



Australian
Human Rights
Commission

Australia's response to the right of older persons to education, training, life-long learning and capacity-building

Submission to the Open-ended Working Group on Ageing

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1 Introduction

1. The Australian Human Rights Commission (the Commission) makes this submission. The Commission is an 'A status' national human rights institution established and operating in compliance with the Paris Principles. Information about the Commission can be found at: www.humanrights.gov.au
2. The submission provides an overview of Australia's rights of older persons with regard to education, training, life-long learning and capacity-building.

1.1 Rights to education, training, life-long learning and capacity-building in national legislation

3. Australia is party to seven core international human rights treaties.
4. The right to education is contained in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and four conventions.¹
5. The *Age Discrimination Act 2004* (Cth) aims to ensure that people are not treated less favourably on the ground of age in various areas of public life including education and obtaining or using services.²
6. Each state and territory has anti-discrimination or equal opportunity legislation to ensure everyone is treated equally and has the same opportunities as others.³
7. The role of Age Discrimination Commissioner, established in 2011, is currently held by the Hon Dr Kay Patterson AO.

1.2 How such a right should be defined

8. The right to education, training, life-long learning and capacity-building could be defined more specifically in existing normative frameworks with respect to age, to directly include older persons. For example, consideration of a Charter of Rights and Freedoms of Older People similar to the 2014 South Australian Charter of Rights and Freedoms of Older People⁴. The Charter includes the right for older people to participate fully in the social, economic and cultural life of their community and to life-long learning.
9. Adult education and learning are fundamental aspects of the right to education. The definition of this right should recognise the importance of education as a life-long process.

10. The definition could be framed in the context of broader rights to social, economic and cultural participation and freedom of thought and expression. This is underpinned by older persons rights to education and training enable them to participate effectively in society and to access opportunities for the full development of their potential and dignity.

2 Scope of the right

2.1 Key normative elements

11. Most of the legislation and other guidelines pertaining to education, training, life-long learning and capacity building in Australia are age-neutral with respect to older Australians. Australian legislation underpinning the normative elements of the rights of older people to education, training and life-long learning include the Age Discrimination Act 2004 (Cth)⁵.
12. Australia is party to seven core international human rights treaties. The right to education is contained in article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁶.

2.2 Availability and accessibility

13. Data about educational attainment and participation is collected by the Australian Bureau of Statistics (ABS).
14. However, education data is aligned with labour force participation of people aged 15–64 years. Therefore, data on older persons' education is not comprehensive.
15. Australia promotes the availability and accessibility to education, training, life-long learning and capacity-building for older people by, for example,
 - *Stronger Transitions Program* to support workers in industries and regions impacted by industry transformation to transition to future jobs⁷.
 - *Try, Test and Learn Fund*, tranche two, aims to assist older jobseekers develop skills and access training opportunities to re-enter the workforce⁸.

2.3 Acceptability and adaptability

16. Australia promotes the acceptability and adaptability of education and training opportunities for older people, for example,
 - *Skills Checkpoint for Older Workers* launched by the Australian Department of Employment, Skills, Small and Family Business in December 2018. The program provides eligible Australians aged 45 to 70 with individually tailored skills assessments and training referrals⁹.
 - *More Choices for a Longer Life* package, including the Career Transition Assistance program.¹⁰
17. The national peak Adult Learning Australia (ALA) is campaigning for a national life-long learning policy, including renewal of the 2008 ministerial declaration on adult and community education (ACE).¹¹ The Senate Select Committee on the Future of Work and Workers also recommended developing policies to support life-long learning.¹²
18. The needs of the ageing population are increasingly diverse. Since 1945, over 7 million people from 180 countries have migrated to Australia.¹³ Language services are among the resources older migrants require as they age and may revert to using their first language.¹⁴
19. Australian Government funded capacity-building programs, such as Skills for Education and Employment (SEE), focus on vocational skills of the working age population.¹⁵
20. State/territory governments fund community capacity-building programs targeting seniors from culturally and linguistically diverse (CALD) backgrounds.¹⁶
21. State/territory and local governments that have an 'active ageing' strategy generally promote a rights-based approach and provide capacity-building for seniors.¹⁷ State/territory government funded senior citizens centres, clubs and services also provide capacity-building in local communities.¹⁸

3 State obligations

3.1 Measures that should be taken to respect, protect and fulfil older persons' rights to education and training

22. The Australian Bureau of Statistics could collect and report on more useful data to assist in understanding and responding to issues relating to protecting and fulfilling older persons rights to education and training.

4 Special considerations

4.1 Special measures and specific considerations

23. Some measures include,
- Consultation with older persons and their representative organisations as to how these rights should be defined.
 - Evaluation of best-practice examples.
 - Review of existing normative content to identify gaps and assess strengthening existing legislation and related frameworks.
 - For example, underpinning the Vocational Educational Training (VET) sector framework, there are four key principles: accessible, flexible, public value and quality.¹⁹
24. Some specific considerations include,
- Need to assess the normative gaps in existing legislative and other frameworks in specifically outlining the rights of older persons to education, training, life-long learning and capacity building.
 - Evaluation of the complex needs of older persons in relation to the right to education and training.

4.2 Defining the responsibilities of non-State parties

25. The responsibilities of non-State parties such as the private sector should be defined in the context of the rights of older persons to education, training, life-long learning and capacity building in terms of encouraging employers to

develop and implement strategies for workplace training opportunities that do not discriminate on the basis of age, and for education and training providers to develop and implement strategies to increase the participation of older persons.

5 Implementation

5.1 Best practices

26. Education programs to counteract conscious and unconscious bias in promoting the rights of older persons to education, training, life-long learning and capacity-building.

5.2 Main challenges

27. Some main challenges Australia faces in the adoption and implementation of the normative framework on education, training, life-long learning and capacity-building for older people include,
 - Counteracting ageism in the normative frameworks for the education and training sector and their implementation.
 - Broadening the normative elements of the rights of older persons to education, training, life-long learning and capacity-building beyond being linked primarily to their labour market participation.
 - Working in partnership with stakeholders, such as the education and vocational training sector to broaden their accessibility and adaptability to better meet the education and training needs of older persons.

¹ Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Further detail is provided in articles 5(e)(v) and 7 of the Convention on the Elimination of All Forms of Racial Discrimination (CERD), articles 10 and 14(2)(d) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), articles 13, 17, 28 and 29 of the Convention on the Rights of the Child (CRC), and articles 9, 21, 24 and 26 of the Convention on the Rights of Persons with Disabilities (CRPD).

² *Age Discrimination Act 2004* (Cth)

³ State and territory acts include: *Discrimination Act 1991* (ACT); *Anti-Discrimination Act 1977* (NSW); *Anti-Discrimination Act 1996* (NT); *Anti-Discrimination Act 1991* (Qld); *Equal Opportunity Act 1984* (SA); *Anti-Discrimination Act 1998* (Tas); *Equal Opportunity Act 2010* (Vic); *Equal Opportunity Act 1984* (WA)

⁴ For more information see:

<https://www.sahealth.sa.gov.au/wps/wcm/connect/19cd56804a1e19c389dbe990d529bdaa/South+Australian+Charter+of+Rights+and+Freedomsof+Older+People.pdf?MOD=AJPERES&CACHEID=ROO+WORKSPACE-19cd56804a1e19c389dbe990d529bdaa-mMA2p02> (viewed 23 October 2019).

⁵ *Age Discrimination Act 2004*.

⁶ For more information see: <https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-scrutiny/PublicSectorGuidanceSheets/Pages/Righttoeducation.aspx> (viewed 23 October 2019).

⁷ For more information see:

https://www.infrastructure.gov.au/departments/statements/2019_2020/ministerial-statement/jobs-small-business.aspx (viewed 15 October 2019).

⁸ For more information see: <https://www.dss.gov.au/review-of-australias-welfare-system-australian-priority-investment-approach-to-welfare-ttl-fund-tranche-two/next-steps> (viewed 15 October 2019).

⁹ For more information see: <https://www.employment.gov.au/skillscheckpointprogram> (viewed 15 October 2019).

¹⁰ *Age Discrimination Act 2004* (Cth)

¹¹ Adult Learning Australia, *Our Policy Platform*, 2019. At <https://ala.asn.au/our-partners/policy/> (viewed 16 October 2019).

¹² The Senate Select Committee on the Future of Work and Workers, *Hope is not a strategy: Our shared responsibility for the future of work and workers report*, 19 September 2018. At https://www.aph.gov.au/~media/Committees/future_of_work_and_workers_ctte/report.pdf?la=en (viewed 16 October 2019).

¹³ Australian Bureau of Statistics, Cultural Diversity in Australia in Cat no 2071.0 *Census of population and housing: Reflecting Australia – Stories from the Census*, 2016. At <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Cultural%20Diversity%20Data%20Summary~30> (viewed 17 October 2019).

¹⁴ Federation of Ethnic Communities' Council of Australia (FECCA), *Australia's Growing Linguistic Diversity: An opportunity for a strategic approach to language services policy and practice*, 2016, 6. At <http://fecca.org.au/wp-content/uploads/2016/09/feccalanguagesreport.pdf> (viewed 17 October 2019).

¹⁵ For example: The Skills for Education and Employment (SEE) program provides 650 free hours of literacy, numeracy and language training to job seekers aged 15-64 who are registered with government employment services. Note the SEE program hours dropped from 800 to 650 hours on 1 July 2018. Department of Education and Training, *Skills for Education and Employment*, 30 June 2018. At <https://www.employment.gov.au/skills-education-and-employment> (viewed 17 October 2019).

¹⁶ For example: Victorian Multicultural Commission, *Capacity Building and Participation Program*, 2018. At <https://www.multicultural.vic.gov.au/grants/apply-for-a-grant/capacity-building-and-participation-program> (viewed 17 October 2019).

¹⁷ For example: Local Government Association of South Australia, *Ageing Strategy 2016-2021*, 2015. At <https://www.lga.sa.gov.au/webdata/resources/files/LGA%20Ageing%20Strategy%202016-2021-1.pdf> (viewed 17 October 2019).

¹⁸ For example: Seniors Rights Victoria, *Our Services*. At <https://seniorsrights.org.au/our-services/> (viewed 17 October 2019).

¹⁹ Department of Education and Training, NCVET, *The development of Australia's national training system: a dynamic tension between consistency and flexibility*, 2016. At

https://www.google.com/search?hl=en&ei=UKyvXZPrLtfc9QPevoalBQ&q=four+principles+vocationa+l+education+and+training+sector+accessible+flexible&oq=four+principles+vocational+education+and+training+sector+accessible+flexible&gs_l=psy-ab.3...37410.47985..48194...6.2..0.255.4439.0j21j5.....0....1..gws-wiz.....0i71j33i22i29i30j33i160j33i21j33i10.slbHUC1Cn68&ved=0ahUKEwiT0834nLHIAhVXbn0KHV6fAVEQ4dUDCAs&uact=5 (viewed 23 October 2019).