



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

23 November 2012

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## 1. OVERVIEW

Diversity Council Australia (DCA) provides diversity advice and strategy to over 180 organisations, many of whom are Australia's biggest employers.

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

- Lead public debate;
- Develop leading diversity research, thinking and practice;
- Enable diversity management in a dynamic environment; and
- 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.

Our organisation is well aware of the strong imperative for both the Commonwealth and industry 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 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.

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.

As we indicated in our submission to the Commission's Issues Paper earlier this year, 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 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.

This is especially important for the large number of mature age workers who have caring responsibilities for family members with an illness or disability, or who are frail aged. For many families, delayed child bearing also means that many mature age workers are concurrently juggling dependent children and other dependent family members, placing even greater pressure on their capacity to work traditional full time hours.

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 age employees. In particular, there is significant scope to increase participation by mature age women.

DCA is currently carrying out a research project in partnership with the Australian Human Rights Commission and DCA members NAB and SageCo examining the drivers and barriers for the

greater labour market participation by mature age women. The outcomes of this project will include the development of specific strategies which can be used by employers to better attract, engage and retain mature age women.

It is clear from reviews of the literature that age discrimination continues to present a significant problem for mature age workers. For many mature age employees, this is exacerbated by discrimination based on other factors, in particular sex, race and disability. Increasing community awareness of the issue and compliance with existing legislative protections is important.

As we highlighted in our earlier submission, it is important that the legitimate concerns about mature age employees and their occupational health and safety needs that are held by many employers are addressed. These relate not only to the specific needs of some mature age employees, but in particular to the protections provided to them through insurance and workers' compensation. These protections must be addressed as a priority.

DCA is keen to emphasise our view that businesses, governments and the broader community must 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.

## 2. ALRC RECOMMENDATIONS & PROPOSALS

In broad terms, DCA is pleased to support the recommendations and proposals of the ALRC. We are particularly pleased to note that the ALRC has adopted many of the recommendations we had put forward in our earlier submission. In relation to those recommendations and proposals that are of particular interest to our members, DCA would like to make the following comments:

### 2.1 RECRUITMENT

**Recommendation 2–1** The Fair Work Ombudsman should undertake a national recruitment industry campaign to educate and assess the compliance of recruitment agencies with workplace laws, specifically with respect to practices affecting mature age job seekers and workers.

**Proposal 2–2** 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 can 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.

**Proposal 2–3** In order to assist recruitment agencies and consultants to engage constructively with, and recruit, mature age job seekers, 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.

**Proposal 2–4** 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.

## DCA's response

DCA is pleased to note the support given by the ALRC to these proposals which aim to increase compliance by private recruitment agencies with the Age Discrimination Act by developing industry standards/guidelines with the sector.

In our consultation with DCA members on the earlier Issues paper, this issue was one which resonated strongly as an important area for action.

We are particularly pleased to see the emphasis that has been given to working cooperatively with the Recruitment and Consulting Services Association of Australia and New Zealand in developing these initiatives.

## 2.2 WORKPLACE FLEXIBILITY

**Proposal 2–5** The Australian Government should amend s 65 of the *Fair Work Act 2009* (Cth) to extend the right to request flexible working arrangements to all employees who have caring responsibilities.

**Proposal 2–6** The Fair Work Ombudsman should develop a guide to negotiating and implementing flexible working arrangements for mature age workers, in consultation with unions, employer organisations and seniors organisations.

**Question 2–1** In what ways, other than through changes to the *Fair Work Act 2009* (Cth), should the Australian Government develop or encourage flexible working arrangements for mature age workers?

## DCA's response

DCA strongly supports the recommendation that the right to request flexible working arrangements in s65 of the *Fair Work Act 2009* be extended to all employees with family and caring responsibilities including caring for older people and people with disabilities.

The impact of caring responsibilities has a particularly significant impact on the labour market participation of mature age women with latest statistics indicating that 13% of all women aged less than 65 are carers and 16% of those over 65. The population with the highest caring role is women aged 55–64, 25% of whom are carers.<sup>i</sup>

Recent research by the National Seniors Centre for Productive Ageing identifies barriers to greater workforce participation by mature age people, one of the most important of which is the lack of flexible workplace arrangements for care-givers. We note that The Centre's modeling estimates that this barrier alone results in a loss of 200,000 hours per week worked by part time male workers, and over 1 million hours lost from part time female workers. For mature age people who are not in the labour force because of care-giving responsibilities, there is an estimated loss of 1.1 million hours worked by men and 2.4 million hours worked by women.<sup>ii</sup>

A review of the literature overwhelmingly supports the need to better assist mature age workers to reconcile their paid work and family responsibilities.<sup>iii</sup>

DCA's own research provides additional evidence of the importance of facilitating flexibility. Our 2007 research into mature age workers - published as *Grey Matters: Engaging Mature Age Workers* – and our 2010 survey *Working for the Future: A National Survey of Employees* both highlight the importance of employers instituting workplace flexibility as a tool for employee retention.

DCA's recent research on workplace flexibility - [\*Get Flexible: Mainstreaming Flexible Work in Australian Business\*](#) released in March and [\*Men Get Flexible! Mainstreaming Flexible Work in Australian Business\*](#) released in August - found there is significant evidence that flexible work optimises resources and productivity. Both reports, produced in partnership with Westpac and supporting sponsors Stockland, Origin and Allens, demonstrate that flexible work can generate positive outcomes for men, women, families and organisations.

In addition to the proposals put forward in 2.5 and 2.6, DCA would encourage the Government to develop a broader employer campaign to encourage employers to adopt flexibility in a more mainstreamed way. This is critical to ensuring gender equality and that those who need it do not continue to be sidelined into poor quality, insecure work that is badly paid and has few career prospects. Focusing only on assisting unions and employers to establish flexible workplace arrangements will not be sufficient to retain mature age workers. Attention needs to be directed to the altogether 'higher bar' of making flexible work and flexible careers standard operating practice.

The strategies that DCA has recommended to mainstream flexible work in the Australian labour market, include:

- 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.

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.

## 2.3 THE FAIR WORK ACT, 2009

**Proposal 2–7** From 2014, Fair Work Australia will conduct the first four-yearly review of modern awards. In the course of the review, the inclusion or modification of terms in the awards to encourage workforce participation of mature age workers should be considered.

**Proposal 2–8** 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. The Australian Government should consider amending this section to increase this period from one week to four weeks.

### DCA's response

DCA supports the proposal for the first four yearly review of the *Fair Work Act, 2009* to include consideration of whether it is possible to better encourage the workforce participation of mature age workers through modification of award terms.

In relation to the proposal to increase minimum notice periods for older workers DCA is of the view that this should be given further careful consideration in consultation with the relevant stakeholders, given the potential risk of unintended consequences such as employers – particularly in small businesses - becoming more reluctant to employ mature age workers in times of economic instability. It may be that this issue is also best considered in the context of the *Fair Work Act* review.

## 2.4 ANTI-DISCRIMINATION LAW

**Question 2–2** There is substantial overlap between the general protections provisions under the Fair Work Act 2009 (Cth) and Commonwealth anti-discrimination legislation. In what ways, if any, could this legislation be amended to improve or clarify their interaction in circumstances of age discrimination?

### DCA's response

DCA is strongly of the view that 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.

A review of the literature has highlighted that despite the presence of both State and Federal laws making age discrimination unlawful, it continues to be a major problem in Australian workplaces.<sup>iv</sup> 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.

More recently the National Seniors Centre for Productive Ageing has released the results of a Survey of Barriers to Employment for Mature Age Australians which utilizes the results from the first nationally representative survey of 3007 mature age Australians aged 45–74 to elicit information about the prevalence of the barriers to mature age participation, indicative rankings among the barriers, any potential interaction between the barriers, and projections indicating the workers and hours lost to the Australian economy due to select barriers. This analysis was then supplemented by an analysis of employers' perceptions of mature age workers using the 2010 DEEWR Survey of Employers. In this survey, age discrimination was ranked as the second most common barrier to greater workforce participation by mature age Australians (after physical illness, injury and disability).<sup>v</sup>

DCA believes that consolidated federal law which covers the field will increase compliance and community awareness, avoid inconsistencies and decrease unwarranted administrative burden on employers. At the time of writing DCA is aware that the release of the exposure draft of the Commonwealth's consolidated anti-discrimination bill is imminent and we look forward to its publication.

It is also important to understand that intersectional discrimination is a common experience for many mature age complainants. While arguably these people are already protected by the law, the current laws may deter some people who have experienced discrimination based on multiple grounds from making complaints. Clarifying protection against intersectional discrimination through a provision (such as that in the S3.1 of the Canadian Human Rights Act<sup>vi</sup>) would be a valuable addition to the consolidation bill.

## 2.5 COMPULSORY RETIREMENT, LICENCING & RE-QUALIFICATION

**Proposal 2–9** A range of professional associations and industry representative groups are responsible for developing or regulating licensing or re-qualification requirements. The Australian Human Rights Commission should develop 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.

**Proposal 2–10** The Australian Government should initiate an inquiry to review the compulsory retirement ages of judicial and quasi-judicial appointments.

**Proposal 2–11** The Australian Government should initiate an inquiry to review the compulsory retirement ages for military personnel.

### DCA's response

As DCA outlined in our submission to the Issues Paper, we are strongly of the view that consistent with anti-discrimination law, individuals should only be assessed on whether they can carry out the inherent requirements of the job in question. As such, where compulsory retirement ages and licensing/re-qualification requirements exist, these should be removed wherever possible. This includes in both the military and in relation to judicial/quasi-judicial appointments. DCA believes

that further Government inquiries into these specific areas are unnecessary and would support the legislation being developed to effect these changes. Any additional consultation with stakeholders could be then carried out via the release of an exposure draft of the relevant bills.

## 2.6 BUSINESS REGULATION & REPORTING

**Proposal 2–12** The Australian Human Rights Commission should coordinate a national education and awareness campaign in support of the workforce participation of mature age persons.

**Question 2–3** Should the Australian Government establish a body or reporting framework with respect to mature age workers similar to that of the Equal Opportunity for Women in the Workplace Agency or its reporting framework? If so, how should such a body or framework operate?

### DCA's response

As DCA outlined in our submission to the Issues Paper, it is important to note that DCA members, and other leading practice employers, are already developing policies and programs to increase participation and engagement of the mature age 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.

## 2.7 OCCUPATIONAL HEALTH & SAFETY & WORKERS COMPENSATION

**Proposal 3–1** 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.

**Proposal 3–2** Safe Work Australia should include work health and safety issues that may affect mature age workers in its research agenda.

**Proposal 3–3** Safe Work Australia and state and territory work health and safety regulators should develop guidance material to assist persons conducting a business or enterprise, workers, and the representatives of each to respond to health and safety issues that may affect mature age workers. Such material should contain information about:

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

**Proposal 3–4** Safe Work Australia should recognise best practice approaches in work health and safety with respect to mature age workers in its Safe Work Australia Awards.

**Proposal 3–5** The Australian Government should amend the Safety, Rehabilitation and Compensation Act 1988 (Cth), Military Rehabilitation and Compensation Act 2004 (Cth) and the Seafarers Rehabilitation and Compensation Act 1992 (Cth) to ensure that retirement provisions are tied to the qualifying age for the Age Pension.

**Proposal 3–6** The Australian Government should amend the Seafarers Rehabilitation and Compensation Act 1992 (Cth) to provide that workers who are injured at any age after two years prior to Age Pension age may receive incapacity payments for up to 104 weeks.

**Question 3–1** Should the Australian Government amend the Safety, Rehabilitation and Compensation Act 1988 (Cth), Military Rehabilitation and Compensation Act 2004 (Cth) and the Seafarers Rehabilitation and Compensation Act 1992 (Cth) to provide that in circumstances where a worker is injured after two years prior to Age Pension age, he or she should receive incapacity payments for a period longer than 104 weeks?

**Question 3–2** Should the Australian Government introduce a supplementary payment for mature age workers similar to the one provided for under the Workers' Rehabilitation and Compensation Act 1988 (Tas)?

**Proposal 3–7** Safe Work Australia's Strategic Issues Group on Workers' Compensation should consider the definition of 'worker' under Commonwealth, state and territory workers' compensation legislation to ensure consistency of coverage of volunteers.

**Question 3–3** Does the treatment of superannuation payments in the calculation of incapacity payments under the Safety, Rehabilitation and Compensation Act 1988 (Cth) create a barrier to workforce participation for mature age workers? If so what, if any, changes should be made?

### **DCA's response**

Consistent with the views put forward in our submission to the Issues Paper, DCA supports further research being undertaken into the occupational health and safety issues facing mature age workers and the dissemination of evidence-based information to employers about these issues, including their rights and responsibilities. As such we strongly support those proposals 3.1-3.4 put forward in relation Safe Work Australia advocating improved data collection, guidance for employers and employees, and publicly recognizing best practice approaches for mature age employment.

In relation to Proposal 3.7, DCA is of the view that as canvassed in the Discussion Paper, issues associated with the regulatory burden for volunteers and voluntary organisations and compliance costs associated with work health and safety laws extend beyond the scope of this Inquiry. DCA encourages Safe Work Australia to continue its work in relation to volunteers and work health and safety through continued cooperation with the volunteering sector.

In relation to workers compensation payments, DCA is of the view that it is of course vital that all workers receive appropriate support and are protected against financial hardship, regardless of age, if they have sustained a work related injury. Likewise, in principle, we support the concept that age-based restrictions in workers' compensation should be removed. However, it is clear that this could have significant cost implications for the scheme, and as a consequence for employers.

Given these concerns, DCA recommends that in the short term, the age at which compensation is no longer payable be pegged to the age of Age Pension eligibility.

DCA supports the work being carried out by Safe Work Australia and as part of the current Ministerial Review of the Commonwealth workers' compensation scheme to ensure that workers' compensation legislation does not disadvantage workers over the age of 65 and there is no gap between the workers' compensation age limit and the foreshadowed increase to the age pension

eligibility age to 67 by 2023. We encourages Safe Work Australia to finalise a proposal for reforms to retirement age for workers' compensation purposes as a matter of priority.

Given these activities are still on-going DCA considers that it would be valuable to wait until the Review in particular is completed (which is scheduled for February 2013) prior to any other new arrangements being adopted.

## 2.8 GREATER SUPPORT FOR MATURE AGE JOB SEEKERS

**Proposal 5–2** To enhance the capacity of Job Services Australia, Disability Employment Services and Indigenous Employment Program staff 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 about:

- (a) age discrimination, including what constitutes ageist behaviour;
- (b) the effect that illness, disability and caring responsibilities may have on mature age persons' capacity to work;
- (c) the ways in which barriers to work for mature age persons may be affected by gender, cultural and linguistic diversity, Aboriginal and Torres Strait Islander status, and sexual orientation; and
- (d) Australian government programs targeted at increasing mature age workforce participation.

### DCA's response

While supporting job seekers and the unemployed is not DCA's main business, we welcome proposals to improve services to mature age job seekers and better inform mature age people who are currently unemployed or otherwise not participating in the labour market of their rights and responsibilities. As such, DCA is pleased to support initiatives to make Job Services Australia, Disability Employment Services and Indigenous Employment Program staff more responsive to the needs and circumstances of mature age job seekers.

We are pleased to note that the ALRC's proposal takes account of the fact that participation rates are particularly low among certain groups of mature age workers - in particular mature age Indigenous people, people with a disability and culturally diverse mature age workers. This is especially the case for women in these groups.

At last count, participation in the labour market by Indigenous people aged 45+ stood at only 45%. Across all age groups, participation of Indigenous people lags at 55.4% compared to 66.5% for non-Indigenous Australians.<sup>vii</sup> Mature age Aboriginal and Torres Strait Islander people face a range of issues that impact on their labour market participation including the high burden of disease and disability experienced by many Indigenous people, an additional burden of care for extended family and community members and specific issues of racial, as well as sex and age-based discrimination.

Mature age Indigenous women often have a disproportionately large burden as unpaid care providers for family, both immediate and extended, and more broadly within their communities. The Productivity Commission notes in part this may stem from the different attitudes towards older people which many Indigenous Australians hold and the importance of the role of family in giving care compared to non-Indigenous Australians. Culturally appropriate services can be difficult to access with individuals not wanting to leave their (sometimes very remote) communities to receive care services, and the communal nature of many Indigenous cultures. Some Indigenous people also prefer intimate personal contact to be delivered by people of the same 'skin group' and

gender.<sup>viii</sup>

As mentioned in our earlier submission, research undertaken by DCA in 2009<sup>x</sup>, found that many Indigenous people cited inflexibility in the workplace as a major reason for leaving the workplace. This was a particularly pertinent issue for mature-age women who often had significant family and community responsibilities.

Similarly, labour force outcomes for people with disabilities remain remarkably poor in Australia. At last count, just under one in five Australians (18.5% or 4.0 million persons) reported having a disability and of those with a disability, 87% had a specific limitation or restriction; that is, an impairment restricting their ability to perform communication, mobility or self-care activities, or a restriction associated with schooling or employment.<sup>x</sup>

Mature age people with a disability have significantly lower participation rates than comparable people with no disability – the participation rate for people with a disability aged 45-54 is 60% compared to 91% for people with no disability and 40.2% compared to 73.7% for people aged 55-64. The difference in labour force participation between people with and without disability increases with age. The peak of participation for people with disability was in the 25-34 years age group compared to people without disability, whose participation peaks at 45-54 years.<sup>xi</sup>

People aged 55-64 years with disability had the lowest participation rate (40%) of all the age groups. Of people of this age, with disability and not in the labour force, nearly one third (30%) reported long-term illness or injury as a reason for not wanting to work, much higher than people of the same age without disability (2%). This is likely to reflect difficulties experienced by mature-age job seekers more broadly and the compounding effect of disability and age.

Again, the impacts on women with a disability are particularly significant – women aged 15-64 years have a participation rate of only 49% (60% for men) compared with 72.5% (89% for men) for women with no disability.

The significance of disability to mature age workers is 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.<sup>xii</sup> 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.

51% of people with a disability report being restricted in the type of job they can do, with 30% reporting restrictions in the number of hours they can work. Only 20% of women with a disability are employed full time, compared to 38% of women with no reported disability. When people with disabilities are employed and require an average of one day a week away from work because of their condition, the type of arrangements they use are influenced by whether they work full-time or part-time. People working part-time most often reported using 'flexible hours' to accommodate the time off they needed (53%), while those working full-time were most likely to report using 'sick leave' (35%). Designing flexible working arrangements that can support the needs of employees with a disability is vital.

It is important to reiterate that 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 costs<sup>xiii</sup>.

### 3. ENDNOTES

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- <sup>i</sup> Australian Bureau of Statistics, 2011, *Caring in the Australian Community 2009*, Cat No. 4436, ABS Canberra
- <sup>ii</sup> National Seniors Productive Ageing Centre, 2012, *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.
- <sup>iii</sup> See for example: Baird M and Heron A, 2013 Forthcoming, 'Women, Work and Elder Care: New Policies Required for Inclusive Growth' in *Inclusive Growth: An Australian Approach*, eds. Paul Smythe and John Buchanan, Allen and Unwin Gordon J, Litchfield L and Whelan-Berry K, 2004, *Women at Midlife and Beyond: A Glimpse into the Future*, Center for Work & Family, Boston College, Carroll School of Management; Grey M, Edwards B and Zmijewski N, 2009, 'Caring and women's labour market participation' *Family Matters* 78, pp28-35; Matthew Gray and Ben Edwards, 2009, 'Determinants of the Labour Force Status of Female Carers', *Australian Journal Of Labour Economics*, Vol 12 No 1, 2009, pp 5 – 20; Page A, Baird M, Heron A and Whelan J, 2009, *Taking Care: Mature Age Workers with Eldercare Responsibilities*, NSW Industrial Relations, Sydney; Productivity Commission, 2011a, *Caring for Older Australians*, Report No 53, Final Inquiry Report, Canberra; Productivity Commission, 2011b, *Disability Care and Support*, Report No 54, Final Inquiry Report Canberra; Zacher H and Winter G, 2011, 'Eldercare demands, strain, and work engagement: The moderating role of perceived organizational support', *Journal of Vocational Behavior*, 79 (3): 667-680
- <sup>iv</sup> See for example: 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](http://www.hreoc.gov.au/sex_discrimination/workplace/bad_business/media/fact_cost.html); Australian Human Rights Commission, 2008, *Federal Discrimination Law Online June 2008*, Accessed at <http://www.hreoc.gov.au/legal/FDL/index.html>; 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; 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; 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](http://findarticles.com/p/articles/mi_m0PAO/is_3_23/ai_n6201943); Moore S, 2009, "'No matter what I did I would still end up in the same position": age as a factor defining older women's experience of labour market participation', *Work, Employment, Society*, vol. 23, no. 4, pp. 655–71; National Seniors Australia Productive Ageing Centre, 2011, *The Elephant in the Room: Age Discrimination in Employment*, NSPAC; Weller S, 2007, 'The labour market prospects of older workers: What can a legal case teach us?' *Work Employment and Society*, 21(3):413- 37.
- <sup>v</sup> 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; Temple J and Adair T, 2012, *Barriers To Mature Age Employment: Final Report Of The Consultative Forum On Mature Age Participation*, National Seniors Productive Ageing Centre on behalf of the Department of Education, Employment and Workplace Relations Consultative Forum on Mature Age Participation.
- <sup>vi</sup> 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.*
- <sup>vii</sup> Australian Bureau of Statistics, 2012, *Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, Estimates from the Labour Force Survey, 2011*, Cat No. 6287.0, ABS Canberra
- <sup>viii</sup> Productivity Commission, 2011a, *Caring for Older Australians*, Report No 53, Final Inquiry Report, Canberra; Productivity Commission, 2011b, *Disability Care and Support*, Report No 54, Final Inquiry Report Canberra
- <sup>ix</sup> 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.
- <sup>x</sup> Australian Bureau of Statistics, 2011, *Disability, Australia, 2009*, Cat No. 4446.0, ABS Canberra

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<sup>xi</sup> Australian Bureau of Statistics, 2012, *Australian Social Trends, March Quarter 2012*, Cat No. 4102.0, ABS Canberra

<sup>xii</sup> 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

<sup>xiii</sup> Australian Safety and Compensation Council, 2007, *Are People with Disability at Risk at Work?*, Australian Government Department of Employment and Workplace Relations, Canberra.