

**Submission to HREOC Inquiry
November 2015
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My submission is based on a response to Question 5.

5. How adequately do existing laws protect older Australians from employment discrimination? How effective are the legal remedies for older workers who have experienced discrimination? How could existing laws be amended or supplemented?

There are three parts to the question which I will respond to.

Summary statement: My Story.

I am a 65 old male, with a degree in Social Work and an extensive background working in the Human Services sector for over thirty years in roles from base grade social worker (Child Protection) to CEO roles in the Not for Profit sector.

During the period from 2009 to 2013 I was sometimes unemployed and applied for hundreds of jobs.

I applied repeatedly [REDACTED] for a Child Protection role. I had a background as a base grade worker and a Senior Social Worker in [REDACTED]. [REDACTED] has or had a few years ago a churn rate of 30% staff turnover. My starting assumption about applying was and is, and this has never been refuted, that someone with a background and with life experience, I am a father of two children, is at least as competent as a raw graduate who is employed in a junior role.

After many failed attempts and a perception that I was being discriminated against because of my age I referred the matter to HREOC.

I understand this Enquiry is not dealing with gender but I would also like to add that certainly in my experience [this employer] [REDACTED] in the Child Protection space a bias against older males. Clearly the system is out of balance as when I started it was predominately male and now is predominately female. Child Protection of any interventions needs both a male and female perspective.

Finally HREOC gave me a certificate to proceed to the Federal Court. I let this lapse due to the restrictive access and high costs associated with running a case.

My solution to the systemic and endemic age and even gender discrimination I was experiencing was to become an Australia Volunteer International (AVI) volunteer where I undertook the role of Senior Management Coach to the Executive Director of a prominent local Cambodian NGO operating in the civil society capacity building and advocacy space, I did this from August 2013 until April 2015. I then returned to Australia.

My volunteer role was as demanding as any senior role I have had in the past. I plan to continue to volunteer until I am seventy as an alternative form of employment.

That said I would also happily work back in Australia but realistically do not see that happening due to

the entrenched systemic and endemic aged discrimination at all levels.

I trust this Enquiry can go some way to rectifying this situation and re balance things for a great number of fit, active, intelligent Australians who like me are not quite ready to sit in the rocking chair with a quilt over their knees waiting to pass away.

Q1: Adequacy of existing laws.

The adequacy of the existing law is unknown as I understood up to the date of my case there had been no reference to the Federal Court so the law has not been tested.

I understand that a number of cases have been dealt with in the last twelve months and a number of certificates have been issued.

It's telling that no one has proceeded to the Federal Court as yet.

Q2: Effective Legal remedies

See above. Having a high cost judicial system, like the Federal Court, mediate this matter means it is prohibitive and access is restrictive. The fact that not one case has been dealt with surely indicate that.

Employment is a primary component of most people's lives and impacts their health, their social contentedness, their ability to be self-determining to name a few items.

The Government has recognized this importance and is moving to increase the pension Age to 70. Of course their motives also include reducing the burden on the Social Security system.

We need a new form of managing this matter. Perhaps a low cost Employment Tribunal that does nothing else but mediate employment discrimination matters.

Q3: Amending or supplementing existing laws.

The issue is access.

Yes the laws could be amended or supplemented to make proving a case easier but unless the Commission had remedies that were enforceable and I don't believe that its role we are left with a reference once again to the courts.

This costs money.

As explained when I was given my certificate from HREOC the reason I did not pursue the matter was cost.

How do we remove this obstacle?

It seems to be a catch 22 for dealing with this human rights issue that one has to pay to pursue ones human rights. Something is wrong in this equation.

The State via HREOC should have the responsibility to fund these matters thru the court process.

Or create a new cost effective jurisdiction, perhaps an Employment Tribunal that allows people to bring cases at a minimal, subsidized or at a no cost basis.

In addition I think we need to ask the question do we need quotas to kick start a revolution in employing older Australians?

NZ I understand has a similar work environment and social security system to us but surprising to me their over 65 employment rate is 20.6% whilst ours is 12.1% below OECD figures.

To answer my own question on quotas I think the answer is yes. A strong time limited intervention is required to radically alter what we have now. Otherwise we will have this debate in twenty years when the social security system is stressed even more.

To be clear I am not arguing older workers should stay or move into senior jobs always. It's across the board based on need and skills. Maybe we need to somehow create a new form of job category, formal older mentor roles. Roles that are time limited by negotiation but allow an older person at their choice reenter the work place where the skills set would be most productive and they are used to mentor other staff based on their backgrounds, skills sets and interests.

This is not to deny them also to just be accepted in a standard role in any organization that they are skilled to undertake

Obviously there are a whole raft of OH&S and health related issues that would have to be addressed to support older workers. I saw an article the other day about dealing with dementia in the work force. These are the issues before us as a society.

Finally I would add that Government needs some tweaking to ensure this issue can be implemented effectively and have a spin-off of a stronger focus on all aspects of Senior Australians lives.

I would like to suggest we need a Minister for the Office of Senior Australians (MOSA) located within the Office of Prime Minister and Cabinet. At the heart of Government. Don't side line it. We also need a process and a policy framework that ensures every proposed decision of Government is assessed first for its impact on Senior Australians. A senior impact assessment tool.

As well I would suggest three Parliamentary Secretaries. One in Health, one in Centrelink and one in Employment responsible for all policy, coordination and intervention issues around the lives of Senior Australians.

Recent events:

Most recently I applied for a job with a high relevance and background to my skill set and experience.

I was interviewed by two women neither of who had a background in the area of focus of the role.

As a former senior manager I have used gender balanced panels for over ten years and would consider it as unfair and discriminatory to interview a woman with an all-male panel.

Nevertheless discrimination still occurs. Needless to say I did not get this role and have referred the

matter to HFREOC on the basis of gender and age discrimination.

Conclusion:

We will never achieve our potential as a country until the systemic and endemic age and gender discrimination is eradicated from all forms of employment.

As I am now 65 and formally a pensioner and whilst I am volunteering and connecting in my community there is a spiritual poverty about being old in Australia which one does not see in Asian countries. Those that have not lost the connectedness thru the generations to family.

I trust this information and perspective has been useful.