

Recommendations

3. National Mature Age Workforce Participation Plan

Recommendation 3-1 The Australian Government should develop a National Mature Age Workforce Participation Plan.

4. Recruitment and Employment

Recommendation 4-1 In 2013, the Recruitment and Consulting Services Association of Australia and New Zealand is conducting a review of its Code of Conduct. The review should consider ways in which the Code could emphasise:

- (a) the importance of client diversity, including mature age job seekers;
- (b) constructive engagement with mature age job seekers; and
- (c) obligations under age-related anti-discrimination and industrial relations legislation.

Recommendation 4-2 The Australian Human Resources Institute should review its Code of Ethics and Professional Conduct to consider ways in which the Code could emphasise:

- (a) the importance of client diversity, including mature age job seekers;
- (b) constructive engagement with mature age job seekers; and
- (c) obligations under age-related anti-discrimination and industrial relations legislation.

Recommendation 4-3 The Australian Human Resources Institute and the Recruitment and Consulting Services Association of Australia and New Zealand should:

- (a) develop and provide regular, consistent and targeted education and training for recruitment consultants; and
- (b) develop a range of guidance material

to assist recruitment agencies and consultants to engage constructively with, and recruit, mature age job seekers.

Recommendation 4-4 The Australian Human Resources Institute and the Recruitment and Consulting Services Association of Australia and New Zealand should promote and recognise best practice in the recruitment of mature age workers, for example through their annual workplace awards.

Recommendation 4–5 Section 65 of the *Fair Work Act 2009* (Cth) should be amended to extend the right to request flexible working arrangements to all employees who have caring responsibilities.

Recommendation 4–6 The Fair Work Ombudsman (FWO) has developed material relevant to negotiating and implementing flexible working arrangements. The FWO should amend such material to include information for mature age workers, in consultation with unions, employer organisations and seniors organisations.

Recommendation 4–7 Section 117(3)(b) of the *Fair Work Act 2009* (Cth) provides that if an employee is over 45 years of age and has completed at least two years of continuous service with the employer, then the minimum period of notice for termination is increased by one week. In the course of amending the *Fair Work Act 2009* (Cth), the Australian Government should consider increasing this period.

Recommendation 4–8 From 2014, the Fair Work Commission will conduct the first four-yearly review of modern awards. The review should consider the inclusion or modification of terms to encourage workforce participation of mature age workers.

Recommendation 4–9 The Australian Human Rights Commission and the Fair Work Commission, in consultation with the Australian Council of Human Rights Agencies, should develop guidance to:

- (a) clarify the interaction of the general protections provisions under the *Fair Work Act 2009* (Cth) and Commonwealth, state and territory anti-discrimination legislation; and
- (b) outline potential avenues for redress under this legislation for mature age workers.

Recommendation 4–10 Professional associations and industry representative groups are often responsible for developing or regulating licensing or re-qualification requirements. The Australian Human Rights Commission should facilitate the development of principles or guidelines to assist these bodies to review such requirements with a view to removing age-based restrictions in favour of capacity-based requirements.

Recommendation 4–11 The Australian Government should initiate an independent inquiry to review the compulsory retirement ages of judicial and quasi-judicial appointments.

Recommendation 4–12 The Australian Government should initiate an independent inquiry to review the compulsory retirement ages for military personnel.

Recommendation 4–13 In conducting national campaigns and audits to ensure compliance with Commonwealth workplace laws, the Fair Work Ombudsman should ensure issues relating to mature age workers and job seekers are considered.

5. Work Health and Safety and Workers' Compensation

Recommendation 5-1 Safe Work Australia and state and territory work health and safety regulators should consider health and safety issues that may affect mature age workers in implementing the Australian Work Health and Safety Strategy 2012–2022.

Recommendation 5-2 Safe Work Australia should include work health and safety issues that may affect mature age workers in its research and evaluation strategy and work plans.

Recommendation 5-3 Safe Work Australia and state and territory work health and safety regulators have developed guidance material to assist persons conducting a business or enterprise, workers, and the representatives of each to respond to health and safety issues of all workers. Such material should be reviewed to ensure it includes information about issues that may affect mature age workers, including information about:

- (a) statutory responsibilities and duties;
- (b) best practice work design and processes;
- (c) risk assessment; and
- (d) health and wellbeing.

Recommendation 5-4 Safe Work Australia should work with state and territory health and safety regulators, unions and industry representatives to recognise best practice in work health and safety with respect to mature age workers in Commonwealth, state and territory work health and safety awards.

Recommendation 5-5 The *Safety, Rehabilitation and Compensation Act 1988* (Cth), the *Military Rehabilitation and Compensation Act 2004* (Cth) and the *Seafarers Rehabilitation and Compensation Act 1992* (Cth) should be amended to align the retirement provisions with the qualifying age for the Age Pension under the *Social Security Act 1991* (Cth).

Recommendation 5-6 The *Seafarers Rehabilitation and Compensation Act 1992* (Cth) should be amended to provide that workers who are injured after two years prior to Age Pension age may receive incapacity payments for the same period as under the *Safety, Rehabilitation and Compensation Act 1988* (Cth) and *Military Rehabilitation and Compensation Act 2004* (Cth).

Recommendation 5-7 If amended in line with Recommendations 5-5 and 5-6, the *Safety, Rehabilitation and Compensation Act 1988* (Cth), the *Military Rehabilitation and Compensation Act 2004* (Cth) and the *Seafarers Rehabilitation and Compensation Act 1992* (Cth) will provide that workers and members injured after two years prior to Age Pension age are entitled to receive incapacity payments for a period of 104 weeks. This period should be extended.

Recommendation 5–8 Safe Work Australia’s Strategic Issues Group for Workers’ Compensation should consider the definition of those categories of people covered by Commonwealth, state and territory workers’ compensation legislation to ensure volunteers are covered consistently.

Recommendation 5–9 Sections 20, 21 and 21A of the *Safety, Rehabilitation and Compensation Act 1988* (Cth) reduce the amount of compensation payable to an employee by reference to the amount of superannuation derived from the employer’s contributions and by a further 5 % of the employee’s Normal Weekly Earnings. These sections should be repealed.

6. Insurance

Recommendation 6–1 The Insurance Reform Advisory Group, or a similar body, should facilitate the development of a central information source to provide mature age persons with clear and simple information about relevant and available insurance products.

Recommendation 6–2 The Australian Government should negotiate an agreement with insurers offering products in the Australian market requiring the publication of data upon which decisions about insurance offerings based on age are made.

Recommendation 6–3 The Australian, state and territory governments should review insurance exceptions under Commonwealth, state and territory anti-discrimination legislation.

Recommendation 6–4 The Australian Human Rights Commission should, in consultation with key insurance and superannuation bodies, develop guidance material about the application of any insurance exception as it applies to age under Commonwealth anti-discrimination legislation.

Recommendation 6–5 The General Insurance Code of Practice and the Financial Services Council Code of Ethics and Code of Conduct should include diversity statements or objects clauses that encourage consideration of the needs and circumstances of a diverse range of consumers, including mature age persons.

7. Social Security

Recommendation 7–1 The Department of Human Services should evaluate the effectiveness of communication of information to mature age persons about social security. In its evaluation, it should consider the communication of information about:

- (a) eligibility for income support payments;
- (b) participation obligations for activity-tested payments, including possible exemptions from the activity test;
- (c) how to calculate the effect of taking up paid work on income support payments;
and

- (d) incentives to take up paid work, for example through Working Credit, Work Bonus, the employment income nil rate period and retention of concession cards.

Recommendation 7–2 To enhance the capacity of staff of Job Services Australia, Disability Employment Services and the Indigenous Employment Program to respond to the needs and circumstances of mature age job seekers, the Department of Education, Employment and Workplace Relations should ensure they are provided with information and training tools about:

- (a) age discrimination;
- (b) the effect that illness, disability and caring responsibilities may have on the capacity of mature age persons to work;
- (c) diversity among mature age job seekers; and
- (d) Australian Government programs targeted at mature age job seekers.

Recommendation 7–3 The *Guide to Social Security Law* should be amended to provide that undertaking paid work for fewer than 30 hours per week will not trigger a review of qualification for Disability Support Pension.

Recommendation 7–4 The *Guide to Social Security Law* should provide that a temporary cessation of constant care due to participation in paid employment, unpaid voluntary work, education or training that exceeds 25 hours per week:

- (a) does not result in automatic cancellation of Carer Payment; and
- (b) may, in some circumstances, be compatible with the constant care requirement for qualification for Carer Payment.

Recommendation 7–5 The objective of Work Bonus is to provide an incentive for recipients of Age Pension and Veterans' Age Service Pension to continue in paid employment. To ensure that Work Bonus continues to achieve its objective, the following amounts should be indexed:

- (a) the income concession amount under s 1073AA of the *Social Security Act 1991* (Cth) and s 46AA of the *Veterans' Entitlements Act 1986* (Cth); and
- (b) the maximum unused concession balance under s 1073AB of the *Social Security Act 1991* (Cth) and s 46AC of the *Veterans' Entitlements Act 1986* (Cth).

8. Superannuation

Recommendation 8–1 The *Superannuation Industry (Supervision) Regulations 1994* (Cth) prohibit contributions by members aged 65–74 unless the member meets a work test. The work test requires the member to work for at least 40 hours over a 30-day period in the financial year. The Australian Government should review the work test and consider:

- (a) the policy objective of the work test;
- (b) whether that policy objective remains relevant;

- (c) how the work test contributes to achieving that policy objective; and
- (d) whether the work test in the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* (Cth) should be consistent with the work test in the *Superannuation Industry (Supervision) Regulations 1994* (Cth).

Recommendation 8–2 Section 6(1)(e) of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* (Cth), which provides that government co-contributions are payable only for people aged under 71 years, should be repealed.

Recommendation 8–3 The ‘Transition to Retirement’ rules were introduced into the *Superannuation Industry (Supervision) Regulations 1994* (Cth) to encourage continued mature age workforce participation. The Australian Government should review these rules to determine what changes, if any, are required to ensure they meet their policy objective. The review should consider matters including:

- (a) the use of the rules in practice;
- (b) whether there is sufficient access to the scheme;
- (c) the relationship to the concessional superannuation contributions cap; and
- (d) comparable international schemes.