



**Submission to the  
Australian Law Reform Commission**

**In response to its Discussion Paper**

**GREY AREAS—AGE BARRIERS TO WORK  
IN COMMONWEALTH LAWS  
(DP 78)**

**Prepared by  
National Policy Office**

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## INTRODUCTION

COTA Australia is the national policy arm of the eight State and Territory COTAs (Councils on the Ageing) in NSW, Queensland, Tasmania, South Australia, Victoria, Western Australia, ACT and the Northern Territory.

COTA Australia has a focus on national policy issues from the perspective of older people as citizens and consumers and seeks to promote, improve and protect the circumstances and wellbeing of older people in Australia.

COTA's policy work is guided by five policy principles:

- maximising the social, economic and political participation of older Australians;
- promoting positive views of ageing, rejecting ageism and challenging negative stereotypes;
- promoting sustainable, fair and responsible policies;
- focusing on protecting against and redressing disadvantage; and
- protecting and extending services and programs that are used and valued by older Australians.

COTA welcomes this Inquiry as it addresses some of the key barriers to improved workforce opportunities for older people. It is clear that there needs to be significant change in the attitudes of employers, the community and older people themselves towards older people continuing to participate in the paid workforce and this attitudinal change cannot be brought about simply by legislative or regulatory change.

However it is also clear that there are a number of systemic barriers, including legislation and regulations that put upper age limits on a range of employment related activities including superannuation contributions, workers compensation, and compulsory retirement ages, or have different provisions depending on age such as the differences between the Newstart Allowance and Age pension. These barriers need to be addressed if the attitudinal changes are to be translated into real choice for older people around workforce participation.

The Discussion Paper presents a comprehensive set of proposals covering the key areas for change that are within the terms of reference for the Inquiry. COTA believes all the proposals could be implemented but that there is a need to prioritise actions. Therefore this submission concentrates on those proposals which we think should become the priority recommendations from the Inquiry.

## PROPOSALS

COTA believes the following proposals from the Discussion paper should be the priority for recommendations and action by the Commonwealth Government.

### **Recruitment and Employment Law**

#### ***Proposal 2.5***

***The Australian Government should amend s65 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.***

In our discussions with older people over many years the lack of flexibility for caring has come up as one of the most important barriers to mature aged workers remaining in the workforce. It is probably one of the key elements to the improved retention of older workers, particularly women. COTA argued that the modern awards should have had the provision for flexible arrangements for all carers when the awards were introduced and we have had positive discussion with the ACTU about making the necessary changes to the Fair Work Act. Proposals 2.5 and 2.6 would address this by both amending the Act and addressing the critical issue of supporting people to negotiate such arrangements.

When looking at the proposed changes it is important that there is an acknowledgement of older people who support older relatives as well as and at the same time as supporting young members of their own family. This comes in all sorts of combinations.

We believe that "family friendly workplaces" should be seen as family friendly for **all** generations including those above who may have more than one generation to look after and have to juggle family responsibilities and work. This is related to how people perceive the senior years of life and expectations that grandparents and older people generally may work for more years than their grandparents did. Generally active seniors are a resource for society not a liability.

The flexibility provisions need to include shorter working weeks, fewer working weeks a year or maintaining full time employment but with the provisions for hours to be worked over fewer days or weeks. Many older people express the concern that this will be interpreted as a willingness to move from permanent to casual employment and any changes to the awards must ensure that this is not the case.

### **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 2.7 is crucial in ensuring that future workplace changes take account of the needs of older workers as their particular needs were not included in the original Act. Such a review should be a transparent process that seeks the views of older workers and seniors' organisations.

### **Proposal 2.8**

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

In the 2012-13 Federal budget there was provision for additional funding for the AHRC to run such a campaign and the Age Discrimination Commissioner has commenced work on this. COTA has repeatedly called for such an initiative to be adequately funded and for the campaign to be run over at least a five year timeframe as the evidence from other similar campaigns, both in Australia and overseas, shows there needs to be a sustained effort over a reasonable time frame for there to be any lasting impact on community attitudes.

COTA believes this proposal should be included as a recommendation but that it should be strengthened to include the need for a higher level of funding and a commitment to a five year program.

### **Workplace Health and Safety and Workers' Compensation**

#### **Proposal 3.2**

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

This is a key recommendation as the research could inform any further action. Up until now the research agenda has not really examined the particular needs of mature age workers. The debate around the risks of employing older workers has tended to concentrate on workers' compensation data on numbers of claims and their costs but has not examined the reasons for those claims and identified ways to make workplaces safer for older workers.

Whilst COTA maintains that for the majority these issues are not any different for younger workers there are particular industries and workplaces where this may not be true. We need a more comprehensive body of research that actually separates out risks and health and safety issues that are particular to age rather than a range of other factors.

#### **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.***

COTA would see this as the absolute minimum action that should be taken on this issue. It does not make any sense that the retirement provisions should have an age lower than the age at which people can get 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***

COTA has long been an advocate for the upper age limit on all workers' compensation payments to be removed as this is often cited by both employers and employees as a major barrier to people continuing in paid employment. Employers are reluctant to have workers they cannot get workers' compensation coverage for, particularly in small and medium sized enterprises that cannot afford to self insure. Mature age workers for a similar reason are not prepared to take the risk of working without workers compensation coverage, particularly as they are more often than not unable to get income protection insurance which also has low upper age limits.

We would have preferred to see a proposal that removes the upper age limit as people may get injured in the two years from the Age Pension age who intended to work beyond that age and still want to return to work after their rehabilitation. Cutting off such payments forces them into what is in effect involuntary retirement.

We see this proposal as a critical first step in acknowledging that not everybody retires from paid employment on their 65<sup>th</sup> birthday. COTA would like to see the recommendation identified as an interim step towards total elimination of upper age limits at some time in the future.

## **Insurance**

### **Proposal 4.1**

***In April 2011, the Australian Government established an Insurance Reform Advisory Group. The group should examine:***

- (a) options for the development of a central information portal or source in order to provide mature age persons with clear and simple information about available insurance products;***
- (b) the design and redesign of comprehensive and affordable insurance products tailored to the needs and circumstances of mature age persons;***
- (c) mechanisms for reviewing age-based insurance pricing and underwriting across the industry;***
- (d) mechanisms for ensuring that the insurance industry utilises relevant and appropriate actuarial and statistical data upon which to make decisions about insurance offerings, based on age; and***
- (e) training of insurance distributors in order to facilitate the provision of clear and simple information about available insurance products.***

### **Proposal 4.2**

***The Insurance Reform Advisory Group should keep a watching brief on developments in the insurance industry in relation to age, both in Australia and overseas, with a view to reviewing Australian insurance practices as the need arises.***

COTA agrees with the proposals in both 4.1 and 4.2 but questions whether the Insurance Reform Advisory Group (IRAG) is the most appropriate mechanism for achieving the desired outcomes. It has no formal standing and has a somewhat limited membership at the moment; both aspects need to be addressed. We would like to see Proposal 4.1 include a call for the IRAG membership to be expanded to include some more consumers' representatives including seniors' organisations. We also think it needs to have more transparent processes if it is to take on the tasks outlined here.

COTA believes that Proposal 4.1(d) should be amended to include that insurers should be required to publish data that they use when they apply age related premiums as they now have to in the United Kingdom for travel insurance. This is a critical element as the survey on travel insurance undertaken by COTA and National Seniors Australia showed that many older people do not believe the insurers when they say the age related premiums are justified. Publication of the information, in a way that does not jeopardise the commercial positions of the insurers, could return that confidence.

If the IRAG is to take on the monitoring role proposed in 4.2 it needs to have some longevity and the power to review insurance practices.

## **Social Security**

### **Proposal 5.1**

***The Department of Human Services should evaluate the effectiveness of its methods for communicating information to mature age persons about social security. In its evaluation, it should consider the communication of information about:***

- (a) eligibility for income support payments;**
- (b) participation obligations for activity-tested payments, including information about the circumstances in which exemptions from the activity test may be available;**
- (c) how to calculate the effect of taking up paid work on income support payments, for example through online rate calculators; and**
- (d) incentives to take up paid work, for example through Working Credit, Work Bonus, the employment income nil rate period and retention of concession cards.**

COTA believes that the Department of Human Services (DHS) needs to look not only at what information they provide as listed in the above proposal but how they provide it.

COTA receives a large number of complaints and comments about how DHS interacts with older people. People raise a range of issues including:

- Concerns about the move to co-location of Centrelink and Medicare offices and how it makes access more difficult for some people
- The move to more on-line and web based service provision reduces access as many older people are on the wrong side of the digital divide and have great difficulty using these services.
- The paperwork is complex, the language is difficult even though it is written in plain English and very time consuming; people are intimidated by it.
- People from culturally and linguistically diverse backgrounds struggle to access the information they need.

The Australian National Audit Office is undertaking a performance review of the collocation of Centrelink and Medicare offices and its recommendations could inform this process. In addition DHS has an Older Australians Working group which is also looking at these issues although its emphasis to date has been on people on the age pension rather than mature age workers.

COTA would like to see this proposal include a requirement for DHS to provide training for their staff on ageism and age discrimination similar to the requirement to provide cultural awareness training. This could promote a better understanding of the needs of older job seekers and make people more comfortable in their interactions with DHS staff. We believe the Age Discrimination Commission should be funded to develop the basic components of such a training package as this is consistent with the Commissioner's education role.

### ***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.***

COTA supports all the components of this proposal as the attitudes of staff in these organisations are influential and if they display ageism in their interaction with clients they can discourage them from continuing to look for work.

As with the recruitment services it is clear that some staff are not always fully aware of the existence of ageism and age discrimination, the degree to which age is a major factor in discrimination and the interactions between age and other sources of discrimination.

To achieve the required change in attitudes and behaviours we believe the proposal needs to be strengthened to require service providers to provide training for all their staff on ageism and age discrimination as we have suggested for DHS staff in our response to in Proposal 5.1 above.

***Proposal 5.3***

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

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

COTA believes this should be included as a recommendation as we think more needs to be done to allow carers to continue to participate in the paid workforce. This would allow carers to take up more sporadic employment opportunities and training thus allowing them to stay attached to the workforce and maintain their skills to possibly use at a later date.

**Superannuation**

***Proposal 8.1***

***Regulation 7.04(1) of the Superannuation Industry (Supervision) Regulations 1994 (Cth) restricts superannuation funds from accepting voluntary contributions for members of superannuation funds:***

- (a) aged 75 years and over; and***
- (b) aged 65 years until 75 years, unless they meet a work test, that is, where they are gainfully employed on at least a part-time basis during the financial year.***

***The Australian Government should amend reg 7.04(1) to remove the restriction on voluntary contributions for members aged 75 years and over, and to extend the work test to these members.***

***Proposal 8.2 Section 290-80 of the Income Tax Assessment Act 1997 (Cth) provides that voluntary superannuation contributions made by employers for employees aged under 75 years are tax deductible. The Australian Government should amend s 290-80 to enable employers to claim deductions for voluntary contributions made for employees aged 75 years and over.***

***Proposal 8.3 Section 290-165(2) of the Income Tax Assessment Act 1997 (Cth) provides that superannuation contributions made by self-employed, and substantially self-employed, workers aged under 75 years are tax deductible. The Australian Government should amend s 290-165(2) to enable these workers to claim deductions for contributions made at age 75 years and over.***

**Proposal 8.4 Regulation 7.04(1) of the Superannuation Industry (Supervision) Regulations 1994 (Cth) restricts superannuation funds from accepting spouse contributions when the spouse is:**

- (a) aged 70 years or over; and**
- (b) aged from 65 years until 70 years, unless he or she meets a work test, that is, being gainfully employed on at least a part-time basis during the financial year.**

**The Australian Government should amend reg 7.04(1) to enable a member of a superannuation fund to make contributions for a spouse aged 70 years or over, when the spouse meets the work test.**

**Proposal 8–5 Regulation 6.44(2) of the Superannuation Industry (Supervision) Regulations 1994 (Cth) provides that an application for spouse contribution splitting is invalid if the member's spouse is aged 65 years or over, or has reached superannuation preservation age and retired. The Australian Government should amend reg 6.44(2) to remove the age restriction from age 65 years when the spouse meets a work test, that is, being gainfully employed on at least a part-time basis during the financial year.**

**Proposal 8–6 Section 6(1)(e) of the Superannuation (Government Co- contribution for Low Income Earners) Act 2003 (Cth) provides that government co-contributions are payable only for persons aged under 71 years. The Australian Government should repeal this restriction.**

COTA has consistently called for the abolition of all upper age limits on superannuation contributions as we believe they are discriminatory and predicated on retirement at certain ages. Older people often raise this as a significant deterrent to working past the upper age limits. The Commonwealth Government has removed the upper age limit of the Superannuation Guarantee Contribution and it is now time to allow people to make voluntary contributions

Rather than age limits we support the use of a refined work test (see our response to Question 8.1 below) to ensure people are in employment to be able to make and receive contributions. This is necessary because the purpose of superannuation is to provide an income in retirement and it receives very favourable tax treatment.

#### **Proposal 8.7**

**The 'Transition to Retirement' rules were introduced into the Superannuation Industry (Supervision) Regulations 1994 (Cth) to encourage continued mature age workforce participation. Research has suggested that the rules may not meet this policy objective in practice. The Australian Government should initiate a review of the Transition to Retirement rules to determine what changes, if any, are required to ensure that the rules meet their policy objective. The review should consider matters including:**

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

COTA supported the introduction of the Transition to Retirement rules as a measure to increase mature age workforce participation by allowing people to phase into retirement by going gradually from full to part time work and then eventually to leaving the paid workforce. Unfortunately there

is no real test for whether or not people were seriously thinking of retirement within the rules and there is a lot of anecdotal evidence that the rules are being used to avoid tax.

COTA supports the need for a review and agrees with the issues that are listed to be included in the review. The review must include collecting information from people who are accessing the rules to get a better understanding of their motivation for using the rules and to ascertain if the rules have indeed meet their policy objective.

## QUESTIONS

### **Recruitment and Employment Law**

#### **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?***

The need for flexibility requires a change in attitudes from both employers and employees. As mentioned above in the discussion of the proposals, older workers fear that flexibility means casualisation and so are often not prepared to look at it.

COTA has argued in a number of its Budget Submissions that the Commonwealth Government should fund an Older Workers Advisory Service that would work with both employers and mature aged workers. Such a service could provide support to older workers to negotiate flexible working arrangements with their employers. It should also include support for small and medium sized enterprises to redesign jobs and the workplace shape the workplace to assist mature aged workers. We believe this Inquiry could include a recommendation for such a service.

#### **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?***

COTA can see some merit in having a framework for monitoring the employment of older people as it would provide a clearer view of mature age participation. We would not support the setting of targets for employers as it is clear that part of the issue is individual choice with some older people not wanting to remain in employment beyond superannuation preservation age and even more not wanting to continue beyond the Age Pension age.

Another issue which would need to be addressed is deciding on the age range for reporting. The ABS uses 45 years as the mature age worker age and there is certainly evidence that this is when people start to experience ageism in their current employment, missing out on development and promotion opportunities, and experience age discrimination when looking for a job. However the legislative barrier appears to be targeted at the older age groups. COTA would support 45 years and over as the ages for reporting but says that the data should be disaggregated across age groups so that the differences between the age groups is visible.

### **Work Health and Safety and Workers' Compensation**

#### **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?***

COTA has long advocated for the complete removal of upper age limits for workers compensation and so would support this proposition.

### **Insurance**

#### **Question 4.2**

***In the course of the consolidation of federal anti-discrimination legislation, the Australian Government is considering the operation of the insurance exemption under the Age Discrimination Act 2004 (Cth). If the specific exemption is retained, what changes, if any, should be made? For example, should:***

- (a) the application of the exemption be limited in some way;***
- (b) there be provision for an individual to request and receive the actuarial or statistical data on which the action or decision was based; or***
- (c) clarification be provided as to what are 'other relevant factors'?***

COTA believes that the Insurance industry should be required to be much more transparent when determining age related premiums. As a minimum, older people should be able to ask for and receive the actuarial evidence for the decision that applies to them.

COTA would like to see the Industry publicly report, along similar lines to the UK, on age related claims and costs so that older consumers can feel more confidence that the premiums truly do reflect the age related risks.

### **Social Security**

#### **Question 5.1**

***In what other ways, if any, could the Australian Government's employment services system be improved to provide better assistance to mature age job seekers?***

COTA has argued that age needs to be given a higher weighting in the assessment of disadvantage used by Job Services Australia. It is clear that for older people age can be the main determinant of workforce disadvantage but the current system does not acknowledge this. This would then increase the funding available to support older unemployed people.

#### **Question 5.2**

***The 'withdrawal' or 'taper' rate for an income support payment operates to reduce gradually the rate at which a payment is made as income or assets increase. What effect, if any, would changing the income test withdrawal rate for Newstart Allowance recipients aged 55 years and over have on their incentives for workforce participation?***

COTA has consistently argued against special treatment for older Newstart Allowance recipients and so would not support the use of differential tapers or different income free thresholds. We have argued elsewhere that the income free threshold for all Newstart recipients should be increased and note that the recent Senate Committee's report on the adequacy of Newstart recommended an increase in the income free area as a way of encouraging workforce participation.

## **Superannuation**

### **Question 8.1**

**Regulations 7.04(1) and 7.01(3) of the Superannuation Industry (Supervision) Regulations 1994 (Cth) stipulate a work test for members of superannuation funds aged 65 years and over who wish to make voluntary superannuation contributions. Members must be gainfully employed on at least a part-time basis during the financial year, that is, for a minimum of 40 hours over a consecutive 30-day period. What changes, if any, should be made to the work test? For example, should the minimum hours of work be increased and, if so, over what period?**

COTA would support a requirement for more hours of work over the year. COTA thinks there would be merit in looking at a test that allows for more sporadic employment over the whole year rather than the current 40 hours in a 30 day period. Some people tell us they work a few days a month that does not give them 40 hours within the month but would certainly give them more than 40 hours over the year. There could be a requirement for a higher number of hours in the year but this could be spread over a longer period, e.g. 80 hours over 6 months would be reasonable.

If the proposal at 2.5 was to be implemented then we would be encouraging more flexible employment and so the rules about superannuation contributions need to also reflect that enhanced flexibility.

### **Question 8.2**

**The Australian Government has legislated two key changes to the retirement income system: the superannuation preservation age will increase from 55 to 60 years between 2015 and 2025; and the Age Pension age will increase from 65 to 67 years between 2017 and 2023.**

**Should the preservation age be increased beyond 60 years? For example, to:**

- (a) 62 years—maintaining the five-year gap between the Age Pension age and the preservation age; or**
- (b) 67 years—aligning the preservation age with the Age Pension age?**

COTA would not support a recommendation to raise the preservation age above 60 until we had seen clear evidence of improvements in the labour market for mature aged workers. Many people are forced into an involuntary retirement earlier than they may have planned for because of retrenchment or ill health. Currently even if they are willing and able to work they can face long periods of unemployment before they can get another job and this gets worse the older they are.

If they are not able to access their superannuation until they are 65 or 67 they would be forced to run down their other assets and then move into Newstart or the Disability Support Pension for the additional period of time until they could access their superannuation.

### **Question 8.3**

**The age for tax-free access to superannuation benefits is set at 60 years. Should this age setting be increased:**

- (a) to align with any further increase to superannuation preservation age (that is, beyond 60 years); or**
- (b) instead of any further increase to preservation age—for example, to:**
  - (i) 62 years—maintaining the five-year gap between the Age Pension age and the tax-free superannuation access age;**

- (ii) 65 years—aligning the tax-free superannuation access age with the unrestricted superannuation access age; or*
- (iii) 67 years—aligning the tax-free superannuation access age with the Age Pension age?*

Part of the rationale for setting the tax free access age at 60 was to provide an incentive for people to delay taking retirement from 55 to 60. It would seem logical therefore that the tax free age should increase as the preservation age increases to maintain the incentive to stay at work beyond the preservation age. However it is not really clear if the introduction of this measure had as big an influence on the decision to retire at 55 as was expected.

COTA believes there needs to be more research on why people retire, how they decide what age and whether the availability of the tax free payments in fact prolongs their working lives. It needs to be remembered that for many people retirement is not a planned for event and for many it is involuntary, coming about through ill health, retrenchment etc.

### **Conclusion**

It is clear from the Discussion Paper that there are a number of legislative barriers to mature age participation along with ageist attitudes. It is also clear that to achieve a major increase in the workforce participation of older people there need to be measures that encourage individuals to stay in the workforce as well as removing some of the barriers and encouraging employers to retain or recruit them.

The proposals to give older people access to more flexible working arrangements and removal of the age limits on superannuation address the two issues most commonly raised as barriers by older people. COTA urges the ALRC to include these proposals as recommendations and would then work with other stakeholders to ensure these are implemented.

The proposals to encourage the recruitment industry to look at its practices and work towards breaking down some of the attitudinal barriers for both employers and recruiters are welcome even though they do not require legislative change. We also welcome the proposals for assistance for employers to adjust to a more age diverse workforce and think these measures need to be targeted at the small and medium enterprises.

COTA looks forward to the Final Report and then working with others to ensure the recommendations are implemented so that older people can get “a fair go” in the workforce.

## Attachment A

### COTA RESPONSE TO PROPOSALS

	<b>Proposal</b>	<b>Position</b>
<b>2.1</b>	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.	Agree
<b>2.2</b>	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.	Agree
<b>2.3</b>	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.	Agree
<b>2.4</b>	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.	Agree
<b>2.5</b>	The Australian Government should amend s 65 of the <i>Fair Work Act 2009</i> (Cth) to extend the right to request flexible working arrangements to all employees who have caring responsibilities.	Agree
<b>2.6</b>	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.	Agree
<b>2.7</b>	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.	Agree
<b>2.8</b>	Section 117(3)(b) of the <i>Fair Work Act 2009</i> (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.	Agree
<b>2.9</b>	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.	Agree
<b>2.10</b>	The Australian Government should initiate an inquiry to review the compulsory retirement ages of judicial and quasi-judicial appointments.	Agree

<b>2.11</b>	The Australian Government should initiate an inquiry to review the compulsory retirement ages for military personnel.	Agree
<b>2.12</b>	The Australian Human Rights Commission should coordinate a national education and awareness campaign in support of the workforce participation of mature age persons.	Agree
<b>3.1</b>	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.	Agree
<b>3.2</b>	Safe Work Australia should include work health and safety issues that may affect mature age workers in its research agenda.	Agree
<b>3.3</b>	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: <ul style="list-style-type: none"> <li>(a) legislative responsibilities and duties;</li> <li>(b) best practice work design and processes;</li> <li>(c) risk assessment; and</li> <li>(d) health and wellbeing.</li> </ul>	Agree
<b>3.4</b>	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.	Agree
<b>3.5</b>	The Australian Government should amend the <i>Safety, Rehabilitation and Compensation Act 1988</i> (Cth), <i>Military Rehabilitation and Compensation Act 2004</i> (Cth) and the <i>Seafarers Rehabilitation and Compensation Act 1992</i> (Cth) to ensure that retirement provisions are tied to the qualifying age for the Age Pension.	Agree
<b>3.6</b>	The Australian Government should amend the <i>Seafarers Rehabilitation and Compensation Act 1992</i> (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.	Agree
<b>4.1</b>	In April 2011, the Australian Government established an Insurance Reform Advisory Group. The group should examine: <ul style="list-style-type: none"> <li>(f) options for the development of a central information portal or source in order to provide mature age persons with clear and simple information about available insurance products;</li> <li>(g) the design and redesign of comprehensive and affordable insurance products tailored to the needs and circumstances of mature age persons;</li> <li>(h) mechanisms for reviewing age-based insurance pricing and underwriting across the industry;</li> <li>(i) mechanisms for ensuring that the insurance industry utilises relevant and appropriate actuarial and statistical data upon which to make decisions about insurance offerings, based on age; and</li> <li>(j) training of insurance distributors in order to facilitate the provision of clear and simple information about available insurance products.</li> </ul>	Agree
<b>4.2</b>	The Insurance Reform Advisory Group should keep a watching brief on developments in the insurance industry in relation to age, both in Australia and overseas, with a view to reviewing Australian insurance practices as the need arises.	Agree

4.3	From 2012, the General Insurance Code of Practice is being reviewed by an independent reviewer. In the course of the review, the ways in which the Code could be amended to encourage insurers to consider the needs and circumstances of mature age persons should be examined.	Agree
4.4	The Australian Human Rights Commission, in consultation with the Insurance Council of Australia and the Financial Services Council, should develop guidance material about the application of any insurance exemption under the <i>Age Discrimination Act 2004</i> (Cth) or consolidated anti-discrimination legislation.	Agree
5.1	<p>The Department of Human Services should evaluate the effectiveness of its methods for communicating information to mature age persons about social security. In its evaluation, it should consider the communication of information about:</p> <ul style="list-style-type: none"> <li>(e) eligibility for income support payments;</li> <li>(f) participation obligations for activity-tested payments, including information about the circumstances in which exemptions from the activity test may be available;</li> <li>(g) how to calculate the effect of taking up paid work on income support payments, for example through online rate calculators; and</li> <li>(h) incentives to take up paid work, for example through Working Credit, Work Bonus, the employment income nil rate period and retention of concession cards.</li> </ul>	Agree
5.2	<p>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:</p> <ul style="list-style-type: none"> <li>(e) <i>age discrimination, including what constitutes ageist behaviour;</i></li> <li>(f) <i>the effect that illness, disability and caring responsibilities may have on mature age persons' capacity to work;</i></li> <li>(g) 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</li> <li>(h) Australian government programs targeted at increasing mature age workforce participation.</li> </ul>	Agree
5.3	<p>The <i>Guide to Social Security Law</i> should provide that a temporary cessation of constant care due to participation in employment, voluntary work, education or training that exceeds 25 hours per week:</p> <ul style="list-style-type: none"> <li>(c) does not result in automatic cancellation of Carer Payment; and</li> <li>(d) may, in some circumstances, be compatible with the constant care requirement for qualification for Carer Payment.</li> </ul>	Agree
5.4	<p>The <i>Guide to Social Security Law</i> should provide examples of situations where participation in employment, voluntary work, education or training that exceeds 25 hours per week may be compatible with the constant care requirement for Carer Payment. These examples should include:</p> <ul style="list-style-type: none"> <li>(a) employment, voluntary work, education or training undertaken at home, for example online, provided it is consistent with the care receiver's need for frequent personal care or constant supervision; and</li> <li>(b) short term increases in excess of 25 hours per week of employment, voluntary</li> </ul>	Agree

	work, education or training undertaken outside the home.	
<b>5.5</b>	<p>The objective of Work Bonus is to provide incentives for recipients of Age Pension and Veterans' Age Service Pension to continue in employment. To ensure that Work Bonus continues to achieve its objective, the following amounts should be indexed to the Pensioner and Beneficiary Living Cost Index:</p> <p>(a) the income concession amount under s 1073AA of the <i>Social Security Act 1991</i> (Cth) and s 46AA of the <i>Veterans' Entitlements Act 1986</i> (Cth); and</p> <p>(b) the maximum unused concession balance under s 1073AB of the <i>Social Security Act 1991</i> (Cth) and s 46AC of the <i>Veterans' Entitlements Act 1986</i> (Cth).</p>	Agree
<b>5.6</b>	<p>Pensioner Education Supplement is a payment to assist in meeting the costs of study in eligible secondary or tertiary courses. Section 1061PJ of the <i>Social Security Act 1991</i> (Cth) should be amended to provide that Age Pension and Veterans' Age Service Pension are payments attracting Pensioner Education Supplement.</p>	Agree
<b>8.1</b>	<p>Regulation 7.04(1) of the <i>Superannuation Industry (Supervision) Regulations 1994</i> (Cth) restricts superannuation funds from accepting voluntary contributions for members of superannuation funds:</p> <p>(c) aged 75 years and over; and</p> <p>(d) aged 65 years until 75 years, unless they meet a work test, that is, where they are gainfully employed on at least a part-time basis during the financial year.</p> <p>The Australian Government should amend reg 7.04(1) to remove the restriction on voluntary contributions for members aged 75 years and over, and to extend the work test to these members.</p>	Agree
<b>8.2</b>	<p>Section 290-80 of the <i>Income Tax Assessment Act 1997</i> (Cth) provides that voluntary superannuation contributions made by employers for employees aged under 75 years are tax deductible. The Australian Government should amend s 290-80 to enable employers to claim deductions for voluntary contributions made for employees aged 75 years and over.</p>	
<b>8.3</b>	<p>Section 290-165(2) of the <i>Income Tax Assessment Act 1997</i> (Cth) provides that superannuation contributions made by self-employed, and substantially self-employed, workers aged under 75 years are tax deductible. The Australian Government should amend s 290-165(2) to enable these workers to claim deductions for contributions made at age 75 years and over.</p>	
<b>8.4</b>	<p>Regulation 7.04(1) of the <i>Superannuation Industry (Supervision) Regulations 1994</i> (Cth) restricts superannuation funds from accepting spouse contributions when the spouse is:</p> <p>(c) aged 70 years or over; and</p> <p>(d) aged from 65 years until 70 years, unless he or she meets a work test, that is, being gainfully employed on at least a part-time basis during the financial year.</p> <p>The Australian Government should amend reg 7.04(1) to enable a member of a superannuation fund to make contributions for a spouse aged 70 years or over, when the spouse meets the work test.</p>	Agree
<b>8.5</b>	<p>Regulation 6.44(2) of the <i>Superannuation Industry (Supervision) Regulations 1994</i> (Cth) provides that an application for spouse contribution splitting is invalid if the member's spouse is aged 65 years or over, or has reached superannuation preservation age and retired. The Australian Government should amend reg 6.44(2) to remove the age restriction from age 65 years when the spouse meets a work test, that is, being gainfully employed on at least a part-time basis during the financial year.</p>	Agree

<b>8.6</b>	Section 6(1)(e) of the <i>Superannuation (Government Co-contribution for Low Income Earners) Act 2003</i> (Cth) provides that government co-contributions are payable only for persons aged under 71 years. The Australian Government should repeal this restriction.	Agree
<b>8.7</b>	<p>The 'Transition to Retirement' rules were introduced into the <i>Superannuation Industry (Supervision) Regulations 1994</i> (Cth) to encourage continued mature age workforce participation. Research has suggested that the rules may not meet this policy objective in practice. The Australian Government should initiate a review of the Transition to Retirement rules to determine what changes, if any, are required to ensure that the rules meet their policy objective. The review should consider matters including:</p> <ul style="list-style-type: none"> <li>(f) the use of the rules in practice;</li> <li>(g) whether there is sufficient and widespread access to the scheme;</li> <li>(h) the relationship to the setting of the concessional superannuation contributions cap;</li> <li>(i) eligibility criteria; and</li> <li>(j) comparable international schemes.</li> </ul>	Agree