

Age is not a use by date

*A snapshot of the experiences of
discrimination among
Western Australia's seniors*



 *Equal Opportunity Commission*



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Please note that this guide can be provided in alternate formats if requested.

1 Introduction

Age discrimination among seniors remains under-reported in Western Australia.

Through our enquiry line at the Commission we believe age discrimination is prevalent in WA, but as it is often difficult to demonstrate discrimination has occurred for mature aged people who are already very vulnerable, the onus of proof remaining with the complainant is still a large hurdle.

In the 2017-18 financial year 90 enquiries were made regarding age discrimination. In the same year 38 complaints were lodged under the same ground with over 30 percent of those relating to seniors.

As part of the Equal Opportunity Commission's Strategic Plan 2017-2019, to proactively identify unlawful and systemic age discrimination and improve the outcomes for those at risk, the Commission conducted a state-wide survey aimed at WA residents over the age of 55 to better understand how discrimination presents in WA seniors and how it has impacted on their lives.

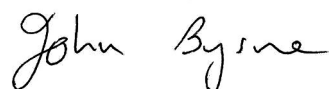
In addition to the survey Commission representatives consulted with groups representing seniors from COTA (the Council on the Ageing), AdvoCare Inc, Department of Communities, City of Melville, Umbrella Community Care, Older Persons Rights Group (Northern Suburbs Community Legal Centre), Ethnic Communities Council and Legal Aid WA.

Although the experiences of seniors reported in the survey and through their representatives varied, the main areas of concern for unlawful discrimination against seniors in WA was in the areas of employment, accommodation and goods and services.

Many seniors reported feeling 'invisible' in these areas of public life, which impacted significantly on their quality of life and which is captured throughout this report.

The ***Age is not a use by date*** project and this subsequent snapshot aims to better inform people about the concerns of seniors when it comes to unlawful discrimination in Western Australia and recommend ways of addressing it.

I would like to thank Commission staff and Elizabeth Chiwawa who joined us as an intern from Edith Cowan University to oversee the survey and consultations.



Dr John Byrne
Acting Commissioner for Equal Opportunity

2 Background

The Equal Opportunity Commission (the Commission) was established in 1985 to assist the position of Commissioner for Equal Opportunity to carry out the objects of the *Equal Opportunity Act 1984* (the Act).

In doing so the Commission is committed to the elimination of unlawful and systemic age discrimination and promoting equality of opportunity and human rights in Western Australia through its various services.

This includes conducting education for individuals, organisations and businesses, partnering with other organisations on broader awareness-based projects and providing investigation and conciliation to support resolution of complaints.

The Commission is guided by the Act to protect people from being treated less favourably on the ground of age (among other grounds) in various areas of public life.

In addition, the Commission alerts people of their rights under federal anti-discrimination laws including the *Age Discrimination Act 2004*.

The Commission develops and reviews its Strategic Plans to guide these broad organisational objectives.

The plans are developed in consideration of contemporary issues of discrimination and human rights in the remit of the Commission's objectives. It gives the Commission the ability to also identify key organisations and agencies with whom it can work to better assist with achieving these objectives.

Following evaluation, the Commission's [Strategic Plan 2017-19](#) has a specific focus on youth and mature aged people as two cohorts the Commission felt needed focus. Both cohorts were under represented in complaints data with most complaints lodged by people aged between 24 and 54 years of age; however through its community outreach work, the Commission became aware of patterns of discrimination among WA youth and seniors.

Since 2017 the Commission has conducted a series of initiatives addressing discrimination among youth and seniors. The ***Age is not a use by date*** project and this snapshot focuses on issues of discrimination for the latter.

Scope

The scope of the project was to consult with people over the age of 55 in Western Australia, and their representatives through face to face interviews and an online survey, to promote understanding of their rights, and to inform the Commission's work on priority areas where seniors are most vulnerable to discrimination.

The snapshot aims to promote recognition and acceptance within the community, of the equality of persons regardless of their ages; and eliminating, as far as possible, discrimination against persons on the ground of age in areas of work, accommodation and the provision of goods, services and facilities.

Definition of terms

For purposes of this report, the words seniors, mature aged and older Australians were used interchangeably.

Most organisations consulted, classified seniors as people aged 55 and over; however, being a large and diverse group, further classification was needed to develop insight into age-specific issues. The survey captured the age demographics of the respondents.

The following age categories were used:

- 55-59
- 60-69
- 70-74
- 75+

Other groups consulted used the terms 'elderly' and 'mature'.

Methods and limitations

The age of a person is only one aspect of their life. It may be that the other characteristics such as gender, race or ethnicity or disability also impacts significantly on what they aspire to do.

It is therefore important to get an understanding whether other characteristics affect certain groups of seniors more significantly and the survey was designed to capture the diverse demographics of the respondents through targeted questions.

The survey consisted of 13 questions of which two required qualitative answers to help understand the issues participants experienced in the last 12 months.

Findings may reflect bias in favour of women because there was no requirement for gender balance in sampling for this project. Therefore, other gender types may not have been represented accurately in the findings.

3 Findings

This study found out that people feel they experience age discrimination through direct or indirect means and that it happens in various areas of public life.

Age discrimination also intersects with other grounds of unlawful discrimination. This implies that age discrimination may potentially be unrecognisable when other barriers take precedence.

This section outlines the findings of the Commission's project into understanding age discrimination in Western Australian seniors.

Using the information from the survey and information gathered through consultations with organisations this report will address unlawful discrimination reported in the consultations and survey under three main areas of public life covered by the Act:

- Work
- Goods and services
- Accommodation.

It should also be mentioned that during the consultations and review of survey responses elder abuse emerged as a significant issue for WA's seniors. Although this is not covered by the *Equal Opportunity Act 1984*, it impacts significantly on the quality of life for WA seniors, especially those with impairments such as Alzheimer's who are particularly vulnerable.

“Husband (Alzheimer's) and self were victims of elder abuse by step family (from mid-2013), took \$\$ and fled from home (April 2015), spent next 4 years in legal battle actioned by step family in family law court. Never saw husband again (died 2014), settled by giving up right to inherit from his will. I turn 85 in February.”

Other examples include situations in which older parents suffering from cognitive impairment such as dementia, are forced to be guarantors by their adult children, only to lose their properties when their children fail to repay loans due to employment loss or addiction issues.

This shifting of the mortgage loan by the bank, to an older person who due to loss of decision-making capacity and dependence, is coerced to be the guarantor by the child, was described as a fundamental structural problem.

It was found people experiencing financial abuse will less likely seek legal help because they want to maintain a family relationship regardless of the abuse.

It was also found that Powers of Attorney arrangements were open to abuse, because there are loop holes in the system that allow it to occur.

Organisations also emphasised disregard of older people's rights and wishes, especially those living with dementia, by leaving them out when decisions are made about their health and welfare. This was due to assumptions those with dementia are incapable of making decisions on matters affecting their lives.

Furthermore, guardianship conflicts tended to undermine the wishes and rights of this cohort.

Organisations also highlighted lack of awareness, support and funding for those with early diagnosis of dementia, compared to other health conditions. This evidence suggests older people with cognitive impairment issues require greater legal protections and support.

Work

In the consultation with organisations and through the survey there was a repeated view that ageist attitudes are entrenched in Australian workplaces.

They are perpetuated by negative stereotypes of older workers such as 'technophobes', taking more sick leave, change resistant, injury prone, unfit and low energy levels.

Increasingly older Australians are underemployed and unemployed. It was reported that even people in their 40s are finding it increasingly difficult to find employment.

Most seniors spend much longer time seeking employment than younger people. They also get jobs in the insecure job market such as casual, contract and part time employment.

Consistent with information gathered from consultations with seniors' organisations, survey respondents demonstrably reported they experienced age discrimination primarily in the workplace and when trying to re-enter the workforce.

"The Shire informed me verbally when unsuccessful in an interview that 'the interview went really well but, we went with a younger person.'"

"I have been applying actively for a job for two years. During interviews when they heard my age, they dropped their jaws, 'I am shocked to hear your age.'"

Examples given included older workers being excluded when younger staff and supervisors discussed future work plans and interviewers emphasising they wanted to train someone who could be part of the team in the 'long run'.

Employers were also described as unwilling to employ anyone over 45 years of age. Preference for employing young people was largely based on notions of reducing salary costs, as younger workers tend to earn less compared to older workers:

"In March 2017 I was 'forced' out of a position I had held for 6 years. My employer had not put me forward for training nor promotion for the entire period based purely on my age not my ability. Since then I have applied for 30 odd jobs, each job was one that I was qualified for. They never even rang my referees to check out my qualifications."

It was reported employers used demeaning language around the workplace directed at older employees. For example, many indicated there were comments and jokes about being too old and hopeless with computers and that many unsuccessful interviews were due to aged-related stereotypes as demonstrated:

"Was told I was too old and slow to pick up new training for my job and it was given to someone in their twenties."

There was majority consensus among those consulted with, that older workers experienced unfair dismissal and had a greater likelihood of getting a redundancy than younger workers:

“Made redundant at work when I outperformed younger males. They are seen as family ‘bread winners’ and kept their job. I’m viewed as someone close to retirement, so less likely to be employed. Generally younger people have little regard of the knowledge and experience of older people.”

They also reported older workers experienced behaviours to systematically force them to resign, they were isolated, excluded from social activities and not regarded as part of the team.

Examples included given heavy or unfavourable duties and denied workplace flexibility opportunities based on the assumption they hardly had any family responsibilities compared to younger people.

In addition, seniors felt their advice and experience were not valued or respected:

“In the office I felt that what I had to say was of no worth when I clearly had more experience to be able to provide advice compared to the much younger person. I had also kept up to date, so my advice was contemporary, but I felt that as I was an older worker my advice was not valued and was discarded to the detriment of the organisation.”

Consultations and the survey also found assumptions or negative stereotypes about seniors being perpetuated in the media and social media present barriers for seniors in many facets of life including re-entering the job market, retaining employment, gaining access to financial assistance and being disrespected when accessing goods, services and facilities.

Older people feel disrespected and under appreciated for their life-long contribution to Australian society due to the stigma of old age:

“I feel everywhere I read it seems people in Australia are anti aged and older persons over 55 years. Remember we have worked, paid taxes and provided for this nation and our families and now we are expected to keep working, be over taxed and receive no supports or pensions until much later. Give us a fair go and pick on someone else.”

The intersection of race discrimination and age discrimination further impacted on WA’s seniors from ethnically diverse backgrounds when trying to access employment.

Culturally and Linguistically Diverse (CALD) seniors identified employment barriers as the biggest issue they face.

It emerged most CALD people over the age of 40, struggled to get employed because of assumptions they are incapable of learning new skills.

Those who are employed, are not included in plans by employers. It is hard for them to get interviews in metropolitan areas and employment opportunities are limited in regional areas.

It was found because Australia does not recognise overseas professional qualifications, many mature skilled migrants from CALD backgrounds resume work in entry level positions such as pushing trolleys and cleaning which impacts on their life chances. This is exemplified by this response:

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“My professional qualifications, which got the PR (permanent residency) visa for us were not readily accepted here...Although they are recognised worldwide the fact I hadn’t got the Australia’s own version was held against me. Additionally, despite the fact I had worked for internationally recognised companies e.g. Reuters, and had worked for FTSE 100 companies in the UK in senior positions, I felt these were not given much credence as I had no Australian employment record.”

CALD seniors felt this was a barrier of great magnitude that impacted on their quality of life in ageing. When considering the area of work, our project also explored life for WA’s seniors transitioning out of the job market and in retirement.

The findings showed sex discrimination, marital status discrimination and family responsibility discrimination also impacted on women seniors in their post-working life.

“Being a single woman on a wage between \$45,000-\$50,000 makes trying to get ahead and set up for retirement near impossible.”

Issues of changes in eligibility for seniors’ card, retirement age pension and NDIS featured prominently in the survey and consultations, suggesting unaffordable cost of living was an area of concern. Many expressed dissatisfaction with recent changes in social security payments:

“The change in age related seniors’ cards, retirement and other supports... It has been changed to 67 years with no consideration for those of us who have worked full time for the past 45 years.”

Provision of goods, services and facilities

This study found older people feel invisible in public life, sense they are unworthy to society and feel disrespected. It emerged that services rarely cater for the needs of older people.

When buying goods, seniors felt ignored and invisible because younger customers were served out of turn:

“Being ignored in queues is common place - there is a tendency to become invisible!”

“Younger customers are served out of turn.”

“ (I felt) Ignored by shops and banks in favour of younger clients, (and I was) told to go on the website ‘if you know how’ in a sarcastic manner.”

Survey respondents reported services were significantly impatient with older people due to their mobility and other age-related characteristics.

“Speaking down to me and making me wait for service. Assuming because you are old you have no business acumen.”

Many respondents expressed the view government agencies, politicians and the media, should model respect for older people to the community, as one responded noted:

“Advertising industries keep stressing ‘fighting’ the signs of ageing (as if it is to be reviled); the media disproportionately portrays women as young and seductive; politicians keep stressing ‘young’ families. Anybody who doesn’t fit is whitewashed out of existence. Grey hairs, wrinkles and modest clothing are shunned - even in workplaces.”

Furthermore, respondents reported assumptions or negative stereotypes about seniors being perpetuated in the media and social media presented barriers for seniors in many facets of life including work as well as accessing goods, services and facilities.

Older people feel disrespected and under-appreciated for their life-long contribution to Australian society due to the stigma of old age:

“People need to have respect for older people, sadly manners are considered obsolete these days.”

Older seniors reported being prone to fraud and being taken advantage of when buying goods or accessing services as demonstrated:

“Was sold the wrong item at double price. I was given an inflated quote for a job.”

Physically accessing goods and services was also an issue.

Examples given include seniors’ inability to manoeuvre their mobile scooters and wheelchairs due to narrow roads and parking spaces in shopping forums, insufficient seating, and seats that are too low for elderly people.

Seniors reported a need to improve disability access and more senior specific parking bays.

Other examples of where seniors found difficulty in accessing services was the removal of mail drop boxes and banks from convenient locations leaving elderly people with no choice but to travel to the post office.

One older person was told letters would be a thing of the past and to use email.

Seniors also face barriers to accessing information due to unfamiliarity with, and lack of access to digital technologies:

“They expect me to be digitally competent and use jargon that I simply can’t understand.”

This in turn impacts on their ability to access information about services available for seniors.

There is general lack of awareness of services for seniors and many find it difficult to navigate government portals such as *My Aged Care Portal*, *Advance Health Directives* and consumer directed home care packages on their own.

As a result, many felt unable to exercise their rights and choices to manage their care packages.

Equally important, it was found online services are difficult to access as older people have significant visual and auditory impairments:

“(I have) poor eyesight. ... (there are) technology assumptions around access, ability. (I) want alternatives to online and people to assist. (I’m) fed up with being told to go to www.whatever.com. (I) can’t afford a computer!”

Examples such as this highlight the inextricable link between impairment discrimination and age discrimination. It was revealed this was particularly pronounced for those living with dementia, Alzheimer’s and other cognitive impairments.

During one consultation it was revealed that dementia in older customers was often not well understood by customer service providers.

A need for better customer service education and stronger policies to address the issues for customers with cognitive impairments needed to be put in place in major shopping centres and all customer service organisations.

It was suggested seniors need a one-stop-shop or central point to access a range of information including community programs. They also need multiple platforms to access information.

Some respondents mentioned problems when accessing medical services.

Older patients said they were not given ample time to process information, they were rushed into making decisions, because it was assumed they had researched their medical conditions before consulting doctors or that they didn’t understand anything:

“In medical services they think you don’t or might not understand things and judge you are old in mind and nature, stereotyping you.”

Seniors felt they were not being listened to by health care professionals and as a result, some undertook unnecessary surgery to their detriment.

Through consultations with stakeholders in the seniors sector, and reviewing survey responses, it emerged the business community tended to be biased against older people in favour of younger people.

It was reported it was difficult for seniors to apply for loans as described below:

“Bank decided that we could have a home loan (selling one house to purchase another) only if we took it over 10 years, age discrimination at its finest!”

With regards to credit cards, some seniors felt they were treated unfavourably because of their work status and age:

“Wanted to change credit card but only work casually so with my age considered was not able to change my card to lower interest rate. However, I could keep the same one with that bank! Amazing!”

This shows how seniors are impacted by the interaction of work status and their ability to access financial goods and services. There is even greater complexity in accessing insurance and credit when a person is retired:

“When applying for credit card, because I am retired it seems it is assumed I am unable to pay my debts if I want to increase limit.”

Specific issues around seniors from ethnically diverse backgrounds accessing medical services in particular emerged from consultations and the survey.

Representatives of CALD communities raised the issue of barriers to accessing CALD-specific services.

It was found CALD service providers do not get referrals from mainstream services. As a result, CALD seniors are not aware of CALD-specific services.

They argued CALD seniors should be given choices to contact the services they want. They also expressed concern at the growing population of CALD seniors who require mental health services, yet CALD-specific mental health services were non-existent.

Accommodation and housing

With regards to accommodation for seniors, housing affordability was the key issue.

There was majority consensus among organisations consulted that seniors' housing options were characterised by unfair, unaffordable and unconscionable monthly rentals, exit fees and housing contracts.

It was found downsizing options for seniors who own property and seek to downsize to smaller homes, were unaffordable.

Downsizing options as they currently stand, do not provide ownership of both land and property. Instead, the people downsizing are buying access to accommodation or a service.

These housing options include strata, retirement villages, granny flats, lifestyle villages, caravan parks and residential aged care.

Lifestyle villages are an outflow from caravan parks. They take people aged 45 and above and are less suitable for very elderly people.

Retirement villages take retired people aged over 65 who no longer work. The average age of those who go into retirement villages is 78.

Often these housing options are unsuitable for elderly seniors who are no longer able to live independently because of emerging care needs.

They take up downsizing options at the age of 55 on average, but with advanced age, the housing becomes unsuitable and some move into residential care; however the exit fees are too high, and often people fail to make necessary changes in their lives.

Lack of security tenure in the housing market and lack of equity and deposit to buy houses were also identified as barriers.

Seniors were said to potentially lose all choices when they move into retirement villages. With regards to exit fees, people considering downsizing options were told not to worry about exit fees as they would be long gone.

This suggests seniors tend to value immediate needs at the expense of long-term needs, which isn't always the case.

Aged Care Homes were said to provide poor quality of care and were not welcoming to LGBTI (lesbian, gay bisexual, transgender and intersex) seniors.

As a result, LGBTI seniors felt unable to disclose their sexuality and express their needs through mainstream services.

Poor management, coercion and bullying of residents was reported in retirement villages and long stay parks. These concerns are mirrored and encapsulated in this survey response:

“It is an ongoing problem with the owner/managers of our park home village. They are charging us exorbitant fees, refuse to do necessary upgrades to the village, bully the older residents and blatantly refuse to meet and discuss these problems.”

Organisations and individuals alike, felt that the housing market treated seniors unfairly and did not provide choices and afford them the dignity and service they paid for:

“I am being bullied by my landlord the owners of [name omitted]. Not only myself but all the other residents also.”

Despite the complaints, it was reported management refused to consult with residents about financial matters:

“The park owners refuse to enter in to any dialogue to discuss the financial issues,”

“Annual rent increase with nothing to show for it by the owners of the park.”

It was further reported most older people abstain from complaining because of fear of being kicked out and that accommodation for seniors or those over 55 years in Western Australia is characterised by substantial delays when reselling units, high demand and long waiting periods as demonstrated:

“I was told there is a 15 to 20 year wait for the over 55 accommodation.”

This is exacerbated by the lack of a central point of information to begin understanding the housing gaps or concerns.

Instead, seniors' decisions tend to be driven by their need to avoid being a burden on family and/or friends. The contracts they enter tend to tie them down, leaving them with no choices and financial burdens.

Many seek downsizing advice from private organisations or institutions because they are not aware of Consumer Protection's Seniors' Housing Advisory Centre which provides independent information about housing options for people over the age of 55.

With a growing ageing population in Australia, the demand is greater than the supply, and this can potentially impact on life outcomes of most Australian seniors.

For example, Council on the Ageing (COTA) advised of the 1500 Community housing programs across Australia, only three specialise in seniors' housing.

More importantly, it emerged during a number of consultations with seniors' representative organisations including COTA and Advocare Inc that older single women have the fastest growing secondary homelessness population, usually occurring after separation or death of a spouse.

This cohort typically relied on living with other family members and/or friends, which sometimes lent itself to elder abuse.

The increase in homelessness in older single women was attributed to the gender pay gap and support for homeless older men being more pronounced than that of homeless older women.

It was also found many older people from CALD communities were unable to access aged care housing. Mainstream residential accommodation was also culturally inappropriate and did not cater for their needs.

As a result, most CALD seniors preferred ageing in a place with family members caring for them when they become dependent, rather than moving into residential care.

However, such arrangements had the potential to place strain on relationships and also culminate in elder abuse.

Organisations reported seniors from CALD and sexually diverse backgrounds, felt unwelcome in retirement villages and aged care homes.

One seniors representative organisation reported when surveyed, aged care service providers indicated that they do not have LGBTI residents.

This study found LGBTI seniors were less likely to disclose their sexuality and express their needs through main stream services, especially those service providers affiliated with religion who deny they have LGBTI seniors.

This raises questions about what we have in place to make sure service providers are welcoming LGBTI seniors. Many organisations consulted agreed aged care systems must be responsive to the needs of diverse communities.

4 Recommendations

Equal opportunity training for employers and service providers

The Commission recommends customised training on equal opportunity law to seniors' service providers, human resource personnel and managers seniors' residential organisations so these organisations can better frame policies and practises to address the issues outlined in this snapshot.

This would include assessing existing policies and procedures to identify the impacts these have on mature aged employees within an organisation.

Know your rights

The Commission recommends access to human rights and equal opportunity training through the various representative organisations so the seniors they represent have a better understanding of their rights when it comes to discrimination in work, provision of goods, services and facilities and accommodation.

Further to this, education about other laws that impact on seniors should be incorporated into community outreach sessions organised by representative bodies, as well as education sessions to make seniors more eligible for work placement and better able to access technology based services if it is needed.

Make a complaint


If a person feels they have been discriminated against because of their age, or another ground covered by the *Equal Opportunity Act 1984*, lodge a complaint with the Commission.

All complaints must be in writing, however a person can get someone to help them prepare a complaint if they are not able to.

A complaint can be provided in writing on the Commission complaint form in hard copy, submitted online, or in a letter, email or statement that provides information about the alleged discrimination. Complaints can be lodged in languages other than English. Copies of any documents supporting the complaint should be included.

Contact the Commission

Phone:

General enquiries	9216 3900
Training courses	9216 3927
Facsimile	9216 3960
Country callers	1800 198 149
TTY	9216 3936
 Interpreter service	13 14 50

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5 Appendix

Complaints lodged at the Commission by people over 55 years of age by ground and area

2017-18

Ground	Employment	Goods, Services and Facilities	Accommodation	Education	Access to Places and Vehicles	Clubs	Sport	Not specified	Total	%
Age	5	4		2		1	1		13	18.1%
Family Responsibility	2								2	2.8%
Family Status	2			1					3	4.2%
Impairment	17	5	1	2	2				27	37.5%
Pregnancy				1					1	1.4%
Race		5	1		1				7	9.7%
Racial Harassment	1								1	1.4%
Sex	3	1							4	5.6%
Sexual Harassment	1								1	1.4%
Sexual Orientation	1								1	1.4%
Spent Conviction	1								1	1.4%
Victimisation	3	1				1			5	6.9%
Victimisation - Public Interest Disclosure Act	4							2	6	8.3%
Total	40	16	2	6	3	2	1	2	72	100.0%
	55.6%	22.2%	2.8%	8.3%	4.2%	2.8%	1.4%	2.8%	100.0%	

2016-17

Ground	Employment	Goods, Services and Facilities	Accommodation	Education	Access to Places and Vehicles	Clubs	Not specified	Total	%
Age	8	3	1	1	2	1		16	22.9%
Family Responsibility	1			1				2	2.9%
Family Status	1							1	1.4%
Impairment	13	9	3	1	4	1		31	44.3%
Marital Status		1						1	1.4%
Political Conviction	1							1	1.4%
Race	3	1	2	1				7	10.0%
Racial Harassment				1				1	1.4%
Sex	2		1			1		4	5.7%
Sexual Harassment	2							2	2.9%
Victimisation	2		1					3	4.3%
Victimisation - Public Interest Disclosure Act							1	1	1.4%
Total	33	14	8	5	6	3	1	70	100.0%
	47.1%	20.0%	11.4%	7.1%	8.6%	4.3%	1.4%	100.0%	

