely to fall short of this or exceed it by very little.

A plausible scenario is one of increasing labour market insecurity and personal hardship as workers can no longer fall back on early retirement. One might say that there is even a 'lost generation' for whom the notion of working longer has come too late. Unfortunately, no program of activation could now make very many of them work-ready.

Much work could still be done to adjust official provision for the older jobless and those seeking a career change, to protect people from discrimination on grounds of age, to promote the benefits of employing older workers among business and, more generally, to recast work for an ageing society. However, a pragmatic balance is required between, on the one hand, maximising job chances, and on the other, an escape from diminishing prospects.

Labour markets may not adjust easily or willingly to the ageing of industrialised society. The ongoing reconfiguration of national economies on the back of global shifts brings with it the prospect of turbulent times ahead for at-risk groups such as older workers. Recognising this, an emphasis on longer working lives should then be a policy aspiration, but not an ideological straightjacket. Certainly, any policy armoury that did not contain adequate protection for its older citizens would not be properly equipping them to meet the challenges of the modern labour market.

Professor Philip Taylor is the Director of Research and Graduate Studies at Monash University’s Gippsland campus where he researches age and the labour market.
The facts of Australia’s ageing population are stark: around 13.5% are currently aged 65 and over, but by 2050 this age group will make up almost 23% of the population. There will be just 2.7 people of working age (15-64) compared to five now, for each Australian aged 65 years and over.

Taxation, social spending and economic growth are set to feel the pressure of the growing aged population, according to the last Treasury Intergenerational Report.

One response to these pressures is to require older people to work for longer. The eligibility age for the means-tested age pension increases from 65 to 67 by 2023, affecting everyone born after July 1 1952. The preservation age for superannuation increases from 55 to 60 years and affects everyone born after July 1 1960.

The Grattan Institute thinks these changes don’t go far enough. It recommends increasing both the pension eligibility age and superannuation preservation age to 70 years. It estimates that the resulting increase in older worker participation would contribute to economic growth in the order of $25 billion by 2022.

While these policy prescriptions to extend the workforce participation of older Australians are concerned with broad macroeconomic factors, I argue much more attention is needed to their practical application. Ideally, maintaining workforce attachment until older ages has a range of benefits for workers. Most of all, it increases income and savings for retirement. It may also mean that people can continue in work that is rewarding and stimulating, with benefits for their wellbeing and mental health. However, this congenial trajectory of working to an advanced age may be difficult for many workers to achieve.

AGE ‘UNFRIENDLY’ WORKFORCE TRENDS

Current trends across the labour market are not very ‘age-friendly’, most particularly in the growth of precarious forms of employment as documented through the recent ACTU inquiry on insecure work and by many scholars (see for example, Beyond Employment). Despite the projections of a labour shortage associated with population ageing, it is difficult to see that this will result in a reversal of these trends without much firmer policy and regulatory interventions as, for example, those proposed by the Centre for Employment and Labour Relations Law.

However, it’s expected that these firmer regulations and policies will be highly contested by employers who still have options of filling domestic labour supply shortages through technology substitution, moving activities offshore, or importing workers with the characteristics they desire.

Insecure work consists of several main forms of employment relationships: casual or fixed term employee, independent or dependent contractors, labour hire, and outworkers. Each serves to reduce employer liabilities for
cumulative leave and redundancy entitlements, (which are of most benefit to long-term employees), training, and opportunities for occupational progression. They erode the collective bargaining capacities of workers. They serve to commodify workers, which means greater vulnerability to being treated in ways that are dehumanising. As I was told by midlife participants in my research on precarious employment... “you’re just a number”, “just a commodity”, “a piece of meat”, or “human battery hens” – hardly a very enticing proposition for keeping in work until you are 67 or even 70, if you can possibly avoid it.

It might be argued that more diverse forms of ‘non-standard’ employment can suit older workers through reduced hours and greater flexibility. However, tough and highly competitive labour processes are often embedded in casual and contract employment relationships. These labour processes are an important dimension of employment insecurity, enabling easy termination of employment on the basis of shifting performance indicators. They can also be used to dispose of older workers who may struggle to keep up the pace. Flexibility can be more an employer option around staffing levels than an employee choice to fit with lifestyle preferences for a ‘transition to retirement’.

“JOB INSECURITY IS EVERYWHERE NOW”

In his famous essay of the late 1990s, sociologist Pierre Bourdieu observed that “job insecurity is everywhere now”. The situation has not improved in 15 years. Job insecurity is closely linked to work intensification strategies which increasingly infect a wide range of occupations and professions such as the tertiary sector, which Euan Ritchie and Joern Fischer say is “now characterised by excessive hours, unrealistic benchmarks, high levels of competitiveness and inflexible, family-unfriendly work arrangements”. These practices are consistent with much of contemporary business strategy geared to continuous change in a fast-paced and competitive environment.

Older workers within organisations may be seen as an impediment to these changes that businesses require, “the dead wood” as the Australian Human Rights Commission documented in its report on age discrimination.

As Richard Sennett observed in the Corrosion of Character, the problem is not that older workers lack skills and experience, but rather that malleability, risk-taking, and submissiveness are the preferred attributes of workers to facilitate rapid change. These qualities are more likely to be found in the young and inexperienced.

Contemporary employment conditions do not seem to be very conducive to maintaining workers well into their 60s or up to 70, as proposed by the Grattan Institute. One participant in my research, a former bank manager in her early 50s, told of how increasing demands within the banking sector affected her thinking about her work options:

“When I was in the bank, I had to write a million a month in housing loans so I was working 60 hours. I would go to all the shops, and people, do all the outwork as well, and work on a Sunday and now I don’t want that. Everyone I still know in the bank says it has got worse and tells me their quotas each month.”

It is easy to see how business practices can be developed which are difficult for older workers to sustain. In addition, a wide range of jobs are simply exhausting, hard work with high risks of injury – labouring jobs, manual trades, paid and unpaid care work, cleaning, pick and pack, or even jobs that simply require a lot of standing up. There were several midlife women in my research who had no income or employment options except cleaning work. I could not imagine how they could maintain such employment – even part-time – until aged 60.

RETIRED FROM ‘GOOD JOBS’ AND THE REST

Participation rates for mature age workers have increased in recent years although long-term unemployment is an ongoing problem for a significant group. This reflects how hard it can be for older workers to regain jobs once these are lost.

Where mature age workers are in ‘good jobs’ they will have options to stay in them. This group is most likely to have a reasonable degree of control over how they do their jobs and may also be in a position of seniority. This means that they may be less exposed to difficult performance demands. Ironically, policy interventions to keep them in work to advanced ages may largely be irrelevant, as they are most likely to have the means to retire whenever they wish.

Older worker retention policies will impact most harshly on those further down the jobs hierarchy whose working lives have not been so congenial. They will be forced into working longer than they expected or longer than they can. Tighter labour regulations and policies, in combination with education and training options that assist transitions to better occupations, could all play a part to make working at an older age an easier and realistic option.

However, more will be needed. Young workers all become older workers in the end, and are vulnerable to burn-out. And, if older workers are required to keep working to advanced ages, then it must, at the very least, be in employment that they can do without compromising their health and wellbeing. Work should also provide opportunities for making best use of their skills and abilities. There is a broad debate and acceptance of the idea of environmental sustainability; it is time that this was expanded to include ‘employment sustainability’.

From Shades of Grey, a series from ‘The Conversation’ website that examines the challenges posed by Australia’s ageing workforce.

Veronica Sheen is Research Associate, PSI at Monash University.
Individuals are increasingly fearful of this kind of age discrimination which can condemn them to long-term, and often permanent, unemployment when they are in their 50s or even younger.

My role as age discrimination commissioner at the Australian Human Rights Commission was created specifically to tackle this sort of discrimination, and to work to dismantle the stereotyping and prejudice that gives rise to it.

Governments are all too aware of the extra expenditure on benefits, health care and the age pension that grows and massively mounts up when people who are willing to work are denied the opportunity.

At the same time, forward-thinking businesses are concerned that losing the accumulated experience and skills of these employees, with decades of good work behind them, only exacerbates the skills crisis and wastes their investment in human capital.

Governments are all too aware of the extra expenditure on benefits, health care and the age pension that grows and massively mounts up when people who are willing to work are denied the opportunity.

And while health experts continue to produce evidence that being employed is a great protector of health, at any age, community organisations struggle to deal with the human tragedy of depression and poverty that often results from a person being forced into joblessness because of age prejudice.

The unfairness and irrationality of age discrimination is clear and widely recognised.

I get a lot of positive responses from the community when I ask people to consider how wrong it is that the age pension – which was introduced in 1909 for people aged 65 and over – has virtually the same age rules in 2012 as it did over 100 years ago. To put this in perspective – that was at a time when only 4 per cent of the population lived long enough to claim it!

Now we are living into our 80s and 90s. Compared with our grandparents, we have almost another lifetime to live.

If we leave work in our 50s or 60s, we could face another 30 to 40 years of living. How will we support ourselves? What will we do to give our
lives purpose – to get that feeling of being valued that comes from doing a job well?

Volunteering is, of course, hugely valuable, and many organisations depend on it. But volunteering works best for those individuals who have chosen to retire and already have financial security. It is not the best answer for people forced into premature retirement. What they want is paid work, full- or part-time.

Despite the growing awareness of the economic folly and human cruelty of age discrimination, a lot of leftover policy settings continue to undermine the positive steps governments are taking to improve opportunities for mature age employment.

At the same time, forward-thinking businesses are concerned that losing the accumulated experience and skills of these employees, with decades of good work behind them, only exacerbates the skills crisis and wastes their investment in human capital.

This week, the Australian Law Reform Commission (ALRC) released an issues paper entitled Grey Areas: Age Barriers to Work in Commonwealth Laws, for its inquiry into legal barriers to mature age participation in the workforce and other productive work.

It is inviting all organisations and individuals with an interest in reforming laws that are age discriminatory to make a submission.

I have been appointed as a part-time commissioner to the ALRC to assist in this work, led by president of the ALRC Professor Rosalind Croucher. And I firmly believe it offers us an excellent opportunity to focus on these obstructive policies and laws, and to provide the basis for further effective reform.

The issues paper covers obvious areas for review – employment, age pension, income tax, superannuation, insurance, workers compensation, social security, family assistance, child support, migration. It also sets out no fewer than 55 questions which will surely prompt interested replies. No doubt, the first round of consultations will expose more areas that obstruct the older person from continuing in paid work.

I expect we will get a flood of comments, complaints and suggestions for change. And I hope we do, because the more stories we get from the community, the stronger the case for reform. I am hopeful that, with community input, we can move onto big, constructive changes that redefine the way we see and treat older people, and include them fully in our economy as well as our society.

‘Old’ should be a concept more accurately applied to the 95-year-old than the 65-year-old ... or, heaven forbid, the 45-year-old!

In the nine months I have been age discrimination commissioner, we have had a huge increase in complaints about age discrimination, mostly in relation to jobs. I truly believe this can change and we would all benefit from this change.

But we know there are still plenty of obstacles created by the way some Commonwealth policies operate. So this inquiry presents our community with a big opportunity to guide reform and help create a world in which people are treated fairly, on their merits, regardless of age.

It is not 1909. In 2012, ‘old’ should be a concept more accurately applied to the 95-year-old than the 65-year-old ... or, heaven forbid, the 45-year-old!

Susan Ryan is Australia’s Age Discrimination Commissioner.
As a society, we have been slow to recognise that millions of older Australians are locked out of the workforce by age discrimination. At last, however, the issue is on the public agenda.

We are starting to understand the terrible waste of human capital involved. It is a loss to the national economy and to large and small businesses, and a devastating loss to people who are pushed out of the workforce prematurely.

Access to the workforce is blocked for older workers not only by age prejudice but by external barriers; by age thresholds applying to workers’ compensation, income insurance and essential professional licences. Simply put, these barriers, where they cannot be justified by performance issues, must be dismantled.

The projected costs of ageing to the economy have stirred governments into action. The Treasury’s Intergenerational Report estimates that about $60 billion will be added to government spending by 2049-50, two-thirds of which is attributed to an ageing population, and caused by increases in age pension costs, healthcare and aged care. Therefore, encouraging people to stay in the workforce longer is an important national priority.

We are in the midst of a significant age shift in Australia’s population profile. Over the next decades, growing numbers of people will be approaching average retirement age, around 65, while fewer younger people will be entering the labour market.

This projected relationship between retired people and tax-paying workers looks like an upside-down pyramid. If allowed to eventuate, it would cause massive public debt.

With unprecedented increases in longevity over the past century, we are approaching the stage when a quarter of our population will be over 65.

This shift has not been reflected in policies that enable people to keep working beyond 65.

[Age discrimination] is a loss to the national economy and to large and small businesses, and a devastating loss to people who are pushed out of the workforce prematurely.

This situation does not fit with the demographic facts of today. For example, females born today are likely to live until 95, and males are not far behind. This means that compared with our grandparents we will have almost another lifetime to live and fund.

With two-thirds of retirees relying on the age pension as their main source of income, government pensions and allowances are by far the most common source of personal retirement income for both men and women. At present, 58 per cent of female and 54 per cent of male age pensioners have limited or no other sources of income.

Access to the workforce is blocked for older workers not only by age prejudice but by external barriers; by age thresholds applying to workers’ compensation, income insurance and essential professional licences.

Add to this the fact Australian census results show homelessness among those 55 and over increased from 14,000 to 18,000 from 2001 to 2006, and there is a compelling human rights argument for governments to ensure older people have access to employment without discrimination.

Remaining in the workforce for longer periods is the most effective way for older Australians to improve their standard of living. Employment provides a higher income than the pension and also means more contributions to superannuation. Age bars in workers’ compensation, insurance and licensing prevent capable and willing people extending their working life to gain these personal and societal benefits.

Though it is true that labour force participation declines as people age, dropping sharply once people reach their 60s, recent data shows that Australians intend to work for longer and retire later in life than in previous decades.

That data also shows that we leave the workforce earlier than we estimate or intend. In other words, barriers prevent us from working as long as we would like, or as long as we imagine we will work, or as long as we need to work to secure a reasonable standard of living.

These barriers not only create financial and security difficulties for older people, they also send a harsh message to older workers that they should not be in the workforce.

This message has to change if Australia is to meet the big challenges of an ageing population. Removing structural barriers and providing equal rights for workers as they age is a vital first step. As older workers become more common in the workplace, adverse and damaging perceptions about older workers would start to fade and ultimately disappear.
Ensuring that the licensing and regulatory requirements do not discriminate on the basis of age, only on the basis of capacity, will provide opportunities for many skilled people to work as long as they are fit and productive.

On the cusp of massive demographic change, Australia needs its older workers to remain in the workforce.

Ms Susan Ryan is Age Discrimination Commissioner at the Australian Human Rights Commission.

First published in The National Times, 6 June 2012
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Yet the reality is that over a quarter of people on Newstart Allowance are in their fifties and sixties, and one third of the long-term unemployed are in these age brackets.

But in the meantime, the fact remains that a person who loses a job in their fifties faces a huge uphill battle to get full-time meaningful employment again, despite a lifetime of experience and credentials.

As a result, there are large numbers of older Australians who languish on unemployment benefits for years. Almost 30 per cent of the long-term unemployed are aged 55 or over.

This means that people in their sixties have to meet strict and too often pointless activity tests requirements – right up until they can apply for an Age Pension at age 65.

Australia’s unemployment benefits were designed to tide people over, to support them in the short term until they were able to gain employment. However 60 per cent of people live on it for more than 12 months – that’s not short term.

At only $35 a day it is a struggle for anyone to get by on for a short time, impossible over a longer period.

Newstart is considerably less than other support pensions. The single Age Pension is $133 a week more than Newstart and comes with less strict income tests and more generous concession card arrangements. At the current rate of indexation, Newstart payments will be worth only half of the Age Pension in 20 years’ time.

Research recently released by ACOSS shows that 35 per cent of people 65 and over live below the poverty line on the Age Pension. With Newstart even less, it is little wonder we hear so many stories of the older unemployed having trouble paying bills and skipping meals just to get by?

To its credit, the Senate is currently holding an Inquiry into the adequacy of the allowance payment system and the changing nature of the labour market.

The Inquiry must consider the special issues facing many of the older unemployed in regard to assistance to return to work. However the Newstart Allowance is completely inadequate and entrenches poverty and marginalisation at any age.

Reform of employment support is overdue. It is critical the government seriously considers increasing Newstart payments by $50 a week at a minimum and index it appropriately so all job seekers can be supported in a way that enables people to maintain an acceptable quality of life.

There needs to be greater recognition of the training needs of older people with an expansion of places for older jobseekers in the wage subsidy scheme for very long-term unemployed.

A person who loses a job in their fifties faces a huge uphill battle to get full-time meaningful employment again, despite a lifetime of experience and credentials.

And ultimately a more thorough, independent inquiry needs to be established to drill down into the challenges and opportunities posed by an ageing population and explore how the skills and experience of older Australians can be better recognised by employers across the board so less older people need to rely on unemployment benefits.

Long-term unemployment is not an issue restricted to the young and unskilled as is the widely accepted norm. It affects a much broader cross section of our community which must be considered in any reforms in this area.

Ian Yates is Chief Executive of Council on the Ageing Australia.


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OLDER WORKING AUSTRALIANS DESERVE A NEW START TOO

When you think of the long-term unemployed, it is unlikely that the first image that comes to mind is that of a grandparent, suggests Ian Yates
EXPLORING ISSUES

ABOUT THIS SECTION

‘Exploring issues’ features a range of ready-to-use worksheets relating to the articles and issues raised in this book.

The activities and exercises in these worksheets are suitable for use by students at middle secondary school level and beyond.

As the information in this book is gathered from a number of different sources, readers are prompted to consider the origin of the text and to critically evaluate the questions presented.

Does the source have a particular bias or agenda? Are you being presented with facts or opinions? Do you agree with the writer?

The types of ‘Exploring issues’ questions posed in each Issues in Society title differ according to their relevance to the topic at hand.

‘Exploring issues’ sections in each Issues in Society title may include any combination of the following worksheets: Brainstorm, Research activities, Written activities, Discussion activities, Quotes of note, Ethical dilemmas, Cartoon comments, Pros and cons, Case studies, Design activities, Statistics and spin, and Multiple choice.

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WORKSHEETS AND ACTIVITIES
Brainstorm, individually or as a group, to find out what you know about age discrimination.

1. What is ‘ageism’, and what are some of the effects can it have on:

   **Older people**

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

   **Younger people**

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

2. What is ‘benevolent prejudice’, and what impact can it have on:

   **Older people**

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

   **Younger people**

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
Complete the following activity on a separate sheet of paper if more space is required.

“The solution is not a new raft of anti-discrimination laws. Instead, the focus should be on more flexible work practices and finding other paths of employment such as consulting or mentoring to encourage further workforce participation by older workers.”

Do you agree with this statement? Write an essay exploring this view, looking at other arguments and giving your own conclusion.
Form into pairs or small groups and discuss the following scenarios. Make a list of reasons why these situations could be considered discrimination, and include: the type of discrimination, if it is lawful, the impact the situation may have on these people, and what you would do in these circumstances. Discuss your findings with other groups. Complete the activity on a separate sheet of paper if more space is required.

Estelle had been working at a take-away restaurant since she was 16 and was about to celebrate her eighteenth birthday. She was given notice that her position was no longer required and consequently was asked to leave. She later finds out her job was filled by a younger girl who had just turned 16.

David is a 55-year-old construction worker who has been working for the same company for thirty years. David has noticed that recently some of his co-workers have been making comments such as “Hurry up! You’re so slow, you dinosaur”, “I don’t expect someone your age to remember what I told you last week”, and “Let me do that, you wouldn’t be able to lift that, pensioner”. David is still achieving the same results as he always has.

Anne is a 70-year-old grandmother who has recently met a new partner and decided she is going to move to another state to be with them. She has informed her children of her decision and they are adamant that she can’t go as she isn’t capable of making such important decisions, and that they know what is best for her.
Consider the following scenario and explore the potential for dilemmas. Complete the activity on a separate sheet of paper if more space is required.

Who gets the job?
A recruitment agency has posted an online advertisement for a management job in information technology. They have asked for a person with university qualifications and experience in management in a related field, however they have not specified the salary or management level, and are consequently flooded with applications for the position from a wide range of candidates. Among the portfolios submitted are the following candidates.

List some of the possible age-related prejudice and/or stereotypes that may, or may not, be faced by these four candidates applying for the same position at the following management job levels – junior, mid and senior.

1. A 22-year-old, with undergraduate management qualifications and 1 year of management experience in a related field.

2. A 30-year-old, with undergraduate management qualifications and 5 years of management experience in an unrelated field.

3. A 40-year-old, with postgraduate management qualifications and 10 years of management experience in a related field, but who has been out of work for over 12 months.

4. A 55-year-old, with postgraduate management qualifications and 25 years of management experience in a related field.
MULTIPLE CHOICE

Complete the following multiple choice questionnaire by circling or matching your preferred responses. The answers are at the end of this page.

1. In what year was the term ‘ageism’ coined by Robert Neil Butler?
   a. 1869
   b. 1909
   c. 1929
   d. 1969
   e. 2009

2. What is the proportion of Australia’s population aged 65 years and over, according to the 2011 Census?
   a. 5%
   b. 8%
   c. 10%
   d. 14%
   e. 18%

3. Respond to the following statements by circling either ‘True’ or ‘False’:
   a. When there is a rule or policy that is the same for everyone but has an unfair effect on people of particular age it is called ‘indirect discrimination’.
   b. ‘Jeunism’ is the discrimination against younger people in favour of older ones.
   c. It is unlawful to discriminate against an individual or group on the basis of their age.
   d. Australia has the lowest workforce participation rate for people aged over 55 of all English-speaking OECD countries.
   e. ‘Gerontophobia’ is the fear of elderly people.
   f. It is acceptable to talk about older people in their presence without including them directly in the conversation.
   g. Australia is experiencing a demographic shift with life expectancy 25 years longer than it was a century ago.
   h. ‘Adultism’ is a term used to describe the fear of youth and sometimes also referred to as an irrational fear of adolescents or prejudice against teenagers.
   i. It is estimated that by 2050 almost 23% of the population will be aged 65 and over.
   j. There are currently more than 300,000 Australians living with dementia.

MULTIPLE CHOICE ANSWERS

1 = d; 2 = d; 3 - a = T, b = F (‘jeunism’ is discrimination against older people in favour of younger ones), c = T, d = T, e = T, f = F, g = T, h = F (correct term is ‘ephebiphobia’), i = T, j = T.
Between 1971 and 2011, the proportion of Australia’s population aged 65 years and over increased to 14%. For those aged 85 years and over it more than tripled, from 0.5% to 1.8%. (p.2)

In 1901, older people constituted 4% of Australia’s population. (pp. 2, 21)

Between 1971 and 2011, the proportion of Australia’s population aged 65 years and over increased to 14%. For those aged 85 years and over it more than tripled, from 0.5% to 1.8%. (p.2)

In 2011, women aged 65 years and over formed 15% of the total population of women, while older men constituted a smaller proportion of all men, 13%. (p.2)

The Age Discrimination Act makes it against the law to discriminate against seniors, and patterned on sexism and racism. (pp. 5, 18)

Based on a conceptual analysis of ageism, a new definition of ageism was introduced by Iversen, Larsen & Solem in 2009. (p.7)

Australia has the lowest workforce participation rate for the over 55s of all English-speaking OECD countries. (p.13)

Australia is experiencing a demographic shift with life expectancy 25 years longer than it was a century ago. (p.14)

Teenagers and people in their 60s may find it hard to get work because of their age. They may also share the experience of not being listened to or taken seriously, of being marginalised, again because of their age. (p.16)

Australia is experiencing an ageing population, with a predicted 24% of people being aged 65 years or older in 2056 compared to just 13% in 2007. (p.18)

Older people with positive attitudes about their ageing have been found to live up to 7.5 years longer than those with negative attitudes regarding ageing. (p.18)

There are currently more than 300,000 Australians living with dementia. (p.19)

Over the past decade, only 10 films featuring dementia and Alzheimer’s disease storylines have had a mainstream box-office release in either the US or the UK. (p.19)

In the year to June 2010, 71% of Australians aged 55-59 years were participating in the labour market. These rates drop to 51% for people in the 60-64 age group and to 24% for people aged 65-69. (p.21)

The number of people who continue to work beyond the age of 70 is comparatively low, ranging between 2.7% and 4.5% since the 1980s. (p.21)

The overall labour force participation rate of people aged 45-64 years has increased steadily over the last twenty years, from 56% in 1983 to 69% in 2003. (p.22)

The qualifying age for the Age Pension is set to rise to 67 years for both men and women by 2023 and the pension age for women has been rising from 60 years to 65 years since 1995. (p.22)

In the year to June 2010, there were on average 58,100 people aged 55 years and over who were unemployed – 46% of unemployed older people had been looking for work for 6 months or more, compared with 32% of those aged less than 55 years. (p.23)

In the June quarter of 2010, 97,100 Australians aged 55 years were underemployed. Among older underemployed workers, women were more likely to have been underemployed for more than a year (50%) than men (33%). (p.23)

An extra 3 percentage points on participation among workers aged 55 and over would result in a $33 billion boost to GDP – or around 1.6% of national income. (pp. 25, 26)

Income protection insurance is generally unavailable to persons aged over 65 years. This leaves those people who choose to continue their economic participation after the age of 65 unable to cover themselves in the event of illness or injury. (p.28)

National Seniors research reveals an annual loss of $10.8 billion to the economy in not utilising the skills and experience of older workers. (pp. 35, 37)

Discrimination against older workers was most acute among mid managers earning the average Australian wage of $70,000 a year. (p.36)

At current trends, by 2050 there will only be 2.7 working Australians for every citizen over 65. (pp. 36, 44)

When New Zealand increased access to its pension from 60 to 65, mature age participation rates shot up much faster than in Australia, and now stand considerably higher; 76% for those aged 55-64 compared to Australia’s 53%. (p.39)

A 5% increase in participation by older workers could increase GDP by $48 billion over 12 years. (p.40)

The European Commission has estimated that an increase in the effective age of retirement of 1 year would reduce the expected increase in expenditure on public pensions by between 0.6 and 1 percentage points of GDP. (p.42)

Around 13.5% of Australia’s ageing population are currently aged 65 and over, but by 2050 this age group will make up almost 23% of the population. (p.44)

The age pension was introduced in 1909 for people aged 65 and over, at a time when only 4% of the population lived long enough to claim it. (p.46)

A report estimates that about $60 billion will be added to government spending by 2049-50, two-thirds of which is attributed to an ageing population, and caused by increases in age pension costs, healthcare and aged care. (p.48)

At present, 58% of female and 54% of male age pensioners have limited or no other sources of income. (p.48)

Over a quarter of people on Newstart Allowance are in their fifties and sixties, and one third of the long-term unemployed are in these age brackets. (p.50)

Research recently released shows that 35% of people 65 and over live below the poverty line on the Age Pension. (p.50)
**Age discrimination**
Age discrimination happens when someone is treated unfairly or denied an opportunity because of their age. *Direct discrimination* occurs when a person is treated less favourably because of their age when compared with how someone in another age group would be treated in the same situation. *Indirect discrimination* occurs when there is a rule or policy that is the same for everyone but which has an unfair effect on people of a particular age.

**Age discrimination laws**
In Australia, laws were strengthened by the *Age Discrimination Act 2004*, which helps to ensure that people are not subjected to age discrimination in various areas of public life, including employment, the provision of goods and services, education, and the administration of Australian government laws and programs.

**Ageism**
Ageism is stereotyping and discriminating against individuals or groups because of their age. It is a set of beliefs, attitudes, norms, and values used to justify age-based prejudice, discrimination, and subordination. Usually refers to negative discrimination against old people, people in their middle years, teenagers and children.

**Ageist prejudice**
Ageist prejudice is a type of emotion which is often linked to the cognitive process of stereotyping. It can involve the expression of derogatory attitudes, which may then lead to the use of discriminatory behaviour.

**Ageist stereotyping**
A tool of cognition which involves categorising into groups and attributing characteristics to these groups. Stereotypes are necessary for processing huge volumes of information which would otherwise overload a person, and they are often based on a ‘grain of truth’ (e.g. the association between ageing and ill health). However, they cause harm when the content of the stereotype is incorrect with respect to most of the group or where a stereotype is so strongly held that it overrides evidence which shows that an individual does not conform to it.

**Adultism**
Predisposition towards adults, which is seen as biased against children, youth, and all young people who are not addressed or viewed as adults.

**Benevolent prejudice**
Stereotyping and prejudice against different groups in society does not take the same form. Age-based prejudice and stereotyping usually involves older or younger people being pitied, marginalised, or patronised. This is described as ‘benevolent prejudice’ because the tendency to pity is linked to seeing older or younger people as ‘friendly’ but ‘incompetent’.

**Effects of ageism**
Ageism has significant effects on the elderly and young people. The stereotypes and infantilisation of older and younger people by patronising language affects older and younger people’s self-esteem and behaviours.

**Elder abuse**
Defined by the World Health Organization as ‘any act that causes harm to an older person that is carried out by someone they know and trust, such as family, friends or a carer’ and may include physical, financial, psychological or sexual mistreatment and neglect.

**Gerontophobia**
The fear or dislike of elderly people.

**Hostile prejudice**
Hostile prejudice is based on hatred, fear, aversion, or threat which often characterises attitudes linked to race, religion, disability and sexual orientation. (e.g. when violence against vulnerable older people can be motivated by subconscious hostility or fear; or, within families, by impatience and lack of understanding).

**Implicit ageism**
Refers to the implicit or subconscious thoughts, feelings, and behaviours one has about older or younger people. These may be a mixture of positive and negative thoughts and feelings, but tend to be mostly negative.

**Jeunism**
The discrimination against older people in favour of younger ones.

**Life expectancy**
The expected number of years of life a person can expect to live on average given prevailing mortality rates.
Websites with further information on the topic

Aged and Community Services Australia  www.agedcare.org.au
Aged Care Australia  www.agedcareaustralia.gov.au
Ageing Australia  www.ageingaustralia.com.au
Age Positive  http://agepositive.humanrights.gov.au
Ageing Research Online  www.aro.gov.au
Department of Health and Ageing  www.health.gov.au
Department of Veterans’ Affairs  www.dva.gov.au
National Ageing Research Institute  www.mednwh.unimelb.edu.au
National Aged Care Alliance  www.naca.asn.au
National Seniors Australia  www.nationalseniors.com.au
National Seniors Productive Ageing Centre  www.productiveageing.com.au
Older Women’s Network  www.own.org.au
Seniors (Australian Government portal)  www.seniors.gov.au
World Health Organization (Ageing and Life Course page)  www.who.int/ageing/en/

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