

**Submission
to the
Core Consultative Group
on
Age Discrimination**

The logo for Volunteering Australia is displayed within a blue rectangular banner. The word "Volunteering" is written in a large, white, serif font. Below it, the word "AUSTRALIA" is written in a smaller, white, sans-serif font, with each letter separated by a small gap.

Volunteering
AUSTRALIA

C/- Catherine Hawkins
Civil Justice Division
Attorney-General's Department
National Circuit
Barton ACT 2600

About Volunteering Australia

Volunteering Australia is the national peak body for volunteering in Australia. Its mission is to represent the diverse views and needs of the volunteer movement while promoting the activity of volunteering as one of enduring social, cultural and economic value.

Volunteering Australia receives funding from the Commonwealth Department of Family and Community Services (FaCS) under the National Secretariat Program (NSP) to represent the interests of volunteers and volunteer involving organisations.

Volunteering Australia's member organisations consist of the state and territory volunteering peak bodies, who in turn represent volunteer-involving organisations and interested individuals. Volunteering Australia also works closely with a large network of regional volunteer resource centres (VRCs).

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Introduction

Volunteering Australia is the national peak body for volunteering in Australia and would like to comment on the proposal to develop a Commonwealth Age Discrimination Bill.

Volunteering Australia's interest in the issue of age discrimination is in the way in which the proposed bill would affect volunteers and the activity of volunteering.

Volunteering Australia supports the development of a bill that expressly prohibits discrimination on the grounds of age, however our concern is to ensure that volunteers are explicitly mentioned and covered by the provisions of the Act.

Facts on Volunteers

The Australian Bureau of Statistics (ABS) *Voluntary Work Survey* 2000 showed that 4.4 million Australians over the age of 18 did voluntary work in 2000. In total these volunteers contributed 704.1 million hours of unpaid work.

In relation to older volunteers the ABS figures show:

- Over 528,000 of those who volunteered were aged 65 or over. This equates to 12% of the total volunteering population.
- 30.3% of people in the 65 to 74 years age group were volunteers, while 17.8% of those aged 75 or over were also volunteers.
- Volunteers in the 65 to 74 years and over 75 years age groups had the highest median weekly hours of voluntary work with 2.5 and 2.3 hours respectively.

In relation to younger volunteers the ABS figures show.

- Over 493,000 of those who volunteered were aged 18 to 24. This equates to 11% of the total volunteering population.
- 26.8% of those in the 18 to 24 years age group were volunteers.

Unfortunately the ABS Survey does not collect figures on volunteering rates for those under 18 years of age.

Taking the above figures together, nearly a quarter (23%) of the total volunteering population are in the combined age group of 18-24 years and 65 years and over. The importance of the contribution of both age groups to volunteering in Australia should therefore not be underestimated.

Volunteer Rights and Anti-Discrimination Acts

One of the Volunteer Rights¹ that Volunteering Australia advocates is that volunteers have the right “to be interviewed and employed in accordance with equal opportunity and anti-discrimination legislation”.

Adherence to the Volunteer Rights is encouraged and incorporated into the *National Standards for Involving Volunteers in Not-for-Profit Organisations*.² The national standards are generic and describe what elements should be part of a ‘best practice’ system for involving and managing volunteers. Each standard contains a brief statement that defines the scope of the standard and a set of criteria against which the level of achievement of that standard can be assessed. The *National Standards* have been written with the explicit intention of protecting the volunteer, the volunteer-involving organisation and the customer of the organisations.

However it is Volunteering Australia’s understanding that despite the array of anti-discrimination acts that exist at both the Commonwealth and State / Territory many do not explicitly apply to volunteers and therefore fail to adequately recognise the role and status of volunteers within organisations and protect them from being discriminated against. The report on age discrimination, *Age Matters* published by the Human Rights and Equal Opportunity Commission (HREOC) in 2000 acknowledged that “Voluntary Work in particular enjoys only limited protection in State and Territory anti-discrimination legislation.”³

Age Discrimination and Volunteers

Discrimination on the basis of age can affect volunteers, or potential volunteers, at both the upper and lower ends of the age scale.

The key concern is to ensure that volunteers are not assessed as being unsuitable for a volunteer position simply on the basis of their age. The scenarios that could arise are equally applicable to both older and younger volunteers.

While Volunteering Australia advocates that volunteer-involving organisations should adhere to the *Principles of Volunteering*, the *Volunteer Rights* and implement the *National Standards for Involving Volunteers*, none of these are legally enforceable requirements.

Volunteering Australia certainly supports the notion that the vast majority of volunteer-involving organisations aim to act appropriately and manage the

¹ ©Volunteering Australia 1997 – the *Volunteer Rights* were developed by Volunteering Australia in consultation with the volunteering sector.

² ©Volunteering Australia 2000

³ p.84 *Age Matters – a report on age discrimination* Human Rights and Equal Opportunity Commission 2000

involvement of volunteers professionally. However we must recognise that there are undoubtedly some organisations that fail to meet their legislative and duty of care requirements.

Through the proposed Age Discrimination Bill the Government is saying that as a matter of public policy age discrimination is undesirable in the community and requires legal sanctions in order to discourage its occurrence. It is important therefore that the legislation itself be non-discriminatory and should not limit its applicability to only certain groups or situations, unless there are sufficiently compelling reasons for doing so.

It is on this basis that Volunteering Australia argues that the provisions of the proposed Age Discrimination legislation should explicitly cover volunteers.

This view is supported by the *National Agenda on Volunteering: Beyond the International Year of Volunteers*⁴ produced in 2001 by Volunteering Australia and Australian Volunteers International, following extensive national consultations with volunteer-involving organisations and volunteers.

Participants in the face-to-face forums and respondents to the questionnaire on the *National Agenda* were asked to identify the key issues affecting volunteers, volunteer-involving organisations and volunteering. One of the issues identified was that volunteers are sometimes discriminated against by organisations for a variety of reasons. While no statistical evidence of discrimination against volunteers was provided, this anecdotal view was well supported by numerous participants in the forums.

As a result, one of the outcomes sought in the *National Agenda* under Strategic Goal #2 – *Ensure that volunteers have legal status and are afforded protection through every piece of legislation and public policy that affects them and their work* is that “Anti-discrimination Acts explicitly mention volunteers.”

Are Volunteers Being Discriminated Against on the Basis of Age?

We are not aware of any research that has been undertaken in Australia that specifically aims to identify the existence of, or extent of, age discrimination against volunteers.

However a survey carried out in the UK by the Institute for Volunteering Research⁵ showed that 60% (39) of organisations that responded (66) to the survey claimed to have a fixed retirement age for volunteers. A third of the organisations with age limits said that it applied to all volunteers, while another third said that they applied it only to volunteers performing certain tasks, for example, driving.

⁴ ©Volunteering Australia 2001- the *National Agenda on Volunteering: Beyond the International Year of Volunteers*

⁵ *Age Discrimination and Volunteering* – Institute for Volunteering Research (UK) 2002

The main reasons identified for having upper age limits were difficulty in providing insurance cover for older volunteers (36%) and that having a standard regulation was easier than deciding whether individual volunteers should continue (21%). Other reasons included the physical health state of older volunteers and organisations wanting to encourage new blood.

While there is no similar piece of research in Australia during the consultations conducted to develop the *National Agenda on Volunteering* numerous anecdotal comments were made by participants that certainly indicate a level of discrimination within some organisations.

There was a sense that some organisations had a clear 'bias' or 'preference' for certain groups of volunteers (including on the basis of age) depending on whether they felt a particular group would be more committed to their organisation (usually older volunteers) or fit with an image that the organisation was wanting to portray (often younger volunteers). There was also a perception among some that volunteers as a group were treated differently to paid workers and did not enjoy the same rights and protections under various Commonwealth and State legislation with respect to their voluntary work.

In addition there were frequent concerns raised that for those organisations that were seeking to involve older or younger volunteers personal accident and public liability insurance could be difficult to obtain for these age groups and therefore constituted a barrier to involving potential volunteers.

These concerns have been expressed separately to Volunteering Australia by our network of volunteer resource centres.

Volunteers and Insurance

Another of the Volunteer Rights⁶ advocated by Volunteering Australia is the right of volunteers to be adequately covered by insurance.

Unlike paid workers, most volunteers are not covered by workers compensation⁷ that will meet medical costs and/or lost earnings if a person is injured in the course of their work. To ensure that volunteers are adequately protected and compensated if they are injured while volunteering it is recommended by Volunteering Australia that all volunteer-involving organisations take out personal accident insurance for their volunteers. Indeed, volunteer-involving organisations cannot be listed on the GoVolunteer web site and cannot be provided with a referral service by Volunteering Australia's network of volunteer centres if they do not carry volunteer personal accident insurance. In addition it is recommended

⁶ ©Volunteering Australia 1997 – the *Volunteer Rights* were developed by Volunteering Australia in consultation with the volunteering sector.

⁷ The exception to this is various categories of emergency service workers that are protected under some of the State Workers' Compensation Legislation

that organisations ensure that their public liability insurance policy extends to volunteers to protect both the organisation and the volunteer if a third party were injured as a result of a negligent act or omission.

In the report on age discrimination, *Age Matters*, insurance for older volunteers was identified as an issue. The report stated that a number of submissions received by HREOC had “raise(d) the issue of age discrimination in access to voluntary work due to insurance restrictions.”⁸

Our own network of volunteer centres has raised concerns that organisations frequently confront difficulty in obtaining insurance for volunteers of certain ages. We are aware that it can be particularly difficult for organisations to obtain insurance for volunteers under 16 and over 70 (in some cases 65) years of age. We are told that the upper age limit can be particularly problematic for some organisations wanting to insure their volunteer drivers over a certain age even though the volunteer has passed the required driver test.

Impact of Proposed Legislation on Volunteer-Involving Organisations

Volunteering Australia is very conscious that changes to legislative or regulatory requirements that seek to protect volunteers generally creates a legislative requirement or duty of care that volunteer-involving organisations are required to meet.

Volunteering Australia recognises that as the peak body working to advance volunteering in Australia it is often a delicate balancing act between protecting the interests of volunteers and accommodating the needs of volunteer-involving organisations.

For volunteers it is important to ensure that their experience of voluntary work is positive in order to ensure their long-term attachment to the activity of volunteering. With organisations we must understand that it is they who are able to offer the countless opportunities for individuals to exercise their citizenship through volunteering and are unable to bear unnecessarily burdensome regulatory requirements if they are to continue providing affordable services to the community.

While Volunteering Australia’s proposal that volunteers be explicitly covered by the Age Discrimination legislation would increase the legal obligations on volunteer-involving organisations, we do not consider that these are necessarily onerous or unreasonable.

It is already a clearly established position advocated by Volunteering Australia that volunteers have the right to be employed in accordance with equal employment

⁸ p.84 op. cit

opportunity and anti-discrimination legislation. Specific reference to volunteers in the proposed Age Discrimination legislation would confirm that it does apply to volunteers and that organisations must adhere to it in respect of volunteer involvement.

This would provide important tangible recognition that volunteers are valued by government and the community, as well as making clear the obligations inherent on organisations to apply non-discriminatory practices when involving volunteers.

Impact on Volunteering

In Volunteering Australia's view a failure to properly apply age discrimination legislation to volunteers will have a negative impact on the level of volunteering in the longer term.

As volunteering is increasing, 32% of the adult population volunteered in 2000 compared with 24% in 1995, there is the potential to expose a greater number of individuals to unwarranted discrimination if volunteer-involving organisations are not clear about their responsibilities.

The largest generation of Australians ever is approaching retirement age. These 'baby-boomers' are considered to be an important pool of potential volunteers. Research commissioned by the Western Australian Government '*Boomnet' Capturing the Baby Boomer volunteers: a 2001 research project into Baby Boomers and volunteering*⁹ showed that baby boomers are very clear about what they want from volunteering. Among the areas identified as important to baby boomers was "a supportive organisational environment where volunteers are truly valued." However, without appropriate safeguards there is potential that some of these volunteers will face some level of age discrimination when seeking to undertake volunteer work.

The effect of discrimination on this group is two-fold. Firstly, it denies people the opportunity to exercise their rights as citizens and participate as fully as they are able to within their communities. Secondly, it reduces the number of volunteers available within the community to perform the vital services that the whole community relies on, increasing workloads and the risk of burnout for other volunteers in the process.

Additionally, many of the emerging generation of new retirees will have a large array of lifestyle activities available to them. A potential volunteer deterred from working in one organisation is more likely to seek out activities other than

⁹ '*Boomnet' Capturing the Baby Boomer volunteers: a 2001 research project into Baby Boomers and volunteering* Department of the Premier and Cabinet in partnership with the Department for Community Development, Seniors Interests published in Australian Journal on Volunteering Vol. 7 No. 1 2002 p. 15

volunteering, rather than face the prospect of their offer of time being rejected or under-valued again.

As compulsory retirement ages are removed from the paid workforce and age discrimination prohibited under the proposed bill there is no justifiable reason for age discrimination against volunteers to be tolerated. While recognising the unique nature of volunteer work, Volunteering Australia advocates for many of the same rights and protections that apply to paid workers to also apply to volunteers. This is especially critical when paid and unpaid staff work alongside one another within organisations.

There is a strong assumption that the younger people are when they first engage in volunteering the more likely they are to remain engaged throughout their lives. While not having been specifically researched in Australia, this view is supported by research conducted in the United States.¹⁰ Conversely it can be assumed that if an individual's first experience of wanting to volunteer is negative, for example, they are discriminated against on the basis of their age, the less likely they are to want to revisit the activity at a time in the future.

This point is important for organisations wanting to diversify, expand and maintain a healthy volunteer base and for governments that are encouraging a wider range of economic and social activities among young people in order for them to participate more fully within their communities. Volunteering is increasingly being recognised by young people as providing a pathway to other economic and social activities as well as providing important personal benefits such as self-esteem and wider social networks. If for any reason, but particularly because of arbitrary discrimination, volunteering becomes unattractive to young people then all of these benefits will be lost.

At both ends of the age spectrum there is a danger that if age discrimination is tolerated then there will only be negative consequences for the activity of volunteering. The greater the number of barriers potential volunteer face as they try to become engaged in their community, the more quickly they are likely to reach their tolerance level and will conclude "it's just too hard". Potential volunteers of any age that are unfairly deterred will not attempt to engage in volunteering again in the future, thereby denying both themselves and the wider community the contribution that volunteering brings.

¹⁰ *Giving and Volunteering in the US: 2001 Key Findings* published in Journal of Volunteer Administration Vol. 20 No. 2

Conclusion

In summary, Volunteering Australia would like to see volunteers explicitly mentioned and covered by the provisions of the proposed *Age Discrimination Bill*, in order to provide better protection to volunteers.

As outlined previously, Volunteering Australia recognises that what we propose here would impose a legislative requirement on volunteer-involving organisations. While it is never our aim to encourage onerous obligations being placed on volunteer-involving organisations Volunteering Australia's mission to *advance volunteering* requires us to always balance the interests of volunteers with those of volunteer-involving organisations if on the surface they seem to conflict.

In this instance however we do not think the requirements would be onerous as they simply accord with the *National Standards for Involving Volunteers* developed by Volunteering Australia in consultation with and widely supported by the sector. The legal position with respect to volunteers and the requirements on volunteer-organisations could be made clear with appropriate provisions within the proposed bill.

Specific mention in the proposed bill would help recognise the contribution of volunteers and the importance of volunteering to the social fabric of this country.

Attachments

1. A *National Agenda on Volunteering: Beyond the International Year of Volunteers* is enclosed for the information of the consultative group. The relevant section dealing with Anti-discrimination has been marked for easy identification.
2. Information Sheet on *Volunteer Rights*
3. Information Sheet on Volunteering Australia's *Model Code of Practice* for volunteer-involving organisations.