



DCA Submission to the
Australian Law Reform Commission Issues Paper:
Grey Areas – Age Barriers to Work in Commonwealth Laws

12 June 2012

Expert contributors:

Jo Tilly, DCA Research & Policy Manager
Jane O'Leary, DCA Research Director
Nareen Young, DCA CEO

Diversity Council Australia Limited
Level 25, 133 Castlereagh St, Sydney, NSW, 2000
Phone: 02 9035 2852

Materials contained in this document are the ©Copyright of DCA Ltd, 2012.
If you wish to use any of the materials contained herein, please contact DCA Ltd at the
address above for consent and direction on appropriate acknowledgment

TABLE OF CONTENTS

EXECUTIVE SUMMARY	4
DCA RECOMMENDATIONS.....	5
1. ABOUT DIVERSITY COUNCIL AUSTRALIA	7
2. ABOUT DCA’s SUBMISSION	7
3. BACKGROUND TO THE INQUIRY	8
4. THE MAGNITUDE OF THE PROBLEM	8
5. ADDRESSING EARLY RETIREMENT	10
6. MATURE-AGE WORKERS’ NEED FOR FLEXIBILITY	11
7. NOT ONLY MATURE-AGE	15
8. AGE DISCRIMINATION	17
8.1 COSTS OF DISCRIMINATION	18
8.2 PROTECTION FROM DISCRIMINATION.....	20
9. THE BOTTOM LINE FOR BUSINESS	21
10. MANAGING OCCUPATIONAL HEALTH AND SAFETY	23
11. WHAT CAN BUSINESS DO?	26
11.1 LEADING PRACTICE AMONGST AUSTRALIAN EMPLOYERS	29
AUSTRALIAN FEDERAL POLICE	29
IBM.....	29
NATIONAL AUSTRALIA BANK (NAB)	30
WESTPAC.....	31
12. WHAT CAN GOVERNMENTS DO TO HELP?	33
ENDNOTES	35

EXECUTIVE SUMMARY

Diversity Council Australia (DCA) provides diversity advice and strategy to over 170 organisations, many of whom are Australia's biggest employers.

There is a strong imperative for both the Commonwealth and business to keep mature-age people in the workforce for longer. It is estimated that people aged 45 and over will need to provide 85% of workforce growth in the next decade in order to meet the labour demands of employers.

Many DCA members are already putting in place actions to address the ageing workforce with some of these programs representing Australian, and indeed international, leading practice to attract and retain mature-age employees.

DCA has researched the issue of retirement intentions and the potential for return to work, published as *Grey Matters: Engaging Mature Age Workers*. Among the most significant finding is that, of those who have ceased to work (many to 'retire' in the traditional sense) almost one in three are interested in returning to work, to participate in the labour market actively.

The survey findings provided yet further evidence that that the ability to work part time and/or flexible hours is a critical facilitator – after good health – for mature-age people to work beyond retirement age. Facilitating greater workplace flexibility must be a major priority for government.

While many mature-age people have common experiences in their later working lives, it is important that governments and industry give sufficient attention to the diversity among mature-aged employees. In particular, there is significant scope to increase participation by mature-age women.

Age discrimination continues to present a significant problem for mature-aged workers. Increasing community awareness and compliance with legislation, with a particular attention on the private recruitment sector, is important.

Business has a range of legitimate concerns about mature-aged employees and occupational health and safety. These relate not only to the specific needs of some mature-aged employees, but in particular to the protections provided to them through insurance and workers' compensation. These protections must be addressed as a priority.

Business, government and the broader community share the responsibility of improving attraction and retention of mature-age employees. While leading practice employees are already meeting the challenge, more remains to be done to extend such initiatives across the Australian workforce.

DCA RECOMMENDATIONS

With the aforementioned comments in mind, DCA makes the following recommendations for action:

1. Compulsory retirement

Where compulsory retirement ages and licencing/re-qualification requirements exist, these should be removed wherever possible. To ensure that industry and professional arrangements are consistent with anti-discrimination law, individuals should only be assessed on whether they can carry out the inherent requirements of the job in question.

2. The right to request workplace flexibility

DCA supports the recommendation in the Issues Paper that the right to request flexible working arrangements under the National Employment Standards be extended from parents of young children to those employees with other family and caring responsibilities including caring for older people and people with disabilities.

3. Workplace flexibility and the Fair Work Act

DCA supports the Australian Government's commitment to developing model clauses for EBAs to assist employers who wish to offer flexible working arrangements for mature-aged workers.

DCA is of the view that that Individual Flexibility Agreements are in general not an effective mechanism for providing a framework for implementing flexible work practices.

4. Private recruitment agencies

DCA supports suggestions to strengthen compliance by private recruitment agencies with the Age Discrimination Act by developing industry standards/guidelines with the sector.

The Australian Government should develop a campaign targeting the private recruitment sector to assist with increasing knowledge in the industry about the benefits of recruiting mature-aged workers and avoiding unlawful discrimination.

This should be developed following industry research undertaken in partnership with recruitment agents and their clients.

5. Age discrimination

Providing protection against age (and other unlawful) discrimination will be most effective via a single federal law. DCA recommends that the Commonwealth seek the agreement of States and Territories to implement an anti-discrimination legal framework at the federal level that covers the field.

DCA believes that such a move will increase compliance and community awareness, avoid inconsistencies and decrease unwarranted administrative burden on employers.

6. Occupational health and safety

DCA supports further research undertaken into the occupational health and safety issues facing mature-aged workers and the dissemination of evidence based information to employers about these issues, including their rights and responsibilities.

We recommend that such information be distributed to both employer and employee organisations, as well as linked to public awareness campaigns concerning mature-aged employment.

7. Workers' compensation

DCA encourages Safe Work Australia to finalise a proposal for reforms to retirement age for workers' compensation purposes as a matter of priority.

Given concerns that removing all age-based restrictions could lead to significant increases in costs of premiums to employers, DCA recommends that as a first step, the age at which compensation is no longer payable be pegged to the age of Age Pension eligibility.

8. Business regulation

DCA members, and other leading practice employers, are already developing policies and programs to increase participation and engagement of the mature-aged workforce.

We believe that developing formal regulation and monitoring processes such as those administered by EOWA, would impose an unnecessary administrative burden on employers.

Given that there are likely to be not insignificant costs to government of introducing such measures, DCA suggests that resources might be better directed toward assisting small and medium-sized enterprises with education and support to increase their engagement with this issue.

Community education and awareness raising should be focused on both mainstream media and include the development of specialist resources, and other support, for employers. Employer guidelines and supporting materials should be developed in partnership with industry and widely distributed.

1. ABOUT DIVERSITY COUNCIL AUSTRALIA

Diversity Council Australia (DCA) provides diversity advice and strategy to over 170 organisations, many of whom are Australia's biggest employers.

In partnership with our member organisations, our mission is to:

1. Lead public debate;
2. Develop leading diversity research, thinking and practice;
3. Enable diversity management in a dynamic environment; and
4. Drive business improvement through successful diversity programs.

We have been the advisor to Australian business on diversity issues for more than 25 years, driving business improvement through successful diversity programs.

2. ABOUT DCA's SUBMISSION

DCA is pleased to be able to make this submission on behalf of our members and commends the ALRC on its work on this important issue facing Australian workplaces. Many DCA members are already putting in place actions to address the ageing workforce. Some of these programs represent Australian, and indeed international, leading practice to attract and retain mature-age employees.

The scope of the Issues Paper is broad-ranging and focuses on the areas of Commonwealth law affecting the participation of older people in the workforce encompassing:

- The Age Pension
- Income tax
- Superannuation
- Social security
- Family assistance
- Child support
- Employment
- Workers' compensation and insurance and
- Migration.

DCA's submission will focus on those areas that are most directly relevant to our members role as employers – specifically employment law, occupational health and safety matters and workers' compensation. We also highlight the role employers are taking in facilitating participation by mature-age workers, such as for example through the provision of flexible work and careers and

ways in which such successful programs and initiatives could be better supported by the Government.

3. BACKGROUND TO THE INQUIRY

DCA is aware of the host of recent government initiatives that have investigated the issue of mature-age people and their role in society. In particular, we note the extensive work undertaken by Treasury last year under the auspices of the Advisory Panel on the Economic Potential of Senior Australians¹; the similarly significant work undertaken by the Consultative Forum on Mature Age Participation²; the investigations carried out by the Australian Human Rights Commission in the last two years looking at the barriers to work for mature-age people and the efficacy of the Age Discrimination Act³; and going back to 2005, the Productivity Commission's major work looking at the Economic Implications of an Ageing Australia⁴.

DCA has monitored these processes with interest and as an organisation that works with employers to actively promote and increase the participation of mature-aged workers, we have been pleased to see the increasing attention being given at a national level to this important issue.

We note that all of the recent investigations have identified that significant barriers continue to exist to greater participation by mature-aged workers. Most recently, Treasury identified that recruiting and retaining mature-age workers continues to be hampered by employer attitudes, laws (including workers' compensation laws), financial disincentives, workplace and job design factors and inflexible work arrangements that limit participation⁵. This echoes similar findings highlighted in other recent pieces of work in this area. A comprehensive approach to removing barriers is needed, which engages employers, unions, individual workers and those looking for work, and the broader community.

4. THE MAGNITUDE OF THE PROBLEM

The economic argument for increasing workforce participation is now well established – the Australian population is rapidly ageing with significant implications for national productivity. The 2010 Intergenerational Report⁶ estimates that the number of people in Australia aged between 65 and 84 will more than double over the next 40 years, with the number of people aged 85 years or more increasing fourfold.

The implications for our workforce are significant. The Australian workforce currently aged over 45 is now around 31%, with those aged under 25 accounting for only 17%, and by 2050, there will only be 2.7 people of working age for every person 65 and over, compared to 5 people of working age today for every person 65 and over⁷.

While the ageing of the population is a huge component of the problems facing Australia's workforce, the limited participation by a number of groups in the labour market is another. The participation of mature-age workers has shown some increase in recent decades, however there is still significant scope for improvement. The OECD has found that while the labour force participation rates in Australia have grown by 15% for men aged 60-64 and by 21% for women aged 60-64 between 2000 and 2010, our participation rates in these age groups remain significantly lower than New Zealand, Canada, the US and the UK⁸.

Moreover, mature-age workers in Australia are still retiring comparatively early. In 2010–11, 63% of men aged 45 years and over were in the labour force, 33% had retired, and 3% were not in the labour force but had not yet retired. In contrast, 50% of women aged 45 years and over were in the labour force, 39% had retired and the remaining 5% were not in the labour force but had not yet retired⁹. This phenomenon is not exclusive to Australia – an OECD study of the average effective age at which mature-age workers withdraw from the labour force found that in most countries, the effective age of retirement is well below the official age for receiving a full old-age pension, with women, in general, retiring around one to two years earlier than men¹⁰.

In the most recent ABS survey of retirement and retirement intentions, the 1.8 million women who had retired from the labour force had done so on average at a younger age than men. In all, 57% of women retired aged less than 55 years, compared to only 27% of men; 35% of women retired between the ages of 55–64, compared to 53% of men; and only 8% of women were aged 65 years and over when they retired, compared to 20% of men¹¹.

There is a strong imperative for both the Commonwealth and business to keep these people in the workforce for longer. The Australian Chamber of Commerce and Industry (ACCI) estimates that people aged 45 and over will need to provide 85% of workforce growth in the next decade in order to meet the labour demands of employers¹². The benefits to the Australian community of increasing participation by mature-age workers are also quantifiable. Increasing the participation of mature-age workers by 5% in the next 40 years would increase real GDP per capita by 2.4%¹³. Indeed, a recent analysis of Australia's economic reform priorities by the Grattan Institute emphasises the significance of increasing the participation of mature-age workers, estimating that it would grow the economy by around \$25 billion by 2022 – more than 1% of Australian GDP¹⁴. The report notes only two other opportunities that would have a similar impact, one of which has particular significance to this debate, namely increasing the workforce participation of women.

While the key to increasing women's workforce participation is focused principally on addressing the very low rates of participation by mothers with young children, clearly discouraging women from working when they have small children has flow on effects in terms of their labour force participation later in life. As the report notes, "[a]fter several years of working part time, or

not working at all, many women are either discouraged from returning to work where their previous colleagues are substantially further advanced, or lack confidence to re-engage with demanding roles. Women who do not work for several years often find it difficult to find meaningful work again.¹⁵ They may then miss out on both the benefits of meaningful workplace interaction, and financial independence, particularly in retirement.”

Other economists have also considered this question and have estimated that Australia could increase its GDP by up to 13% or \$180 billion if it closed the gap between male and female participation rates¹⁶. While the participation rate for women has increased significantly since the 1980s, it still lags well behind that for men and we currently sit at 18th amongst the OECD nations. With early retirement by women accounting for one part of this gap, it is a key area which warrants attention from government, employers and the broader community.

To fill the significant gap created by employees leaving the workforce and to ensure that we have the capacity to support both a mature-age population and a growing economy, Australia must grow its workforce by better harnessing the capacity of mature-age workers¹⁷.

5. ADDRESSING EARLY RETIREMENT

It is clear that many mature-age workers continue to leave work prematurely. This occurs despite the significant changes to the nature of work in many industries over recent years from physically demanding to knowledge-based jobs.

DCA has researched the issue of retirement intentions and the potential for return to work, published as *Grey Matters: Engaging Mature Age Workers* in 2007. The data is significant as it was collected from a nationally representative sample of 1,000 mature-aged female and male Australians. The findings provide benchmarks against which employers can measure their current employment practices and leading practice models. They have assisted Australian employers implement initiatives that retain existing employees and enable recruitment from the talent pool of people who have left the workforce but are interested in returning.

A particularly interesting aspect of responses from those who have ceased to work (many to ‘retire’ in the traditional sense) is that almost one in three are interested in returning to work, to participate in the labour market actively. Of those people not currently employed, 31% of the total group indicated an interest in returning to work, with a startling 57% of the group who were under 60 years of age indicating such an interest. This was a significant finding which indicates the extent to which there is potential to increase participation by mature-age workers.

In their most recent survey, the ABS found there were 1.1 million people who intended to leave full-time work and take up part-time work before retirement. Of these, 65% planned to continue on with their current employer, 20% intended to change their employer and the remaining did not know whether they would change employers. Of those intending to work part-time and change their employer, 46% planned to change to a different line of work, 27% planned to work on a contract basis and 20% intended to work more hours from home¹⁸. These numbers represent a significant group of workers who employers will need to consider.

DCA RECOMMENDATION

Compulsory retirement

Where compulsory retirement ages and licencing/re-qualification requirements exist, these should be removed wherever possible. To ensure that industry and professional arrangements are consistent with anti-discrimination law, individuals should only be assessed on whether they can carry out the inherent requirements of the job in question.

6. MATURE-AGE WORKERS' NEED FOR FLEXIBILITY

The ability to work part time and/or flexibly has been identified as the most important facilitator – after good health – for mature-age people to work beyond retirement age¹⁹.

Findings from DCA's *Grey Matters* survey provided additional evidence to this effect. A considerable number of mature-age employees reported having current caring responsibilities. Some 13% reported current caring roles for elderly family members, 13% for children and grandchildren, 9% for a family member with health issues and 7% for a family member with a disability. These were similar levels to the number of unemployed mature-age people with caring responsibilities. Significant numbers of employed participants also reported that they expected to have caring responsibilities in the future. In all, 41% expected to provide care for an elderly family member, 30% a family member with health issues, 29% a child or grandchild, and 18% a family member with a disability. Moreover, of mature-age people not currently employed, having a job with flexibility including hours of work was very important for 49% of respondents and important to another 48%. Mature-age unemployed respondents surveyed by DCA also identified workplace flexibility among a number of key factors in their ideal job including:

- Tele-working/working from home – 84%

- Flexibility with start and finish times – 82%
- A job with limited travel – 82%
- Phased retirement – 81%
- Part-time work – 80%
- Job-sharing – 61%
- Be on call as a contractor or consultant – 50%
- Compressed working week – 42%
- Working regular standard hours – 37%.

As employed workers approached retirement, many identified that supervisor responsiveness to balancing work-life needs would also assist in engaging mature-age workers – with this issue being reported as very important by 39% and important by 50%. This factor was seen as unimportant by only 10% of employed respondents.

When employed mature-age workers were asked about their ideal job when approaching retirement, they also identified the following as key factors:

- Flexibility with start and finish times – 86%
- Phased retirement – 84%
- A job with limited travel – 76%
- Work part-time – 74%
- Tele-working/working from home – 68%
- Job-sharing – 47%
- Work regular standard hours – 42%
- Be on call as a contractor or consultant – 35%
- Compressed working week – 34%.

One of DCA's most important findings in terms of worker retention was that employed workers indicated that they expected to retire at age 63 but their ideal age to retire would be 61 years of age. However, if they had their ideal job, they would extend their working life to age 63 years. This emphasizes the need for employers to institute workplace flexibility to retain skilled and experienced employees.

DCA's 2010 survey *Working for the Future: A National Survey of Employees* also highlights the importance of employers instituting workplace flexibility as a tool for employee retention. Almost one in five (18%) of employees reported that they had considered resigning in the last six months due to lack of flexibility. People who were finding it very difficult to manage their work-life were six times more likely to consider resigning and make a genuine effort to find a job with another employer within the next year.

Improving access to workplace flexibility for all employees is clearly one of the key actions that will assist in increasing the participation of mature-age workers. While leading practice employers, including many DCA members, are already putting in place comprehensive workplace flexibility programs, it is clear that further change is needed.

DCA RECOMMENDATION

The right to request workplace flexibility

DCA supports the recommendation in the Issues Paper that the right to request flexible working arrangements under the National Employment Standards be extended from parents of young children to those employees with other family and caring responsibilities including caring for older people and people with disabilities.

The National Work+Family Policy Roundtable's analysis of international evidence suggests that the right can be extended to a broader population of workers without creating difficulties for business²⁰. A similar right is available to all employees in the Netherlands and Germany. Extending the right to all employees makes it simpler for employers to manage, can encourage innovation in work organisation, and can increase workplace acceptance that men as well as women need to be supported to be working carers. It is also important that flexible work arrangements continue to be monitored to ensure flexibility that supports carers is available to workers across the labour market.

DCA's recent report *Get Flexible: Mainstreaming Flexible Work In Australian Business*, released in March 2012, sets out clear, practical steps for businesses wanting to make flexible work and careers standard business practice. It also recommends actions organisations, the business sector and the broader community can take to mainstream flexible work in the Australian labour market, as follows:

- Change the language – from work-life support and flexible work arrangements/options to flexible work and flexible careers. This can decrease the view that flexible work is 'special treatment' for a select few rather than part of the mainstream business.
- Build flexible work and careers into business strategy rather than

bolting it on as a set of policies, a program or a set of arrangements.

- Engage senior leadership teams in a process to:
 - Develop a flexibility strategy that clearly identifies what success looks like
 - Integrate flexible work into: business, work, job and career design
 - Develop guiding principles for flexible work and flexible careers
 - Develop a set of measures and a process to evaluate outcomes
 - Articulate the activities and resources needed to move to, and maintain, flexible work and careers as standard business practice.
- Develop management capabilities to:
 - Design workplaces, jobs and careers for flexible work
 - Lead teams engaged in flexible work and
 - Engage in flexible work themselves.
- Develop team capabilities to work differently in a flexible work and career environment.
- Design a business and community awareness campaign to:
 - Reframe the debate about flexible work and the different perspectives employers and employees have on flexibility. This should engage directly with the evidence that links mainstreamed flexibility and: (i) business performance, productivity and sustainability; and (ii) workforce well-being and sustainability.
 - Focus on the community benefits of flexibility in terms of personal and family well-being, as well as the risks associated with not mainstreaming flexibility.
 - Change the language and stop justifying flexible work practices through a narrowly based business case framework (i.e. only assisting with workforce attraction and retention). Take a 'big picture' perspective of flexible work and frame it as a strategic business issue.
 - Develop a set of process and outcome indicators for, and measures of, mainstreamed flexible work.
 - Use the measures to identify organisations that have mainstreamed flexible work, and publicise these.
 - Drive a campaign that helps customers and clients accept and understand the value of flexible work and how this can deliver quality customer/client service.

- Actively engage in debates with employer organisations, unions and governments to show how flexible work based on mutuality can and will contribute to increased productivity and to the success of the Australian economy.

DCA RECOMMENDATION

Workplace flexibility and the Fair Work Act

DCA supports the Australian Government's commitment to developing model clauses for EBAs to assist employers who wish to offer flexible working arrangements for mature-aged workers.

DCA is of the view that Individual Flexibility Agreements are in general not an effective mechanism for providing a framework for implementing flexible work practices.

7. NOT ONLY MATURE-AGE

While many mature-age people have common experiences in their later working lives, it is important not to overlook the diversity amongst mature-aged employees. As the Advisory Panel on the Economic Potential of Senior Australians has highlighted, there is considerable diversity among mature-age Australians in relation to cultural and linguistic backgrounds, life experiences, lifestyles, abilities and aspirations²¹.

Acknowledging and working with diversity amongst mature-age workers is one way of fast tracking progress in their employment, and one approach advocated by DCA is to work with the concepts of intersectionality and identity, embedding these into organisational culture, so that they shape the way diversity is understood and approached in workplaces. For organisations, this means reframing how diversity is defined in workplaces, digging deeper into the employment experiences of mature-age workers from different diversity groups, and going beyond a 'one-size-fits-all' approach to diversity management.

Framing diversity in an organisation through reference to the concepts of identity and intersectionality is a new notion for many businesses. Here, instead of diversity referring to a discrete socio-demographic category such as 'women', 'Indigenous Australians' or 'LGBT', diversity refers to the fact that each individual has a distinct, multifaceted identity that reflects the intersection and interaction between his or her age, ethnicity/race, family situation, gender, parental and care-giving responsibilities, religious affiliation, sexual orientation and so on.

A forthcoming DCA research project, to be undertaken with the Australian Human Rights Commission (AHRC) and corporate sponsors, is leading the

way in this regard. This project is entitled *Grey Matters to Women: Attracting, Engaging and Retaining Your Female Mature-Age Workforce*. It builds on and extends DCA's innovative *Grey Matters: Engaging Mature Age Workers* research project, released in 2007. To-date, industry research and organisational activity has tended to focus on mature-age workers as a homogenous group, overlooking the particular challenges and opportunities presented by female mature-age workers. This project aims to redress this oversight, generating innovative research findings that encourage Australian organisations to implement workforce solutions that better harness the skills and talents of Australia's female mature-age workforce. Moreover, it will encourage organisations to start thinking about a broader range of women's career and lifecycle stages rather than that which is customarily looked at (i.e. initiatives targeted at high potential women under 40 years getting on the leadership track and/or the flexibility needs of women with infant/young children).

Activity in this area is especially pertinent given underutilisation is particularly apparent amongst the female mature-age labour force. In May 2012, ABS statistics put the underutilisation rate at:

- 45-54 years: women 12.0% compared to men 7.5%
- 55 years and over: women 8.8% compared to men 7.9%²².

The participation rate for workers is also significantly higher for men than women. In 2010-11, women aged 45-54 had a participation rate of 78.4% compared to 88.8% for men; women aged 55-64 had a participation rate of 54.6% compared to 71.9% for men and women aged 65-74 had a participation rate of only 12.6% compared to 24.5% for men²³.

Added to this, recent research has highlighted that women are particularly vulnerable to age discrimination. DCA's 2010 *Working for the Future* survey found that age discrimination was the most commonly reported type of discrimination and that women were more likely than men to feel they had been discriminated against because of their age (15% vs 12%). More recently, National Seniors Productive Ageing Centre report, *The Elephant in the Room: Age Discrimination in Employment*, spotlighted research showing that middle-aged women attempting to enter the paid workforce after raising children are often rejected on the grounds of either 'lack of experience' or being 'overqualified' when in fact age is the actual determining factor. These women also experience pressure to appear young and attractive and the combination of age and gender interact to create a subclass of highly vulnerable workers²⁴.

The significance of disability to mature-age workers is also a critical area that must be considered. The Consultative Forum on Mature Age Participation found that 100% of Forum members rated physical illness, injury and disability as a high or very high barrier to greater participation of mature-age workers.²⁵ As the Forum notes, long-term illness or disability is a major reason reported

for not wanting to work, accounting for over two-thirds of males aged 50-54 years (68%) and over half aged 55-59 (54%) who are not in labour force. It is also a significant reason for women in their fifties not wanting to work (approximately one-third). Amongst those aged 55-64, illness, injury or disability was the main reason for ceasing the last job for 37% of males and 25% of females.

The importance of mature-age workers' desire and need for workplace flexibility has been canvassed in the previous section, however it is worth emphasizing that it is vital that these initiatives also are undertaken giving consideration to intersectionality and identity. Research undertaken by DCA in 2009²⁶, found that many Indigenous people cited inflexibility in the workplace as a major reason for leaving the workplace. Importantly, in the context of this discussion, this was a particularly pertinent issue for mature-age women who often had significant family and community responsibilities.

The Commonwealth's recent project to consolidate and update federal anti-discrimination law specifically considered the matter of intersectional discrimination and it is clear that intersectional discrimination is a common experience for many complainants. While arguably these people are already protected by the law, it is legitimate to suggest that the current laws may deter some people who have experienced discrimination based on multiple grounds from making complaints. DCA has put forward the view that clarifying protection against intersectional discrimination through a provision such as that in the S3.1 of the *Canadian Human Rights Act*²⁷ would be a valuable addition to the consolidation bill.

DCA is committed to taking a leadership stance in this area, encouraging practitioners to better acknowledge and leverage off diversity within various socio-demographic groups when designing and implementing diversity initiatives, through working with the concepts of intersectionality and identity²⁸.

It is DCA's view that it is crucial that the Australian Government is mindful of the diversity among mature-age workers and job seekers when developing initiatives to increase participation and remove barriers for mature-age workers.

8. AGE DISCRIMINATION

Despite both State and Federal laws making age discrimination unlawful, it continues to be a major problem in Australian workplaces. DCA's 2010 *Working for the Future* survey found that age discrimination was the most commonly reported type of discrimination and at 14% was almost twice that of the next most common – discrimination on the basis of gender and discrimination on the basis of care-giving responsibilities.

Consultation with DCA members has identified that discrimination by private recruitment agencies is a significant problem, as discussed in the Issues Paper. We note that the problems with age discrimination in this sector have also been identified by many of the other stakeholders in this area including the National Seniors Productive Ageing Centre and the Australian Human Rights Commission²⁹.

While Commonwealth protections against age discrimination in employment cover all types of workers and extend to recruitment practices, offers of employment and the actions of employment agencies, there is clearly evidence of poor levels of compliance in the private recruitment sector. DCA is pleased to note the work highlighted in the Issues Paper that is already being undertaken by Commissioner Ryan in this area.

DCA reviews of the available research highlight that preventing workplace discrimination has demonstrable benefits to businesses through appropriate and effective management of issues and complaints.

DCA RECOMMENDATION

Private recruitment agencies

DCA supports suggestions to strengthen compliance by private recruitment agencies with the Age Discrimination Act by developing industry standards/guidelines with the sector.

The Government should develop a campaign targeting the private recruitment sector to assist with increasing knowledge in the industry about the benefits of recruiting mature ages workers and avoiding unlawful discrimination.

This should be developed following industry research undertaken in partnership with recruitment agents and their clients.

8.1 COSTS OF DISCRIMINATION

Costs to individuals

Discrimination exacts a financial as well as emotional toll on complainants and their families. It is difficult to precisely quantify the economic cost of this, however available research demonstrates discrimination in employment has a range of psychological, physical, and financial consequences. For instance, VicHealth research indicates that the health impacts of discrimination include higher rates of depression and other forms of mental illness³⁰. As a specific example, Australian research indicates pregnancy discrimination has a measurable detrimental effect on women's emotional and psychological health³¹. In this research, women who were discriminated against in their

workplace reported higher levels of distress, anxiety, anger and fatigue than women who were not experiencing these difficulties at their workplace during pregnancy. This finding is consistent with an emerging consensus that discrimination and stigmatization are major causal factors of ill health, including higher anxiety, depression, worsened quality of life, a sense of loss of control and difficulty coping³².

In addition to adverse psychological consequences, individuals experiencing discrimination face a range of financial hardships. Foremost among these is reduced earning capacity, with US research indicating that over the course of a woman's life, the average female graduate loses \$1.2 million earnings³³. Research indicates that were it not for discrimination, women would be earning just as much as or more than men³⁴. Discrimination also exacts a financial toll associated with loss of employment, with Australian Human Rights Commission (AHRC) statistics indicating three out of four complainants are no longer employed with the organisation when they lodge their complaint³⁵. Added to this, in the process of seeking legal redress, complainants often incur very significant legal costs.

Costs to organisations

Organisations incur a range of costs associated with discrimination. Readily quantifiable costs of diversity complaints to the organisation may take the form of negotiated damages (known to have reached \$225,000 in individual matters), awarded damages (known to have exceeded \$100,000), and legal fees (quotes of more than up to \$100,000 to defend complex complaints are not uncommon). DCA member experiences indicate that legal costs can regularly exceed \$100,000 in more complex cases and it would not be uncommon for legal fees to exceed double this amount.

Less easy to quantify are the “hidden” costs, including, for example unplanned absenteeism, reduction in work team cohesion and productivity, reduction in staff morale, lost management/employee time (investigations, hearings etc.), resignations and staff replacement costs, workplace accidents, stress and illness claims, damage to the company's reputation, and/or political and industrial relations impacts.

The following provides a general indication of these costs:

- The New South Wales Anti-Discrimination Tribunal (NSW ADT) has estimated the cost of resolving the average ‘in-house’ serious or complex complaint to be \$35,000. This includes wages and lost productivity for all parties involved – that is, those involved in the allegations and those involved in resolving the complaint. This estimate was made over ten years ago so, allowing for inflation, it is likely this amount would now exceed \$45,000. The recent experiences of DCA members suggest that the cost of resolving the average serious claim would be consistently higher than the \$45,000 estimated by the NSW Anti-Discrimination Tribunal – commonly at least \$90,000.

- DCA has estimated the average cost for a serious external grievance to be \$125,000. This allows for costs associated with managing the complaint, including possible settlement costs. It does not consider more indirect costs associated with lost productivity and turnover.
- The average penalty for sex discrimination in Australia over the period 1985-2000 (when anti-discrimination legislation was administered by the then Human Rights and Equal Opportunity Commission (HREOC)) was almost \$14,000³⁶. This does not appear to have significantly changed since the transfer of the hearing function to the Federal Magistrates Court and the Federal Court in 2000. While the highest damages for sex discrimination awarded under the SDA was \$41,488.57 (*Evans v National Crime Authority* [2003] and *Commonwealth v Evans* [2004]), the average damages was approximately \$14,000. The highest damages awarded in sexual harassment cases under the *Sex Discrimination Act, 1984* (SDA) since 2000 was \$392,422.32 (*Lee v Smith (No 2)* [2007]), while the average damages was approximately \$37,000³⁷.
- Turnover associated with complaints is common: at least three out of four complainants are no longer actively working for the organisation where the allegations occurred by the time they reported it to AHRC. As the AHRC points out, this represents a considerable cost to employers in recruitment, training and development, in addition to the indirect cost associated with loss of staff morale inevitably arising from unresolved disputes within workplaces³⁸. Turnover costs have been variously estimated at between 50 and 150% of the person's annual salary.
- Research indicates that when employers have a diversity complaint that goes public their share price will drop within 24 hours, while when employers win a diversity award their share price will increase within 10 days³⁹.

8.2 PROTECTION FROM DISCRIMINATION

There is currently substantial overlap between discriminatory conduct in employment dealt with by the Fair Work Act and provisions in State and Federal anti-discrimination laws.

In DCA's recent submission to the Attorney General on consolidation of Commonwealth anti-discrimination law, we strongly urged the Australian Government to pursue a national legal framework for anti-discrimination with States and Territories agreeing to a national framework by way of conceding to a comprehensive federal act. DCA is of the view that such a framework is key to ensuring individuals across the country have access to equal protection

under the law and would enable businesses to better comply with their legal obligations. It would further reduce confusion among individual employees, their representatives and businesses about their rights and responsibilities with regard to discriminatory conduct.

DCA RECOMMENDATION

Age discrimination

Providing protection against age (and other unlawful) discrimination will be most effective via a single federal law. DCA recommends that the Commonwealth seek the agreement of States and Territories to implement an anti-discrimination legal framework at the federal level that covers the field. DCA believes that such a move will increase compliance and community awareness, avoid inconsistencies and decrease unwarranted administrative burden on employers.

9. THE BOTTOM LINE FOR BUSINESS

A key priority for the Australian Government should be assisting Australian organisations to understand the tangible business benefits of increasing the participation of mature-age workers in their own organisations. As ACCI has emphasised, “while the benefits of engagement in work for the individual and for the nation more broadly are well documented, the benefits to the business are less so. Although being a good corporate citizen is a noble aim, ultimately the effectiveness of plans to increase workforce participation require businesses to see an economic benefit of adopting diverse employment practices. There has to be a positive business case”⁴⁰.

DCA has identified these benefits as including:

- Maximising productivity – which has no clear relationship with age
- Gaining the benefits of experience and work quality – which often improves with age;
- Not losing valuable corporate memory;
- Gaining value from mature-age workers’ lower rates of absenteeism;
- Benefiting from improved retention rates which are higher for mature-age workers; and
- Better alignment between a company’s workforce and its customer base.

DCA was pleased to see that many of these benefits have been highlighted in the recent publication *Investing in Experience*,⁴¹ produced by the Australian Industry Group in partnership with the Australian Government, which attempts

to better inform the business sector about these benefits. It highlights that the many reasons to recruit and retain mature-age workers include:

- Staying viable and successful in the face of future labour shortages by developing policies now.
- Cost-effective retention – there is evidence that mature workers can deliver an average net benefit of \$1,956 per year to their employer compared to other workers due to high retention rates, lower rates of absenteeism, decreased recruitment costs and greater return on investment⁴².
- Experienced workers have built up knowledge and skills during their time in the workforce that can make them more productive. A study examining the daily work habits of 4,000 employees found that workers aged 55 years and over performed at their best for approximately seven hours out of an eight-hour day – an achievement that other workers in the study were unable to match⁴³. Diversifying a company's employment base can also open opportunities for existing workers to upskill into higher level positions or to act as trainers and mentors for new employees or contractors.
- With life expectancy increasing to 78 years for men and 83 years for women⁴⁴ and over 75% of Australians aged 55–64 reporting their health as 'good', 'very good' or 'excellent'⁴⁵, many older workers are at their peak. The OECD has concluded that verbal skills, communication and intelligence remain unchanged as a person ages⁴⁶. Mature-age workers are also less likely to take days off due to illness or to care for others⁴⁷, and are less likely to experience work-related injuries than other workers⁴⁸.
- Effective workplace mentoring by mature-age workers can reduce staff turnover and improve staff morale. Staff that have both 'work' and 'life' experience are valuable assets to a business.
- Employee loyalty saves money on absenteeism, training and recruitment with evidence showing that workers aged over 55 are five times less likely to change jobs compared with workers aged 20–24⁴⁹.
- According to the ABS, mature-age people are the fastest growing users of information technology⁵⁰. Between 2003 and 2009, the number of older people using information technology increased markedly – in 2009, 54% of people over 65 had the internet at home and 62% had computer access compared to only 29% and 40% respectively in 2003⁵¹. Research also supports the ability of mature-age workers to learn new information technology skills and adjust to the introduction of new technologies in the workplace⁵². Studies suggest that while some older workers may be ignorant of specific IT skills, they generally possess the higher-order thinking skills needed for performing online interaction and transactions⁵³.

Other considerations highlighted by business groups which can motivate employers to take on and work to retain more mature-age workers include:

- Creating a competitive advantage – ACCI cites research showing diversity is an effective way to become product or service innovators.⁵⁴
- Being seen as an Employer of Choice – diversifying a business' employment base can help it be seen as an employer of choice – a company that people want to work for and that gets public attention through awards and recognition.
- Taking advantages of government incentives – financial incentives, training support and workplace modification support are the types of government support provided for employing some disadvantaged job seekers.
- Capitalising on the benefits of employing locally – regional and remote areas in particular can benefit from increasing their workforce base through employing locals – especially mature-age locals – who are far more likely to stay in the region. This is a particularly strong business benefit for businesses employing a local Indigenous workforce.
- Meeting legal obligations and managing risks – companies are less likely to receive a complaint of discrimination if they take active steps to comply with anti-discrimination legislation.

10. MANAGING OCCUPATIONAL HEALTH AND SAFETY

It is important to recognise that business has a range of legitimate concerns about mature-age employees and occupational health and safety. These relate not only to the occupational health and safety needs of mature-age employees, but in particular to the protections provided to mature-age workers through insurance and workers' compensation.

The most recent data from the ABS identifies that the people in the workforce with the lowest rate of injuries are those over 65 (these workers recorded work-related injuries/illnesses at a rate of 30 per 1,000 people) while those with highest rates of work-related injury or illness were in the 45-49 year age group (74 per 1,000 men and 70 per 1,000 women)⁵⁵.

It should also be noted that the age-based patterns of injury and illness, apply both to those who are otherwise healthy, as well as people who have a pre-existing disability. A review of the evidence carried out by the Australian Safety and Compensation Council in 2007 found that, contrary to the common perception of increased occupational health and safety risk for people with disability, Australian workers with disability have a lower number of OH&S incidents than the average employee. The study also found that workers' compensation costs and OH&S costs for employees with disability are much lower compared to the average employee⁵⁶. Further, the literature on

productivity of employees with disability consistently showed that productivity of employees with disability is similar to that of employees with no disability. Studies identified that employees with disability are longer serving, have less turnover and that the actual cost of workplace accommodations is quite low, with the economic benefits of employing people with disability exceeding the costs⁵⁷.

According to the ABS, the most commonly reported injuries or illnesses during 2009-10 were sprains and strains (30%), followed by chronic joint or muscle conditions (18%), and cuts or open wounds (16%). Around half of the most recent work-related injury or illness were sustained mostly by lifting, pushing or pulling objects (27%) or by hitting or being hit or cut by an object (25%). While these injuries are unlikely to be related to the age of the employee, employers should be aware that many work-related illnesses can begin earlier in a person's working life. Thus, a focus on health and safety for all age groups benefits the entire workforce, both now and into the future.

Evidence shows that positive age-management practices can significantly extend the working life of valued employees⁵⁸. While organisations have a clear responsibility to provide a safe working environment for all employees, it is valuable to consider the needs of mature-age workers by:

- Not reducing workloads or allocating less work on the basis of assumptions about health and capacity of mature-age workers;
- Changing work systems or adapting tasks for mature-age workers where necessary, (e.g. mature-age workers with reduced physical strength may spend more time operating machinery than labouring, or may wish to move from more physically demanding tasks to a supervisory role);
- Ensuring workstations are ergonomically safe for all staff; and
- Ensuring workplace lighting is appropriate for tasks being conducted.

While some mature-age employees are not affected by common age related changes, many will be. Some workers will also be more vulnerable to certain occupational injuries, and employers should identify the challenges and plan changes that would be beneficial across their entire workforce. Many mature-age employees will experience some common physical and cognitive changes (including decreased muscle strength, bone density, tissue flexibility and cardio-vascular capacity as well as changes to eyesight and hearing) which can place them more at risk of injuries such as fractures and strains and can reduce their capacity to undertake heavy physical exertion⁵⁹. However these can easily be managed in the workplace through an effective work health and safety policy and appropriate supporting practices. Practices such as reducing physical loads by using lifting machinery and trolleys, ensuring floors are even and unobstructed, reducing requirements for over-reaching and squatting, providing for heavy lifting, adequate lighting and large signage, and the provision of hearing protection are straight forward occupational health and safety measures that will benefit everyone in the workplace.

DCA notes that one of the key strategic outcomes of the draft 2012-22 Australian Work Health and Safety Strategy is research and evaluation, leading to evidence-informed policy, programs and practice. The issue of occupation health and safety for mature-age workers is an area which should be a focus under the Strategy.

DCA RECOMMENDATION

Occupational health and safety

DCA supports further research undertaken into the occupational health and safety issues facing mature aged workers and the dissemination of evidence-based information to employers about these issues, including their rights and responsibilities.

We recommend that such information be distributed to both employer and employee organisations, as well as linked to public awareness campaigns concerning mature aged employment.

It is pertinent to note that more than 60% of those who experienced a work-related injury received some sort of financial assistance, and of those who received financial assistance more than half (59%) received workers' compensation. More than 55% of those who experienced a work-related injury had some time off⁶⁰.

This must be considered in the context of the current limitations on workers over the age of 65 being unable to access workers' compensation payments and/or insurance.

DCA is of the view that this gives rise to a significant barrier to the employment of mature-aged workers – especially those aged over 65.

DCA RECOMMENDATION

Workers compensation

DCA encourage Safe Work Australia to finalise a proposal for reforms to retirement age for workers compensations purposes as a matter of priority.

Given concerns that removing all age based restrictions could lead to significant increases in costs of premiums to employers, DCA recommends that as a first step, the age at which compensation is no longer payable be pegged to the age of Age Pension eligibility.

11. WHAT CAN BUSINESS DO?

DCA research indicates that organisations seeking to make the most of a mature-age workforce should begin by:

Assessing the impact of the ageing workforce: It is important to ensure that an organisation is prepared, has a detailed understanding of its employee demographics, and of what key positions or job categories may be at risk in the near future.

Adapting early: Organisations need to rethink the value of employing people aged 45+ and redirect their recruiting and sourcing efforts to attract mature workers.

Retaining knowledge: Organisations should have a strategy in place to preserve critical knowledge before it walks out the door.

Supporting mature-age employees: As previously discussed, it is important to recognise that one size doesn't fit all – different groups have different needs. For example, mature-age workers who are female compared with those from culturally and linguistically diverse backgrounds, and those with and without adequate superannuation.

Offering training and development: Retraining mature workers should be part of an organisation's overall learning and development strategy.

Ensuring accessibility: Organisations should also address the accessibility needs of all employees when designing or implementing new software or systems as well as thinking about physical premises and accessibility.

Understanding key employment drivers: Understanding some of the key employment drivers of current and potential mature-age Australian workers is critical. These include: flexible work, lifelong learning, recognition and reward, and inclusive culture.

Being flexibility-friendly: As previously discussed, flexibility is critical for engaging and re-engaging mature-age workers. Organisations should be prepared to be supportive of a wide range of flexible work options and of mature-age workers wishing to access gradual retirement, deferred retirement, or 'down-shifting'. It is also worth considering implementing re-hiring programs that enable retired workers to take up full-time, part-time, casual, contract or informal work opportunities with the organisation.

Fostering an age-inclusive culture: Organisations should promote an age-inclusive culture and consider:

- Removing any mandatory retirement ages for employees (there are

- limited exceptions in which mandatory retirement ages are legal);
- Ensuring that mature-age workers are not terminated to make room for younger workers;
 - Educating staff about age-diversity – the value of mature-age workers, inappropriate stereotypes, and working in cross-generational teams;
 - Introducing a 'buddy' system to support mature-age recruits;
 - Using cross-generational teams (e.g. Gen Y, Gen X, Baby-Boomers, Veterans) so workers of all ages can learn from each other while adding value to the workplace;
 - Adopting an approach to management decision-making that is inclusive of both younger and mature-age workers;
 - Confronting workplace prejudices that link desirable employment characteristics such as fitness, financial viability and skill to age, through publicity, management programs and workplace discussion, proactively;
 - Recognising and managing age diversity issues that can arise when mature-age workers choose to work part-time and accept a lower level of responsibility; and
 - Again, recognising that one size does not fit all when managing mature-age workers.

Focusing on lifelong learning: Organisations should facilitate lifelong learning by:

- Investing equally in new skills for all staff, regardless of age;
- Providing opportunities for workers to continually update their skills;
- Implementing mentoring and coaching programs so that employees nearing retirement can pass their knowledge and skills onto younger workers;
- Encouraging all workers to seek to stay competitive in the increasingly technology-based economy, through providing training in new and emerging technologies; and
- Ensuring training programs provide a friendly, supportive environment that allows participants to build on past experiences, and recognises that some people may require more time to adapt to formal training courses.

Addressing knowledge transfer: Organisations should facilitate knowledge transfer to preserve critical knowledge before it walks out the door, by developing specific plans, policies, systems and processes for passing the knowledge and experience of mature-age workers on to others by, for example:

- Identifying critical ‘at risk’ knowledge areas and positions;
- Conducting skill and knowledge audits;
- Retaining valued employees and share knowledge through developing alternative work arrangements such as job shadowing and job-sharing;
- Introducing knowledge transfer based training and mentoring;
- Knowledge mapping; and
- Team based work practices.

Considering recognition and reward:

Organisations should ensure appropriate recognition and reward by:

- Providing all workers with challenging and meaningful work;
- Promoting and transfer on basis of merit (performance and contribution potential), rather than on the basis of age;
- Ensuring no worker is denied or provided with lesser benefits on the basis of age;
- Exploring ways to prevent career stagnation for long-tenured employees (e.g. job transfers, subsidised study, special projects, mentoring responsibilities);
- Recognising individual career goals may differ between mature-age workers - one-size does not fit all; and
- Providing mature-age workers with roles that leverage off their experience and maturity.

DCA RECOMMENDATION

Business regulation

DCA members, and other leading practice employers, are already developing policies and programs to increase participation and engagement of the mature-aged workforce.

We believe that developing formal regulation and monitoring processes such as those administered by EOWA, would impose an unnecessary administrative burden on employers.

Given that there are likely to be not insignificant costs to government of introducing such measures, DCA suggests that resources might be better directed toward assisting small and medium-sized enterprises with education and support to increase their engagement with this issue.

Community education and awareness raising should be focused on both mainstream media and include the development of specialist resources, and other support, for employers. Employer guidelines and supporting materials should be developed in partnership with industry and widely distributed.

11.1 LEADING PRACTICE AMONGST AUSTRALIAN EMPLOYERS

DCA members are already at the forefront of Australian, and world's, leading practice with regard to the attraction, engagement and retention of mature-aged workers. Below are some case studies of just a few DCA members currently working in this area. Should the ALRC be interested, DCA would be happy to facilitate more detailed discussion about their initiatives.

AUSTRALIAN FEDERAL POLICE

Among the existing sworn employees, the AFP currently enjoys an attrition rate of 5.39%, which is by most modern standards very low. Notwithstanding, behind this very low number is a mountain of experience. The group most closely studied within the AFP with regard to the ageing workforce has been those over the age of 45. This group represents a collective experience base of some 16,695 years. In commodity terms, this experience base is an expensive investment.

While losing these people one day is inevitable, the challenge of maximising their benefit to the AFP prior to and post departure is a significant challenge to the organisation. The mentoring value of many of these people, while difficult to quantify, is something to which those who have received sound advice and direction from their seniors in the past will attest.

Making the workplace an enjoyable and rewarding place to be for over 55s is a big priority. Issues such as flexibility of hours, release from the rigours of senior management positions, and the ability to effectively support elderly parents, children and grandchildren are emerging issues for mature-age employees.

Some of the specific initiatives targeting mature-age workers in the AFP are:

- The recognition of a broader family definition for the use of personal leave, which includes grandchildren and parents;
- Re-engagement post-55, of former staff in mentoring and coaching roles;
- Re-engagement of staff post-55, into defined project roles; and
- Flexible work practices and rosters to encourage participation.

IBM

Cross-Generational Diversity at IBM is about looking at the lifecycle of employees and their needs at the different phases of their careers, from recruitment through to retirement. It means valuing the talents and abilities of all generations, from the experience of mature-age workers to the energy of the next generation entering the workforce.

IBM believes employees approaching retirement should be supported in scaling back their hours, shifting to project-based work or taking up mentoring roles. In this way the company is able to keep their expertise in the business while enabling them to continue doing challenging, interesting work.

The IBM Generational Diversity strategy is focused on enabling mature workers to continue to contribute to business success. As the workforce ages, IBM faces greater competition to attract new employees and retain existing ones. To address this challenge, the company has put in place processes, tools and strategies to retain and maximise the careers of its mature-aged workforce and recruit from this talent pool.

In 2007, all IBM managers from Australia and New Zealand attended a manager conference in Brisbane where they were provided the opportunity to attend workshops on 'Leading a Multi-Generational Workforce'. At these workshops, managers were introduced to the concept of building an environment and culture where the individual needs of employees are respected in regard to stages in their life and careers. Robert Critchley, a well known consultant and author of *Generational Workforces*, conducted two workshops in June 2007, followed up by a teleconference call for managers in September of the same year.

IBM has continued to deploy the Generational Workforce Strategy, including Global Webcasts to raise awareness and capability of mature-age workers with the opportunity for employees to provide feedback on some of the challenges and opportunities on the topic of mature-aged workers.

In 2007, IBM also partnered with DCA in our research looking at underlying issues of recruitment and retention of mature-age workers in a restricted labour market which provided IBM with data on how mature-age workers felt about current and future engagement in the labour market.

The program aims to provide a flexible workplace culture which allows IBM employees to enjoy:

- Continued participation in the workforce without age-related barriers;
- Flexible work hours and responsibilities;
- A variety of work style options;
- Greater lifestyle choices;
- Continued learning and job satisfaction; and
- An ongoing connection to the IBM community.

NATIONAL AUSTRALIA BANK (NAB)

NAB values the maturity, knowledge and experience of mature age employees, who hold critical knowledge, customer relationships, technical skill, and experience in managing business.

NAB actively focuses on supporting their mature age employees in a number of ways, and evaluate and monitor their progress to ensure continuous improvement.

They recognise that people are thinking creatively about their retirement options and so provide flexibility to enable transition to retirement and work options to suit their individual lifestyles.

NAB provides workplace flexibility in relation to when, where and how work is delivered. For example, job sharing, compressed working weeks, telecommuting, and working from home, as well as leave flexibility and salary averaging options.

Core to NAB's strategy is *MyFuture*, a program designed to provide mature age employees and their managers with the capabilities to make informed decisions and plan for the future – whether this is career redirection, a change of pace, or retirement.

MyFuture was successfully piloted in 2010 and was rolled out across Australia from July 2011. To date over 800 employees and over 300 managers will have participated in the program.

MyFuture complements other initiatives implemented by NAB in recent years, including provisions in their Enterprise Agreement which support mature age employees to change their working arrangements to suit their lifestyle changes without financial penalty. For example, they can freeze accrued long-service leave entitlements at the higher pay rate when taking on a role at a lower salary or reduced working hours, and/or take long service leave flexibly i.e. one day per week.

In 2011, NAB was awarded the 'Best Employer for Workers Over 50 Award - International' by AARP. AARP is a US-based not-for-profit association with 37 million members, and is dedicated to enhancing the quality of life for people as they age. Later in 2011 NAB was an award winner at the Diversity@work awards for Employment and Inclusion of Mature Age.

NAB has continued to focus on providing access to this program to staff around the country by creating an online version of the program. The program can be accessed by our mature age staff in remote locations and can also be used as a supplement to the face to face program as well.

WESTPAC

The Westpac Group was one of the first Australian businesses to deliberately target mature-age workers back in 2002 when it announced it would hire 900 employees aged 45 years and older over a period of three years under its

"age balance strategy". Over the years the Group has offered a range of programs to support its people with flexibility and transitioning to retirement.

Westpac recognises that not all mature workers want the same things so the bank offers a range of programs to suit the career life cycle of this valuable group of employees.

Some of the programs that Westpac currently offers and are implementing include:

- The "Create Your Future" seminar series have been offered through SageCo across The Westpac Group for several years. The seminars offer mature age employees the opportunity to explore factors that influence a successful retirement and receive information, advice and resources to assist with planning in all life areas;
- Grandparental Leave - the Westpac Group through St.George Bank was the first company in Australia to introduce this;
- Mentoring opportunities for mature-aged team members to share their skills and knowledge;
- Assessing structured knowledge capture solutions for employees who are leaving the Group;
- Targeted recruitment of mature-aged people into customer facing roles;
- An Eldercare Kit which helps employees better understand the potential issues associated with caring for an elderly family member, the support services available and tools for assisting decision making;
- Partnering on a research study with Monash University to better understand the needs of retiring women;
- An Employee Action Group which helps to promote awareness of mature-aged workers' interests at corporate, community, and individual levels; and
- Retirement transition options and the opportunity for all mature-aged employees to work flexibly if desired.

Westpac's approach to workplace flexibility is particularly attractive to many mature-aged workers. The organisation has a long history of supporting flexibility in the workplace, with 40% of employees already using some form of flexible working arrangement.

The organisation was an early adopter of 'home-shoring' in which people handle customer enquiries from their own home rather than a central contact centre with more than 80 employees currently working in this way. These workers carry out the same roles as their on-site colleagues and attend the office monthly to spend time with the team, and receive on-going training, support and coaching.

As well as home-shoring, Westpac offers other flexible work practices such as Voluntary Time Off (VTO) in which employees can leave at short notice

subject to business requirements. As an example, when call centre modelling is done each morning, if excess capacity is identified, staff can take the opportunity for some time off – from one to seven hours.

Technology such as telephony infrastructure, on-line training, live meeting technology supports employees working away from the office and team managers maintain day to day support and guidance.

Westpac has found these programs make commercial sense assisting with higher engagement, reduced attrition and absenteeism, improved productivity and performance and high levels of customer satisfaction. In addition, they offer real benefits enabling the company to access a diverse workforce in a tight labour market.

12. WHAT CAN GOVERNMENTS DO TO HELP?

While governments at both Federal and State/Territory levels are clearly focusing on the issue of better engaging mature-aged employees, there must be continued recognition that the responsibility for increasing employment participation is shared between employers, government and the broader community.

Access to training, government support and incentives must be retained and enhanced to support businesses looking to diversify their current employment base. As ACCI has highlighted, past experience has shown that short term projects and initiatives show some success during their operation but rarely continue beyond the initial funding period, resulting in lost momentum, lost initiative and lost talent⁶¹.

DCA welcomes the Government's \$1,000 job bonus for employers to take on and retain mature-aged workers for three months or more, and would also welcome future incentives for employers taking a longer-term approach which focuses on delivering sustainable employment outcomes. DCA also encourages DEEWR to facilitate greater access also to the National Workforce Development Fund.

DCA has been pleased to note the development of toolkits such as *Investing in Experience*,⁶² produced in cooperation between DEEWR and AIG and recommends that such resources should be widely distributed.

We are further particularly pleased to note the Australian Government's commitment in their response to the Final Report of the Advisory Panel on the Economic Potential of Older Australians⁶³ that the Corporate Champions initiative will be expanded. The development of a series of national seminars, educational materials and guidance for employers focused on workforce diversity and mature-aged workers is a welcome initiative which DCA is pleased to support. The kinds of initiatives highlighted in the previous section

can offer both guidance to other organisations, but can highlight the cost-benefits of initiatives of supporting mature-age employment.

It is important that employer resources should be targeted, industry specific and particularly focus on the concerns and needs of small to medium-sized businesses.

Perhaps equally importantly, DCA believes that such resources must form one element of a broader communications strategy aimed at raising awareness in the community about the need for greater engagement and participation by mature-aged workers.

ENDNOTES

- ¹ Advisory Panel on the Economic Potential of Senior Australians, 2011, *Enabling Opportunity; and Turning Grey into Gold: Realising the Economic Potential of Senior Australians*. The Treasury, Commonwealth of Australia, Canberra
- ² National Seniors Productive Ageing Centre, 2011, *Ageing and the Barriers to Labour Force Participation in Australia*, Consultative Forum on Mature Age Participation, Department of Employment, Education and Workplace Relations, Commonwealth of Australia, Canberra.
- ³ Australian Human Rights Commission, 2010, *Age Discrimination – exposing the Hidden Barrier for Mature Age Workers*, Australian Human Rights Commission, Sydney; Australian Human Rights Commission, 2011, *The Road So Far – The Age Discrimination Act 2004 (Cth)*, Australian Human Rights Commission, Sydney.
- ⁴ Productivity Commission, 2005, *Economic Implications of an Ageing Australia*, Research Report, Canberra.
- ⁵ Advisory Panel on the Economic Potential of Senior Australians, 2011, *Turning Grey into Gold: Realising the Economic Potential of Senior Australians*, The Treasury, Commonwealth of Australia, Canberra.
- ⁶ Commonwealth of Australia, 2010, *Australia to 2050: Future Challenges. The 2010 Intergenerational Report*, Canberra.
- ⁷ Australia Chamber of Commerce and Industry, 2012, *Employ Outside the Box: The Rewards of a Diverse Workforce*, ACCI, Canberra.
- ⁸ Organisation for Economic Cooperation and Development, 2011, *OECD Statistical Extracts* Available from <http://stats.oecd.org/index.aspx> Cited in National Seniors Productive Ageing Centre, 2011, *Ageing and the Barriers to Labour Force Participation in Australia*, Consultative Forum on Mature Age Participation, Department of Employment, Education and Workplace Relations, Commonwealth of Australia, Canberra.
- ⁹ Australian Bureau of Statistics, 2011, *Retirement And Retirement Intentions 2010-2011*, Cat. No. 6238.0.
- ¹⁰ Organisation for Economic Cooperation and Development, 2009, *Statistics on Average Effective Age and Official Age of Retirement in OECD Countries*, Accessed at: http://www.oecd.org/document/47/0,3746,en_2649_33927_39371887_1_1_1_1,00.html
- ¹¹ Australian Bureau of Statistics, 2011, *Retirement And Retirement Intentions 2010-2011*, Cat. No. 6238.0.
- ¹² Australian Chamber of Commerce and Industry, 2010, *It's Not About Age, Pathways For Engaging Mature Aged People & Existing Workers As Apprentices*, Accessed at: <http://www.acci.asn.au/Research-and-Publications/Issues-Papers/Human-Capital/It-s-Not-About-Age>
- ¹³ Australian Chamber of Commerce and Industry, 2012, *Employ Outside the Box: The Rewards of a Diverse Workforce*, Accessed at: <http://acci.asn.au/getattachment/1d9163c5-f634-4126-9e90-ae73d810f1bc/Employ-Outside-the-Box.aspx>
- ¹⁴ Daley J, McGannon C, and Ginnivan L, 2012, *Game-changers: Economic Reform Priorities for Australia*, Grattan Institute, Melbourne.
- ¹⁵ Organisation for Economic Cooperation and Development, 2011, *Doing Better for Families*, OECD, Paris.
- ¹⁶ Goldman-Sachs Economic Research, *Weekly Comment: Productivity, Much Ado about Nothing*, 26 August 2011.
- ¹⁷ Australian Chamber of Commerce and Industry, 2012, *Employ Outside the Box: The Rewards of a Diverse Workforce*, Accessed at: <http://acci.asn.au/getattachment/1d9163c5-f634-4126-9e90-ae73d810f1bc/Employ-Outside-the-Box.aspx>
- ¹⁸ Australian Bureau of Statistics, 2011, *Retirement And Retirement Intentions 2010-2011*, Cat. No. 6238.0.

-
- ¹⁹ National Seniors Productive Ageing Centre, 2011, *Ageing and the Barriers to Labour Force Participation in Australia*, Consultative Forum on Mature Age Participation, Department of Employment, Education and Workplace Relations, Commonwealth of Australia, Canberra.
- ²⁰ Work+Family Policy Roundtable, 2012, Submission to The Fair Work Act Review Panel, Accessed at: <http://www.deewr.gov.au/WorkplaceRelations/Policies/FairWorkActReview/Documents/WorkandFamilyPolicyRoundtable.pdf>
- ²¹ Advisory Panel on the Economic Potential of Senior Australians, 2011, *Enabling Opportunity*; and *Turning Grey into Gold: Realising the Economic Potential of Senior Australians*; The Treasury, Commonwealth of Australia, Canberra.
- ²² Australian Bureau of Statistics, 2012, *Labour Force, Australia, May 2012*, Cat. No. 6202.0
- ²³ Australian Bureau of Statistics, 2012, *Gender Indicators, Australia, Jan 2012*, Cat. No. 4125.0
- ²⁴ National Seniors Australia Productive Ageing Centre, 2011, *The Elephant in the Room: Age Discrimination in Employment*, NSPAC.
- ²⁵ National Seniors Productive Ageing Centre, 2011, *Ageing and the Barriers to Labour Force Participation in Australia*, Consultative Forum on Mature Age Participation, Department of Employment, Education and Workplace Relations, Commonwealth of Australia, Canberra
- ²⁶ Constable J, 2009, *NAB-DCA Research Project, Engaging Aboriginal Australians in the Private Sector: A Consultative Report into Aboriginal Employment Strategies and Initiatives*, Diversity Council Australia.
- ²⁷ Section 3.1 of the Act provides that: *For greater certainty, a discriminatory practice includes a practice based on one or more prohibited grounds of discrimination or on the effect of a combination of prohibited grounds.*
- ²⁸ Annese L, O'Leary J & Young N, 2011, More than a woman. *Diversity Matters*. Available at <http://www.dca.org.au/News/News/More-than-a-woman---A-new-approach-to-gender/160>
- ²⁹ National Seniors Productive Ageing Centre, 2011, *Ageing and the Barriers to Labour Force Participation in Australia*, Consultative Forum on Mature Age Participation, Department of Employment, Education and Workplace Relations, Commonwealth of Australia, Canberra.
- ³⁰ VicHealth, 2007, *More than Tolerance: Embracing Diversity for Health*. Accessed at: [http://www.vichealth.vic.gov.au/assets/contentFiles/DCASv2%20\(4\)%20-%20FINAL%20060907.pdf](http://www.vichealth.vic.gov.au/assets/contentFiles/DCASv2%20(4)%20-%20FINAL%20060907.pdf)
- ³¹ Cooklin A, Rowe H & Fisher J, 2007, *Workplace discrimination continues for women*. Accessed at: <http://www.onlineopinion.com.au/view.asp?article=6656>
- ³² Lynch P, 2005, Homelessness, poverty and discrimination: Improving public health by realising human rights, *Deakin Law Review*. Accessed at: <http://www.austlii.edu.au/au/journals/DeakinLRev/2005/11.html#fn46>
- ³³ Murphy E with Graff EJ, 2005, *Getting even: Why women don't get paid like men--and what to do about it*, Touchstone, New York.
- ³⁴ Bergman BR, 2007, Discrimination through the economist's eye, in Crosby FJ, Stockdale MS, and Ropp SA, (eds), *Sex Discrimination in the Workplace*, Blackwell Publishing, Malden, MA.
- ³⁵ Australian Human Rights Commission, 2003, *A bad business: Review of sexual harassment in employment complaints 2002*. Accessed at: http://www.hreoc.gov.au/sex_discrimination/workplace/bad_business/media/fact_cost.html
- ³⁶ Brooks R, 2004, *The Price of Discrimination: An Economic Analysis of the Human Rights and Equal Opportunity Commission Rulings 1985-2000*. Accessed at: http://findarticles.com/p/articles/mi_m0PAO/is_3_23/ai_n6201943
- ³⁷ Australian Human Rights Commission, 2008, *Federal Discrimination Law Online June 2008*, Accessed at <http://www.hreoc.gov.au/legal/FDL/index.html>
- ³⁸ Australian Human Rights Commission, 2003, *A Bad Business: Review of Sexual Harassment in Employment Complaints 2002*. Accessed at: http://www.hreoc.gov.au/sex_discrimination/workplace/bad_business/media/fact_cost.html
- ³⁹ Wright PM, Ferris SP, Hiller JS & Kroll M, 1995, Competitiveness through management of diversity: Effects on stock price valuation, *Academy of Management Journal*, 88: 272-287.

-
- ⁴⁰ Australian Chamber of Commerce and Industry, 2012, *Employ Outside the Box: The Rewards of a Diverse Workforce*, Accessed at: <http://acci.asn.au/getattachment/1d9163c5-f634-4126-9e90-ae73d810f1bc/Employ-Outside-the-Box.aspx>
- ⁴¹ Australian Government Department of Employment, Education and Workplace Relations and the Australian Industry Group, 2012, *Investing in Experience*, DEEWR, Canberra.
- ⁴² Kinsella-Taylor L, 2000, *Profiting from Maturity: The Social & Economic Costs of Mature Age Unemployment*, Jobs East, Melbourne.
- ⁴³ Musich S, Hook D, Baaner S, Spooner M, and Edington DW, 2006, The association of corporate work environment factors, health risks, and medical conditions with presentee-ism among Australian employees, *American Journal of Health Promotion*, 21: 127-136.
- ⁴⁴ Australian Bureau of Statistics, 2006, *Measures of Australia's Progress*, Cat. No. 1370.0.
- ⁴⁵ Australian Bureau of Statistics, 2006, National Health Survey: Summary of Results, 2004–05, Cat. No. 4364.0.
- ⁴⁶ Organisation for Economic Cooperation and Development, 2006, *Live Longer Work Longer*, OECD, Paris.
- ⁴⁷ Australian Bureau of Statistics, 2006, *National Health Survey: Summary of Results, 2004–05* Cat. No. 4364.0.
- ⁴⁸ Australian Bureau of Statistics, 2009-10, *Work-Related Injuries, Australia*, Cat. No. 6324.0.
- ⁴⁹ Australian Bureau of Statistics, 2006, *Labour Mobility Survey*, Cat. No. 6209.0.
- ⁵⁰ Australian Bureau of Statistics, 2005, *Year Book Australia*, Cat. No. 1301.0.
- ⁵¹ Australian Bureau of Statistics, 2011, *Household Use of Information Technology, Australia, 2010-11*, Cat. No. 8146.0.
- ⁵² Eric Digest, 1991, *Older Worker Training: An Overview*, Accessed at: www.ericdigests.org/pre-9220/older.htm
- ⁵³ Johnson GM, 2007, Functional internet literacy: Required cognitive skills with implications for instruction, *E-Learning*, 4 (4): 433-441. Accessed at: <http://dx.doi.org/10.2304/elea.2007.4.4.433>
- ⁵⁴ Australian Chamber of Commerce and Industry, 2012, *Employ Outside the Box: The Rewards of a Diverse Workforce*, Accessed at: <http://acci.asn.au/getattachment/1d9163c5-f634-4126-9e90-ae73d810f1bc/Employ-Outside-the-Box.aspx>
- ⁵⁵ Australian Bureau of Statistics, 2011, *Work Related Injuries, Australia 2009-10*, Cat. No. 6324.0
- ⁵⁶ Australian Safety and Compensation Council, 2007, *Are People with Disability at Risk at Work?*, Australian Government Department of Employment and Workplace Relations, Canberra.
- ⁵⁷ ASSC, 2007, *Ibid*
- ⁵⁸ Australian Government Department of Employment, Education and Workplace Relations and the Australian Industry Group, 2012, *Investing in Experience*, DEEWR, Canberra.
- ⁵⁹ Australian Government Department of Employment, Education and Workplace Relations and the Australian Industry Group, 2012, *Investing in Experience*, DEEWR, Canberra.
- ⁶⁰ Australian Bureau of Statistics, 2011, *Work Related Injuries, Australia 2009-10*, Cat. No. 6324.0.
- ⁶¹ Australian Chamber of Commerce and Industry, 2012, *Employ Outside the Box: The Rewards of a Diverse Workforce*, Accessed at: <http://acci.asn.au/getattachment/1d9163c5-f634-4126-9e90-ae73d810f1bc/Employ-Outside-the-Box.aspx>
- ⁶² Australian Government Department of Employment, Education and Workplace Relations and the Australian Industry Group, 2012, *Investing in Experience*, DEEWR, Canberra.
- ⁶³ Australian Government, 2012, *Government Response to the Advisory Panel on the Economic Potential of Senior Australians*, The Treasury, Commonwealth of Australia, Canberra.