

# Australia's protection of older persons for education, capacitybuilding and social security

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ABN 47 996 232 602 Level 3, 175 Pitt Street, Sydney NSW 2000 GPO Box 5218, Sydney NSW 2001 General enquiries 1300 369 711 National Information Service 1300 656 419 TTY 1800 620 241

Australian Human Rights Commission www.humanrights.gov.au

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## 1 Introduction

- 1. The Australian Human Rights Commission makes this submission. The Commission is an 'A status' national human rights institution established and operating in full compliance with the Paris Principles. Information about the Commission can be found at: <u>www.humanrights.gov.au</u>.
- 2. The submission provides an overview of Australia's protection of older persons with regard to education, training, life-long learning and capacity-building as well as social protection and social security (including social protection floors).
- 3. Australian life expectancies overall are high. However, there is a ten-year gap between Indigenous and non-Indigenous life expectancy at birth.<sup>1</sup> The 2016 Census reports 4.8% of Aboriginal and Torres Strait Islander people are aged 65 and over, compared to 15.9% of non-Indigenous people.<sup>2</sup> This submission responds to issues for non-Indigenous seniors aged 65 years and over and Indigenous peoples aged 50 years and over.

#### 1.1 Rights to education and social security

- 4. Australia is a party to seven core international human rights treaties.
- 5. The right to education is contained in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and four Conventions.<sup>3</sup>
- 6. The right to social security is contained in Article 9 of ICESCR and four Conventions.<sup>4</sup>
- 7. The UN Committee on Economic Social and Cultural Rights has expressed concern about disparities accessing education for Indigenous peoples and the deficient quality of education in remote areas.<sup>5</sup>
- 8. The Committee has stated that particular care should be taken to ensure vulnerable people are not directly or indirectly excluded from access to social security through inadequate access to information.<sup>6</sup>

#### 1.2 Equality and non-discrimination

9. Over more than three decades the Australian Government and state and territory governments have introduced laws to help protect people from discrimination and harassment.

- 10. 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 getting or using services.<sup>7</sup>
- 11. Each state and territory has an anti-discrimination or equal opportunity act to ensure everyone is treated equally and has the same opportunities as others.<sup>8</sup>
- 12. The role of Age Discrimination Commissioner, established in 2011, is currently held by the Hon Dr Kay Patterson AO.

#### 1.3 Accountability mechanisms

- 13. Robust accountability mechanisms are in place.
- 14. Complaints about education can be made directly to the service provider and escalated to an independent organisation at state/territory or national level, such as an administrative tribunal, ombudsman or human rights commission.
- 15. Applications for review of a range of decisions made under social security laws may be made to the Administrative Appeals Tribunal (AAT) or Commonwealth Ombudsman.<sup>9</sup>
- 16. Legal advice for social security matters can be provided by a Welfare Rights Centre, Legal Aid Commission, Law Society, or Community Law Centre in states and territories.
- 17. There are a number of parliamentary scrutiny process, through Committees including the Senate Standing Committee on Regulations and Ordinances, the Senate Standing Committee for the Scrutiny of Bills and the Parliamentary Joint Committee on Human Rights. These assess delegated legislation against sets of scrutiny principles that focus on compliance with statutory requirements, the protection of individual rights and liberties, principles of parliamentary oversight and compatibility with international human rights instruments.<sup>10</sup>

# 2 Education, training, life-long learning and capacity-building

#### 2.1 Reviews of education

- 18. Reviews of formal education focus on youth access and preparation for workforce entry, including:
  - Seven reviews of the university sector from 1988 to 2014.<sup>11</sup>
  - Three independent reviews of Australian schooling in 2018.<sup>12</sup>
  - An Independent Review into Regional, Rural and Remote (RRR) Education in 2018.<sup>13</sup>
  - A review of the vocational education and training (VET) sector due in early 2019.<sup>14</sup>
  - A review of the Australian Qualifications Framework (AQF) due by September 2019.<sup>15</sup>
- 19. Consultation for the AQF Review found around 70% of students who seek credit are mature-aged and studying part-time and online, but access is unclear and provision uneven.<sup>16</sup>

#### 2.2 Availability and accessibility of education and training

- 20. Data about educational attainment and participation is collected by the Australian Bureau of Statistics (ABS).
- 21. However, education data is aligned with labour force participation of people aged 15–64 years. Therefore, data on seniors' education is patchy.
- (a) Literacy
- 22. Seniors have relatively low literacy: two in three men and three in four women aged 65–74 have difficulty with everyday tasks, such as completing forms or reading prescriptions.<sup>17</sup>
- 23. Literacy among Indigenous peoples is notably low: more than 40% of Aboriginal adults have low/no English literacy. In remote areas illiteracy is as high as 70%.<sup>18</sup> This hinders progress towards reducing disadvantage measured by Closing the Gap targets.<sup>19</sup>

- 24. Aboriginal-led non-profit organisations the Lowitja Institute and Literacy for Life Foundation have used the 'Yo Si Puedo' (Yes I Can) Cuban literacy education method since 2012. By 2017 more than 120 students had graduated in seven rural NSW communities, with graduation rates five times higher than existing programs.<sup>20</sup>
- (b) Non-school qualifications
- 25. There is a gender gap in formal educational attainment that increases with age: two in three men (60.7%) and half (48.7%) women aged 60–64 hold non-school qualifications, while almost half (47.3%) of men and one in five (22.4%) women aged 75 and over do.<sup>21</sup>
- 26. The economic accessibility of education for seniors and people from low socio-economic status (SES) is impacted by domestic tuition fees for non-school education.<sup>22</sup>
- (c) ICT training
- 27. Three in ten seniors are highly digitally literate.<sup>23</sup> The Australian Government developed the Be Connected website and community network to increase seniors' use of the internet and everyday technology.<sup>24</sup>
- 28. The physical accessibility of education in regional, rural and remote (RRR) locations is lacking and could be improved by prioritising the availability, accessibility and affordability of ICT.<sup>25</sup>

#### 2.3 Life-long learning

- 29. In recent years fewer seniors are participating in life-long learning: around one in four (26.2%) people aged 55–64 and around one in ten (10.9%) aged 65–74 engaged in formal and/or non-formal learning.<sup>26</sup>
- 30. The largest provider is the University of the Third Age (U3A), a membership based volunteer organisation that offers non-accredited courses to more than 100,000 members aged 50 and over at around 300 locations.<sup>27</sup>
- 31. 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).<sup>28</sup> The Senate Select Committee on the Future of Work and Workers also recommended developing policies to support life-long learning.<sup>29</sup>

#### 2.4 Capacity-building

- 32. The needs of the ageing population are increasingly diverse. Since 1945 over 7 million people from 180 countries have migrated to Australia.<sup>30</sup> Language services are among the resources older migrants require as they age and may revert to using their first language.<sup>31</sup>
- 33. Australian Government funded capacity-building programs, such as Skills for Education and Employment (SEE), focus on vocational skills of the working age population.<sup>32</sup>
- 34. State/territory governments fund community capacity-building programs targeting seniors from culturally and linguistically diverse (CALD) backgrounds.<sup>33</sup>
- 35. State/territory and local governments that have an 'active ageing' strategy generally promote a rights-based approach and provide capacity-building for seniors.<sup>34</sup> State/territory government funded senior citizens centres, clubs and services also provide capacity-building in local communities.<sup>35</sup>

## 3 Social protection and social security (including social protection floors)

#### 3.1 Legislative foundation

- 36. A number of existing laws are relevant to the realisation of the right to social security for seniors.
  - The *Social Security Act* 1991(Cth) and the *Social Security (Administration) Act* 1999 (Cth) govern entitlement to and administration of a number of benefits, including the age pension.
  - The *Health Insurance Act 1973* (Cth) underpins Medicare, Australia's universal health insurance scheme.
  - The *National Health Act 1953* (Cth) makes provision for pharmaceutical, sickness and hospital benefits, and for medical and dental services.
  - The *Aged Care Act 1997* (Cth) facilitates access to aged care services based on need.

• The *Veterans' Entitlements Act 1986* (Cth) provides for the payment of disability and survivor pensions, other benefits, and provision of treatment and counselling services to veterans and their dependents.

#### 3.2 Unique retirement income system

- 37. Australia has a unique three-pillar retirement income system comprising:
  - A means-tested government age pension that provides a minimum standard of living based on residency and need. It is a safety net for people without savings and a supplement for those with insufficient savings. The pension is paid from consolidated revenue and is not prefunded. It is calculated on the assumption that both retired singles and couples own their home outright.
  - Compulsory saving through the Superannuation Guarantee (SG) that applies to all employment income. Currently set at 9.5% of wages, the SG is legislated to increase gradually to 12% by July 2025. Most employees have the right to nominate their own choice of superannuation fund.
  - Voluntary contributions made to superannuation funds with various tax concessions.<sup>36</sup>
- 38. An unofficial fourth pillar of retirement income exists through access to home ownership and other non-superannuation assets.

#### 3.3 Availability and accessibility of retirement income

- (a) Government income support
- 39. Two in three people aged 65 and over receive the age pension, with twothirds (62%) on full-rate and a third (38%) on part-rate.<sup>37</sup>
- 40. The age pension is supplemented by payments such as Carer Allowance, Commonwealth Rent Assistance, Energy Supplement, Pension Supplement, and Work Bonus.<sup>38</sup>
- 41. Veterans receive alternative old-age payments.<sup>39</sup>
- 42. Seniors holding a Pensioner Concession Card or Commonwealth Seniors Health Card are entitled to access subsidised health care and medicines.<sup>40</sup>
- 43. Each state and territory has a Seniors Card scheme for transport concessions and discounts on selected goods and services.<sup>41</sup>

- (b) Superannuation
- 44. Seventy percent of retirees have superannuation.<sup>42</sup>
- 45. However, there is a significant gender superannuation gap. The mean balance for women is \$230,907 and men is \$454,221. The median balance for women is \$110,952 and men is \$325,200.<sup>43</sup>
- 46. Superannuation savings of Indigenous peoples are low, reflecting employment disparity.
- 47. The 2018 Banking Royal Commission found that Indigenous peoples in remote communities do not have sufficient information about superannuation. Access is further complicated by issues of formal identity documents, low English proficiency, low ICT skills, and distribution of insurance payments in extended families.<sup>44</sup>
- 48. Added complexities around early death and disability, a lack of information about superannuation, and financial literacy and planning result in the position of Aboriginal and Torres Strait Islander women being 'the worst of any group in the country'.<sup>45</sup>

#### 3.4 Adequacy of retirement income

- 49. Policy reform of retirement income arrangements responds to three major reviews:
  - 2009 Hamer Pension Review<sup>46</sup>
  - 2009 Henry Tax Review<sup>47</sup>
  - 2010 Cooper Superannuation Review.<sup>48</sup>
- 50. Policy responses include:
  - Increase of the age pension rate by \$30 per week
  - in 2009
  - Phased increase of the qualifying age for the age pension from 65 to 67 by 1 January 2024
  - Phased increase in the Superannuation Guarantee rate from 9% to 12% by 2025/26
  - Removal of same-sex discrimination from Acts governing Commonwealth superannuation schemes.<sup>49</sup>

- 51. The 2009 pension increase significantly reduced poverty in households relying mainly on the age pension in 2018 to 15%. This is well below its rate in 2005 (19%) and in 2007 (27%).<sup>50</sup>
- 52. However, the critical factor that determines whether seniors are poor is their housing status: 43% of tenants aged 65 and over are in poverty, compared with 12% of all older people.<sup>51</sup>
- 53. The 2016 Senate Inquiry into Economic Security for Women in Retirement recommended an urgent review of Commonwealth Rent Assistance.<sup>52</sup> The government response noted these recommendations.<sup>53</sup>
- 54. The Age Discrimination Commissioner the Hon Dr Kay Patterson AO has identified a portfolio priority to redress older women's risk of homelessness.<sup>54</sup>

#### 3.5 Adequate and affordable health care

- 55. Medicare, Australia's universal health insurance scheme, guarantees free treatment in public hospitals and provides subsidies for out-of-hospital medical services, excluding dental, some allied health, and ambulance services.<sup>55</sup>
- 56. The Pharmaceutical Benefits Scheme subsidises the cost of a wide range of pharmaceutical medicines.<sup>56</sup>
- 57. The National Immunisation Program provides free vaccines for influenza, herpes zoster and Pneumococcal disease to people aged 65 and over. National cancer screening programs provide free screenings for breast cancer, bowel cancer and cervical cancer to people aged 50–74.<sup>57</sup>

#### 3.6 Adequate and affordable services for independent living

- 58. The Australian aged care system is underpinned by a philosophy of supporting people to age in place and remain part of their communities for as long as possible.
- 59. Three main services provide options for a continuum of care: Commonwealth home support, home care packages and residential care.<sup>58</sup> Supply of residential and home care is capped and demand for home care packages currently exceeds supply.<sup>59</sup>
- 60. The National Aboriginal and Torres Strait Islander Flexible Aged Care Program assists Indigenous peoples aged 50 and over to remain in their communities.<sup>60</sup>

- 61. Veterans' Home Care (VHC) assists eligible veterans and war widows/widowers to continue living independently at home.<sup>61</sup>
- 62. A range of subsidies and allowances help seniors with transport.<sup>62</sup> In addition to government meals assistance and diet services, non-profit organisations provide meals to seniors in their homes.<sup>63</sup>

- <sup>7</sup> Age Discrimination Act 2004 (Cth)
- <sup>8</sup> 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)
- <sup>9</sup> Attorney-General's Department, *Right to Social Security*, 2019. At <u>https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-</u> <u>scrutiny/PublicSectorGuidanceSheets/Pages/Righttosocialsecurity.aspx</u> (viewed 14 January 2019).
- <sup>10</sup> Information about the Senate Standing Committee on Regulations and Ordinances is at <u>https://www.aph.gov.au/Parliamentary\_Business/Committees/Senate/Regulations\_and\_Ordinances</u> (viewed 11 January 2019).

<sup>&</sup>lt;sup>1</sup> Australian Institute of Health and Welfare, *Deaths in Australia*, 2018. At <u>https://www.aihw.gov.au/reports/life-expectancy-death/deaths-in-australia/contents/life-expectancy</u> (viewed 11 January 2019).

 <sup>&</sup>lt;sup>2</sup> Australian Bureau of Statistics, Aboriginal and Torres Strait Islander Population in Cat no. 2071.0
*Census of Population and Housing: Reflecting Australia – Stories from the Census, 2016*, 28 July 2017. At

http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Featur es~Aboriginal%20and%20Torres%20Strait%20Islander%20Population%20Data%20Summary~10 (viewed 11 January 2019).

<sup>&</sup>lt;sup>3</sup> 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).

<sup>&</sup>lt;sup>4</sup> Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Further detail is provided in article 5(e)(iv) of the Convention on the Elimination of All Forms of Racial Discrimination (CERD), articles 11(1)(e) and 14(2)(c) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), article 26 of the Convention on the Rights of the Child (CRC), and article 28 of the Convention on the Rights of people with disability (CRPD).

<sup>&</sup>lt;sup>5</sup> Attorney-General's Department, *Right to Education*, 2019. At <u>https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-</u> <u>scrutiny/PublicSectorGuidanceSheets/Pages/Righttoeducation.aspx</u> (viewed 11 January 2019).

<sup>&</sup>lt;sup>6</sup> Attorney-General's Department, *Right to Social Security*, 2019. At <u>https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-</u> <u>scrutiny/PublicSectorGuidanceSheets/Pages/Righttosocialsecurity.aspx</u> (viewed 11 January 2019).

Information about the Senate Standing Committee for the Scrutiny of Bills is at <u>https://www.aph.gov.au/Parliamentary\_Business/Committees/Senate/Scrutiny\_of\_Bills</u> (viewed 31 January 2019).

Information about the Parliamentary Joint Committee on Human Rights is at <u>https://www.aph.gov.au/Parliamentary\_Business/Committees/Joint/Human\_Rights</u> (viewed 31 January 2019).

<sup>11</sup> Department of Education and Training, *Higher Education in Australia: A Review of Review from Dawkins to today*, 2015. At

<u>https://docs.education.gov.au/system/files/doc/other/higher\_education\_in\_australia\_</u> <u>a review of\_reviews.pdf</u> (viewed 11 January 2019).

- <sup>12</sup> David Gonski, *Through Growth to Achievement: Report of the Review to Achieve Educational Excellence in Australian Schools*, March 2018. At <a href="https://docs.education.gov.au/system/files/doc/other/662684">https://docs.education.gov.au/system/files/doc/other/662684</a> tgta accessible final 0.pdf (viewed 11 January 2019); Education Services Australia, *Optimising STEM Industry-School Partnerships: Inspiring Australia's Next Generation Final Report*, April 2018. At <a href="http://www.educationcouncil.edu.au/site/DefaultSite/filesystem/documents/Reports%20and%2">http://www.educationcouncil.edu.au/site/DefaultSite/filesystem/documents/Reports%20and%2</a> Opublications/Publications/Optimising%20STEM%20Industry-School%20Partnerships%20-</a> %20Final%20Report.pdf (viewed 11 January 2019); John Halsey, *Independent Review into Regional, Rural and Remote Education Final Report*, January 2018. At <a href="https://docs.education.gov.au/system/files/doc/other/01218\_independent\_review\_accessible.pd">https://docs.education.gov.au/system/files/doc/other/01218\_independent\_review\_accessible.pd</a> f (viewed 11 January 2019).
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- <sup>15</sup> Department of Education and Training, Australian Qualifications Framework Review, 18 December 2018. At <u>https://www.education.gov.au/australian-qualifications-framework-review-0</u> (viewed 11 January 2019).
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- <sup>17</sup> Australian Bureau of Statistics, Cat no. 4228.0 Programme for the International Assessment of Adult Competencies, Australia, 2011-2012 (data cubes). At <u>http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4228.02011-2012?OpenDocument</u> (viewed 11 January 2019).
- <sup>18</sup> Professor Jack Beetson, executive director, *Literacy for Life Foundation*. At <u>https://www.lflf.org.au/</u> (viewed 10 January 2019).
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- <sup>20</sup> The Lowitja Institute, Aboriginal Adult Literacy Campaign, 2017. At <u>https://www.lowitja.org.au/aboriginal-adult-literacy-campaign</u> (viewed 10 January 2019).
- <sup>21</sup> Australian Bureau of Statistics, Educational Qualifications 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%20Featur es~Educational%20Qualifications%20Data%20Summary%20~65 (viewed 11 January 2019).

- <sup>22</sup> Good Education Group, Funding your education in *The Good Universities Guide*, 2019. At <a href="https://www.gooduniversitiesguide.com.au/study-information/funding-your-education">https://www.gooduniversitiesguide.com.au/study-information/funding-your-education</a> (viewed 11 January 2019).
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- <sup>24</sup> Office of the eSafety Commissioner, *BeConnected: Every Australian Online*, 2018. At https://beconnected.esafety.gov.au/ (viewed 11 January 2019).
- <sup>25</sup> John Halsey, *Independent Review into Regional, Rural and Remote Education, Final Report*, January 2018. At

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- <sup>26</sup> Australian Bureau of Statistics, Cat no 4234.0 Work-related training and adult learning, Australia, 2016-17. At <u>http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4234.0Main+Features12016-17?OpenDocument</u> (viewed 11 January 2019).
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- <sup>28</sup> Adult Learning Australia, *Our Policy Platform*, 2019. At <u>https://ala.asn.au/our-partners/policy/</u> (viewed 11 January 2019).
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