



## Age discrimination and research ethics

By Sol Encel

**The problem of age discrimination in the workforce has acquired extra salience because of the growth of policies designed to prolong labour force participation beyond the conventional retirement age at around 60. Despite such policy trends, it appears that age discrimination continues to handicap or even prevent older workers from continuing in employment. This article reports on a current project on age discrimination, discussing in particular the research ethics issues and bureaucratic controls encountered in the research process.**

The terms mature worker or mature age worker are generally applied to persons aged 45 and over, although examples of discrimination on the basis of age have been reported (especially by women) as early as age 35. In addition, there are industries such as information technology where maturity barely exists – old age follows youth at age 30 without a 'mature' interval. In this project, which is funded by a grant from the Productive Ageing Centre of National Seniors Australia, ages ranged from 36 to 73, and the incidence of complaints was heaviest among people in their fifties.

Recruitment of research participants was not straightforward. The project met some obstacles due to research ethics regulations, which have tightened considerably over the years. As early as the 1990s, the National Health and Medical Research Council (NHMRC) was bombarded with complaints that institutional ethics committees (IECs) were taking it upon themselves to question not only the ethics but also the epistemology and methodology of projects, even after these had been approved by the relevant research committees of the Council. There were particular complaints that projects which relied mainly on qualitative methods were viewed unfavourably by IECs. The NHMRC appointed a working group to draft a set of guidelines for IECs. The working group had three

members, including myself, and we produced a report entitled *Ethical Aspects of Qualitative Methods in Health Research* (1995), which endeavoured to clarify the limits beyond which IECs should not be second-guessing evaluations by research committees of the NHMRC and the ARC.

My impression is that the situation has not improved since the report was published, not only because of the tendency of IECs to overstep the mark, but also because of increased political and bureaucratic controls. This became clear in my current project on age discrimination in the workforce. Back in 1996, I published an analysis of complaints about age discrimination addressed to the NSW Anti-Discrimination Board (ADB), which operates under an Act passed in 1977. For that analysis, the ADB gave us access to the records of complaints which had been settled and were therefore available for inspection.

I proposed to use the same approach on this occasion. However, the 1977 Act has been tightened by amendments, and in addition a subsequent piece of legislation, the Privacy and Personal Information Protection Act of 1998, imposes limits on the disclosure of personal information by the ADB. The result was a delay of six months before we obtained a mere ten files which had been de-identified, compared with 22

personal accounts in the previous study. As someone remarked, it was like pulling teeth in slow motion.

In order to collect personal accounts of discrimination, we contacted a number of occupational associations and unions, which advertised the study in their newsletters. However, it turned out that the best source was a distinctively modern one, i.e. the Internet. We discovered a range of websites and social networks where people were only too ready to describe their experiences. By the time we closed our books, we had received more than 50 contributions via the Internet, compared with ten from the ADB and 16 from the Human Rights Commission, plus a few miscellaneous items.

Preliminary analysis of the findings shows that the range and depth of discriminatory practices reported by our respondents was both illuminating and distressing. Apart from the well-known preference of employers for younger recruits, there were many accounts of indirect discrimination or harassment at the workplace, of which the most common seemed to be the practice of asking older employees when they were likely to retire.

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