

1. Introduction

National Seniors is Australia's largest organisation representing the interests of those aged 50 and over, with around 200,000 individual fee-paying members nationally. This broad based support enables National Seniors to provide a well informed and representative voice on behalf of its members and contribute to public education, debate and community consultation on issues of direct relevance to older Australians.

Australia has an ageing population and faces a range of human rights challenges relating to social and economic participation, age discrimination, poverty and elder abuse.

Policy shifts are imperative to plan for future demographic changes, to combat ageism and to reframe prevalent perceptions of ageing from one of dependence and decline, to one of productivity and autonomy.

Currently, there are 3.3 million people aged 65 years and older living in Australia¹. By 2024-2025 this will increase to 4.9 million, making up 17.4 per cent of the population².

National Seniors' submission to the UPR reports on the rights of older people in Australia is based on the *Madrid International Plan of Action of Aging* and guided by the *United National Principles for Older Persons*, highlighting issues that need to be addressed.

Australia's *National Human Rights Action Plan 2012*³ articulated in detail how the Australian Government would action and progress recommendations and commitments made at the United Nations. However, a number of human rights initiatives have either been modified or revoked as a result of changes in government and tight fiscal conditions. Examples of these are in **Appendix 1**.

2. International agreements and Australia's legislative framework

2.1 International Agreements

Australia is signature to a number of international human rights agreements. However, these are not codified in Australian law. Australia lacks a comprehensive legal framework for the protection of human rights, including the rights of older people. Therefore, the rights of older people are fragmented throughout numerous agreements which are difficult to unify and fully comprehend.

Agreements such as the *Universal Declaration of Human Rights* and the *International Covenant on Economic, Social and Cultural Rights* extend rights to all persons, including the elderly. Other Conventions deal specifically with women, disability, and torture which also reference application to older persons. Unfortunately, the only instruments *specifically* concerned with older persons reflect non-binding law including the *United Nations Principles for Older Persons* and the *Madrid International Plan of Action on Ageing*.

National Seniors supports the implementation of an international Convention on the Rights of Older Persons which will assist in reshaping social processes within society and move to strengthen the rights of older persons.

¹ Commonwealth of Australia. 2015. *2015 Intergenerational Report: Australia in 2055*. P.12 Available at http://www.treasury.gov.au/~media/Treasury/Publications%20and%20Media/Publications/2015/2015%20Intergenerational%20Report/Downloads/PDF/2015_IGR.ashx

² Ibid. p.12

³ Commonwealth of Australia. 2012. *National Human Rights Action Plan 2012*. Department of the Attorney General.

2.2 Australian Law

Nationally, older Australians are protected from discrimination under the *Age Discrimination Act 2004* (the Act) and similar anti-discrimination and equal opportunity Acts in the States and Territories.

Under the Act it is against the law to treat a person unfairly because of their age in different areas of public life.

In employment terms, the Act covers situations where, due to age, a person has been: refused employment; dismissed or denied a promotion or employment benefits; given less favourable conditions, amongst others.

The Act also outlines a number of exemptions where the Act does not apply including policies that have age restrictions based on actuarial data for example, superannuation, credit and insurance.

3. National Seniors report on the rights of older Australians

3.1 Active participation within society (social)

Older Australians are at a high risk of experiencing poverty, with 14.8 per cent of people over the age of 65 living below the 50 per cent poverty line^{4 5}.

To combat social isolation, the Federal government implemented the Social Inclusion Unit in 2008. This policy approach was in line with the *Copenhagen Declaration and Programme of Action*, a key outcome of the 1995 World Summit for Social Development⁶. The Unit highlighted the value and need for human rights in a socially inclusive society.

The Unit was disbanded in September 2014. The onus has now been moved on to community organisations to fund programs to ensure that solutions to social exclusion, isolation and poverty are achieved for the most vulnerable older people in the community.

For appropriate socially inclusive programs to exist and thrive there needs to be adequate funding to the non-for-profit sector. However, in December 2014, \$270m over four years was cut by abolishing grants to the sector.

These grants were provided to the community sector to administer a broad range of vital services and support to various cohorts of society, including older Australians, to reduce poverty, prevent homelessness and support people with disabilities.

National Seniors, along with the wider community sector, have expressed concern over the withdrawal of funding. We welcome an inquiry to ***examine the impact of the loss of funding on the quality, efficiency and sustainability of supports and services for vulnerable older Australians.***

3.2 Active participation in society (economic)

3.2.1 Age barriers to participation

The social and financial difficulties experienced by the over-50s such as social isolation, poverty and inability to pay down debt are magnified by the dislocation from society that comes from unemployment and underemployment.

⁴ ACOSS. Poverty in Australia 2014. http://www.acoss.org.au/images/uploads/ACOSS_Poverty_in_Australia_2014.pdf

⁵ Poverty line used for a single adult is calculated as a proportion (50%) of median household disposable income.

⁶ UNESCO. Consultations of the Director-General with Member States. *Social Inclusion, Social Transformations, Social Innovation: What role for UNESCO in 2014-2021?* 23 November 2012.

In Australia, once unemployed, people aged 55 and over spend 73 weeks on average out of work compared to only 40 weeks for Australians aged 15-54⁷. The reasons for this are both legislative and attitudinal.

Legislative

Older Australians are estimated to contribute \$90 billion a year to the economy and community through paid employment, volunteering and care-giving roles⁸. However, Australia is losing \$16.2 billion a year from not utilising the skills and experience of older people who want to work⁹.

Age limits on superannuation¹⁰, workers compensation and income protection are a direct disincentive for older people to continue working.

Workers' compensation and income protection policies in Australia mostly cut out at age 65, and workers over 65 usually have to cover themselves in case of illness or injury. The lack of cover available creates an early reliance on retirement savings and/or the age pension (public) and acts as a 'push factor' out of paid employment.

Such age limits are inconsistent with the Government's objective of encouraging older workers to remain in the workforce. National Seniors is especially concerned about workers compensation coverage for older employees once the age of eligibility for the age pension increases to 67 by 2023. By this time, if no change is made to workers compensation age restrictions, a person aged 65 who injures themselves at work will not be able to access income coverage and will be forced to either draw down on private savings or apply for the unemployment payment, Newstart, which is paid at below the poverty line¹¹.

National Seniors supports a ***nationally consistent workers compensation scheme to protect older workers who want to, or need to, continue working beyond age 65.***

Attitudinal

The Federal government announced the mature age workers package, Restart in May 2014. This package provides a payment of \$10,000 to employers who hire a mature aged, long term unemployed person. At the same time, the government announced an increase to the age pension eligibility age from 67 years in 2023, to 70 years by 2035. This would make Australia's retirement age the highest in the world.

Uptake of Restart has been disappointing. Just over 800 job seekers so far have joined a scheme meant to benefit 32,000¹². More resources are required to ensure that the business community is aware of the scheme *and* the benefits of employing older Australians. The age pension age should not be increased without first ensuring jobs exist for older Australians.

⁷ ABS. 6291.0.55.001 2014. Labour Force, Australia.

⁸ National Seniors Productive Ageing Centre (NSPAC). 2009 - Updated 2014. *Still Putting In: Measuring the Economic and Social Contributions of Older Australians*. National Seniors Australia: Melbourne.

⁹ Updated figure from National Seniors Australia (2009) *Experience Works: The mature age employment challenge*.

¹⁰ Superannuation is Australia's compulsory retirement saving scheme. An employer must pay a minimum of 9.5% of ordinary time earnings into an employee's superannuation account.

¹¹ In Australia, the poverty line for a single person not in the workforce is \$412.23 per week. Newstart is currently paid at the rate of \$257.80 a week to a single person and at \$278.95 for a single person aged 60 or over, after nine continuous months on payment.

¹² Shields. B. January 2, 2015. *The Sydney Morning Herald*. Key Abbott government employment scheme struggles to meet target.

In January 2015, 13 per cent of jobseekers were aged over 50 and were long term unemployed¹³. Recent data shows that of all discouraged job seekers (117,200), the most commonly reported reason for not actively looking for work was 'considered too old by employers' (33%)¹⁴.

Age discrimination is a major contributor to discouragement in job seeking and has a number of downstream effects. It slows economic activity, impacts on the capacity for older people to invest, reduces the diversity in the workforce and diminishes self-esteem. The only way to reverse this trend is for everyone to be aware of ageism, and to actively ensure that it does not occur.

A growing and ageing population will compound this issue if left unaddressed and it is therefore timely that attitudinal and legislative changes occur to combat age discrimination.

National Seniors calls for *increased support for initiatives to change community attitudes to ageism*.

3.3 Income security, social security and poverty prevention

3.3.1 Age Pension (public pension)

Australia's public pension scheme, the age pension, is one of the best targeted and tightest in the OECD.

The 2009 Australian *Secure and Sustainable Pension Reform*¹⁵ is currently at risk, with proposals to change the way the pension is indexed before Parliament.

The proposed change to indexation is predicted to erode the real value of the age pension by \$80 a week within a decade. Given rising living costs, age pensioners cannot sustain a reduction in their income.

The OECD states that if the age pension is indexed by the Consumer Price Index (CPI) only (as currently proposed), it will decrease in relation to average incomes and at some point, cross socially acceptable limits of adequacy¹⁶.

National Seniors calls on the government to *maintain current age pension indexation to preserve the value of the payment and ensure that older Australians are able to access an adequate safety net in retirement*.

3.3.2 Superannuation

The average superannuation account balance at retirement for females in Australia is around \$105,000. By contrast, the average male will retire with almost double this amount, with an account balance of \$197,000¹⁷. This is well below the estimated value required per year to attain a comfortable standard of living (\$42,597 for a single and \$58,364 for a couple)¹⁸.

¹³ Department of Social Services. 2015. Labor market and related payments: January 2015. Available at https://www.dss.gov.au/sites/default/files/documents/02_2015/labour_market_and_related_payments_january_2015.pdf (long-term job seekers have received income support for 12 months or more).

¹⁴ Australian Bureau of Statistics. 2014. 6220.0 - *Persons Not in the Labour Force, Australia, September 2013*. Available at <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/6220.0Main+Features1September%202013?OpenDocument>

¹⁵ These reforms improved the adequacy of the pension system, making its operation simpler, secure and sustainable into the future.

¹⁶ OECD. 2014. *OECD, Economics Survey 2014*. <http://www.oecd.org/australia/economic-survey-australia.htm>

¹⁷ Association of Superannuation Funds of Australia (ASFA). 2014. *An update on the level and distribution of retirement savings*. Sydney: Australia

¹⁸ The Association of Superannuation Funds of Australia. 2014. *ASFA Retirement Standard – September quarter 2014*. Available at <http://www.superannuation.asn.au/resources/retirement-standard>

Moreover, 29 per cent of women over 65 are living below the poverty line¹⁹. The current 19 per cent pay gap between women and men's wages in Australia is translating into a superannuation gap of 47 per cent²⁰.

The current age restrictions on an individual's ability to contribute to superannuation constrains the growth of the balance and limits a person's ability to fund their own retirement.

In addition, age based eligibility restrictions are discriminatory, discourage older Australians from continuing in the workforce and do not reflect the need for increased labour force participation.

The removal of age based eligibility restrictions would enable older Australians to fund their own retirement, significantly reduce the burden on the age pension system and reduce experiences of poverty later in life.

Moreover, consistency in legislation would run parallel with Government moves to extend the working lives of all Australians.

National Seniors calls for ***all age-based restrictions on superannuation to be removed.***

3.4 Housing and living environments

3.4.1 Affordable Housing

The health and well-being of older Australians is intrinsically linked to their security of housing which affects and is affected by their health, employment, relationships with family and friends, and community engagement.

Among people aged 50 and older, 74 per cent own their own home, 5 per cent still have a mortgage, 10 per cent rent privately, eight percent are social housing tenants and four percent are in other tenure types²¹.

By 2026 the number of lower-income people aged 65 and over who are living in rental households is projected to far exceed the supply capacity of the public housing system. Australian government data from 2006 to 2011 shows a steady increase in the number of renters aged 55 and over in the private market²².

Housing affordability is particularly challenging for those in private rental, as rent increases well above CPI. Older renters experience significant anxiety linked to their security of rental tenure and many experience housing stress²³. The abovementioned proposals to change age pension indexation will exacerbate housing unaffordability and housing stress.

Our members regularly contact us worried about how they can afford to continue paying rent without a regular full-time wage, particularly if they have a chronic health condition for which they struggle to afford health care. Single women with low superannuation balances are vulnerable to housing stress.

National Seniors calls for an ***increase in affordable, secure and appropriate housing for older Australians that addresses a wide range of housing options and associated policy areas, including employment, health and aged care supports.***

3.5 Older persons and disabilities

3.5.1 National Disability Insurance Scheme and access to state and territory disability support schemes

Australians aged 65 and older who acquire a disability are excluded from accessing disability supports and services through the National Disability Insurance Scheme (NDIS). This means that a 65 year old who

¹⁹ Industry Super Australia. 2015. *The Gender Superannuation Gap: Without Policy Action Now, Women Will Retire With Far Less Than Men For Decades To Come*, media release 10 March, <http://www.industrysuperaustralia.com/the-gender-superannuation-gap-without-policy-action-now-women-will-retire-with-far-less-than-men-for-decades-to-come>

²⁰ Ibid.

²¹ ABS. 2009–10 *Household Income and Income Distribution*

²² AHURI 2007-'Rental housing provision for lower-income older Australians'

²³ ABS 2011- Selected households by age

suddenly acquires a severe and profound disability (such as blindness) is expected to obtain support under an ill-equipped, user-pays aged care system which is already overwhelmed by demand.

However, if a person aged up to 64 acquires a disability, they are able to continue receiving fully funded government care and support for that disability for the rest of their life.

The same age limits apply to supports and services in State and Territory schemes.

The arbitrary age limit of 65, is incongruent with the government's efforts to raise age limits in other areas such as age pension eligibility.

National Seniors believes that by excluding the over-65s from the scheme, Australia is contravening its obligations under the *United Nations' Convention of the Rights of Persons with Disabilities*.

The current aged care workforce is not trained and the sector is not funded or equipped to deliver specialised and individualised disability support and care to older people with a disability.

Experiences within the aged care sector include lengthy waiting periods for assessments (reports of longer than 3 months), community packages (45% wait longer than 3 months) or beds (30% wait longer than 3 months)²⁴, and home modifications.

National Seniors calls on the government to ***provide equal access to disability supports, regardless of age.***

3.6 Elder abuse

In Australia, apart from various compulsory reporting requirements for physical and sexual abuse in residential aged care facilities and guardianship legislation, there is no overarching legislation in place that specifically addresses elder abuse.

The *Aged Care Act 1997* states that incidents, allegations, and suspicions of unlawful sexual contact and/or unreasonable use of force should be reported to the police and the Department of Health and Ageing within 24 hours.

Policy processes are starting to become evident within the states and territories with policy frameworks that reflect a rights-based approach to elder abuse beginning to be formed and implemented.

However, such strategies are predominantly policy instruments rather than legislation.

Data indicates that between 2 and 5 per cent of Australians over the age of 65 have experienced abuse, that up to 80 per cent of perpetrators are family members of the victims, that financial and psychological abuse are the most common forms of abuse, and that women are twice as likely to be victims²⁵.

Comprehensive reviews are currently underway by the Australian Aged Care Quality Agency into two aged care facilities in Queensland where instances of abuse have been alleged to occur²⁶.

National Seniors calls for a National approach to tackling elder abuse.

²⁴ AIHW, 2014. *Residential aged care and aged care packages in the community 2012–13*. Web based report at: <http://www.aihw.gov.au/aged-care/residential-and-community-2012-13/>

²⁵ LACEY, Wendy. Neglectful to the point of cruelty? Elder abuse and the rights of older persons in Australia. *SYDNEY LAW REVIEW*; 36 (1) March 2014: 99-130

²⁶ Senator The Hon Mitch Fifield. *Action taken to protect aged care residents in Queensland*. Media release, 2 March 2015.

4. Conclusion

Overall, Australia has frameworks and legislation in place to protect the rights of older people. However, the nation still has a long way to go until the rights of older people are fully realised and addressed.

Age based discrimination continues to pervade attitudes in the community and in the workplace, impacting on social and economic participation and identity.

Age discrimination in the workplace is often covert and difficult to prove. As shown, it can lead to detrimental and lifelong outcomes for the over 50s and creates a greater reliance on the social security system later in life. This can be changed with a greater awareness of the rights of older Australians and the opportunities that ageing creates.

As discussed, the rights of older Australians are fragmented throughout various forms of international agreements, domestic legislation and frameworks and State and Territory policy instruments making it difficult for people to have an actual awareness of their rights.

The need to strengthen and reform laws and policies and undertake specific research on the experiences of older people is important if we are to raise awareness and address the rights of older Australians.

5. Appendix 1

Ageing and Human Rights Initiatives

The National Human Rights Action Plan In 2010, \$2m was allocated to human rights education under the National Human Rights Action Plan. The government announced in May 2014 that this program would cease from 1 July 2014. The outstanding \$1.8m was redirected by the Government to repair the Budget.

Human rights Commissioners In July 2014, the Government removed \$1.7m of funding from the Australian Human Rights Commission which has been spread over four years. The full time Disability Commissioner's role ended on the conclusion of the contracted period and the current Age Discrimination Commissioner now balances both disability and ageing responsibilities.

Advisory Panel on Positive Ageing

Funding for the Advisory Panel on Positive Ageing was abolished six months prior to the publication of the Panel's blueprint on ageing.

The primary functions of the Panel were to improve coordination of policy across government portfolios and produce a report to raise awareness of ageing issues in Australia.

National Seniors, in conjunction with other groups, was successful in continuing the functions of the Panel and assisted with the publication of the *Blueprint for an Ageing Australia*.