



Community Legal Centres
Australia

OPEN-ENDED WORKING GROUP FOR THE PURPOSE OF STRENGTHENING THE PROTECTION OF HUMAN RIGHTS OF OLDER PERSONS

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INPUT ON SUBSTANTIVE ISSUES OF ECONOMIC SECURITY AND SUSTAINABLE DEVELOPMENT BY COMMUNITY LEGAL CENTRES AUSTRALIA

ABOUT COMMUNITY LEGAL CENTRES AUSTRALIA

Community Legal Centres Australia¹ is the national peak body for 170 community legal centres (CLCs) in Australia. Community Legal Centres Australia has ECOSOC Special Consultative Status. Community Legal Centres Australia has been engaged with the OEWGA since the 4th session. Community legal centres are not-for-profit, community-based organisations that provide legal assistance and community development services to their local or special interest communities. Many CLCs provide assistance to older persons, and some specialise in assisting older persons with elder rights-specific issues including elder abuse, financial exploitation, social protection including social security, aged care, and accommodation, decision-making and guardianship. Centres have formed an Older Persons Legal Services Network (OPLS) of Community Legal Centres Australia.

RESPONSE TO GUIDING QUESTIONS

Introductory Comments on Sustainable Development and Economic Security

Australia's current SDG rank is 35/165 according to reports.² An area for attention is Australia's progress on SDG 10 through the indicator of *older persons' poverty rate*, which in 2018 was 23.7 having fallen from 33.5 in 2012.³ This value indicates Australia has significant challenges ahead. Additionally, under SDG 1 through the indicator *poverty rate after taxes and transfers*, which in 2018 was 12.40 having fallen from 14.0 in 2012.⁴

Further Australia's policy efforts reveal a lack of direct reporting against the SDGs in several key areas including national budget and covid-19 recovery.⁵ Australia's national dashboard reporting on the goals and indicators,⁶ lacks substantial data on older persons' engagement with sustainable development engagement or economic security.

The Australian Institute of Health and Welfare (AIHW) reported that:

- As of June 2021, 2.8 million people aged 65 and over received an income support payment, equating to 2 in 3 (67%) of the population aged 65 and over.⁷

¹ Formerly National Association of Community Legal Centres, Australia

² <https://dashboards.sdindex.org/profiles/australia>

³ <https://dashboards.sdindex.org/profiles/australia/indicators>

⁴ <https://dashboards.sdindex.org/profiles/australia/indicators>

⁵ <https://dashboards.sdindex.org/profiles/australia/policy-efforts>

⁶ <https://www.sdgdata.gov.au/>

⁷ <https://www.aihw.gov.au/reports/older-people/older-australians/contents/income-and-finances>

- 36% of retired women relied on their partner's income to meet their living costs at retirement (compared with 7% of retired men).⁸
- Poverty rates for single older women remained highest of all family types, at 34%.⁹

The Australian Council for Social Service (ACOSS)¹⁰ Report on Inequality in Australia 2020 - Part 2: Who is affected and why¹¹ noted:

- Recipients of other payments such as age pensions were also likely to be in the lowest 20% of incomes around the country, and those older people who rent their homes were likely to be in the lowest 10% income group.¹²
- Older people and children were more likely to be found in low-income households: Two-thirds (66%) of people aged 65 years and over, and 45% of children under 15 years, were in the lowest 40% by income.¹³
- While older persons had the highest rate of home ownership, the rate of home ownership is likely to diminish among future generations of older people.¹⁴

A recent, significant study on homelessness in Australia¹⁵ noted:

- There are limitations in the extent to which older people experiencing homelessness and who need specialised residential care can access that care across Australia given that there are significant gaps in availability in many areas. Additionally, as with other parts of the social support system, access to the Commonwealth Home Support Programme and home care packages are much easier when in permanent housing rather than in temporary and marginal housing. Older people experiencing homelessness in such an environment are more likely than not to fall through the gaps.¹⁶
- Homelessness in older age shared the same drivers as adulthood but also included the absence of retirement savings or wealth.¹⁷ That is older people are at greater risk of homelessness if they don't own a home and have low superannuation.¹⁸
- While the rate was rising, specialist services for older homeless persons was lower at 9.6 per 10,000 compared with all clients at 114.5 per 10,000.¹⁹

Further, the Australian Productivity Commission's Report on Wealth Transfers²⁰ reported that despite a doubling of the quantum of wealth transfers, they continue to increase absolute wealth inequality in Australia.²¹

FOCUS AREA 1: CONTRIBUTION OF OLDER PERSONS TO SUSTAINABLE DEVELOPMENT

The Scope:

⁸ Ibid.

⁹ See also Dawson, E., et al. (2020). *Measure for measure: gender equality in Australia*, Per Capita.

¹⁰ Community Legal Centres Australia is a national member of ACOSS

¹¹ Davidson P; Bradbury B; Wong M & B; Hill P (2020) *Inequality in Australia, 2020 Part 2: Who is affected and why* Australian Council of Social Service (ACOSS) and UNSW (Sydney).

¹² Ibid, page 7.

¹³ Ibid, page 23.

¹⁴ Ibid, page 47.

¹⁵ Flatau, P, Lester, L, Seivwright, A, Teal, R, Dobrovic, J, Vallesi, S, Hartley, C and Callis, Z (2021) *Ending homelessness in Australia: An evidence and policy deep dive*. Perth: Centre for Social Impact, The University of Western Australia and the University of New South Wales DOI: 1025916/ntba-f006

¹⁶ Ibid, pages 196-197.

¹⁷ Ibid, pages 11-13.

¹⁸ Ibid, page 182.

¹⁹ Ibid, page 32.

²⁰ Productivity Commission 2021, *Wealth transfers and their economic effects*, Research paper, Canberra.

²¹ Ibid, pages 5-6.

Substantive guiding questions:

National Legal and Policy Framework

1. What are the legal provisions, policy frameworks in your country that recognize older persons' right to participate in and contribute to sustainable development? This could include, but is not limited to:
 - (a) ensuring that relevant human rights (in particular the right to freedom of opinion and expression, the right of access to information, and the rights to freedom of peaceful assembly and of association) are protected and implemented.

Response:

Australia has no national human rights laws that guarantee the rights to freedom of expression, opinion, peaceful assembly, and association. Three Australian provincial jurisdictions have human rights laws that provide guarantees of a relatively consistent kind.²² Implied constitutional protections do provide limited safeguards protecting political speech. Australian civil society continues to call for a national human rights framework.²³

- (b) protecting and enhancing civic space and collaboration with civil society that represents the voices of older persons in sustainable development.

Response:

Australia does not have specific national laws or policies of this kind.

- (c) good practices to ensure older persons' participation in, and contribution to sustainable development.

Response:

Australia does not have specific national practices of this kind. Arguably, older Australians are not supported in the development of sustainable habitat even for themselves. By way of example, as most older Australians prefer to age-in-place, providing sustainable and age-friendly communities poses a significant challenge to urban policymakers. Naturally occurring retirement communities (NORCs) have organically emerged as a collaborative model of care to support older adults to age-in-place, but neither academic research nor government policies recognise this housing option for older Australians.²⁴ Older Australians are not actively engaged in planning for their own habitat or sustainable futures.

2. What are the challenges faced by older persons for the realization of their right to contribute to sustainable development at national and international levels?

Response:

The absence of dedicated, formal processes to contribute to sustainable development at national level.

²² Australian Capital Territory, Victoria and Queensland.

²³ See for example the Law Council of Australia: <https://www.lawcouncil.asn.au/policy-agenda/human-rights/protecting-and-promoting-human-rights-in-australia>;

²⁴ Jiaxuan E & Bo Xia & Laurie Buys & Tan Yigitcanlar, 2021. "*Sustainable Urban Development for Older Australians: Understanding the Formation of Naturally Occurring Retirement Communities in the Greater Brisbane Region*," *Sustainability*, MDPI, vol. 13(17), pages 1-12, September.

3. What data, statistics and research are available regarding older persons' contribution to sustainable development?

Response:

We are not aware of Australian data, statistics and research are available regarding older persons' contribution to sustainable development

Equality and non-discrimination

4. What measures are being taken to eliminate ageism, ageist stereotypes, prejudices and behaviors that devalue older persons' contribution to sustainable development?

Response:

Australia does not have a National Plan or Strategy on Ageism. The Australian Human Rights Commission and Australia's Age Discrimination Commissioner have conducted significant work on ageism including the recent report: "What's age got to do with it? A snapshot of ageism across the Australian lifespan 2021".²⁵

Among the report's key finding was that "Most Australians (74%) have a positive overall attitude to older people, viewing them as nice, likeable, warm, and good listeners. However, Australians also considered older people to have declining skills, agency, and vitality, and to lack competence in many areas, such as with technology or professionally. Their lack of association with meaningful life roles means they are regarded as onlookers, rather than active participants in society, including in the workplace. Many Australians view older adults as retired and therefore slowing down and enjoying leisure time yet limited by frailty and ill health."²⁶

The report recommended several measures, including the need for increased research focus on ageism, and to identify develop and implement strategies that counter ageism across age groups and support intergenerational cohesion. Ways forward included:

- Reducing ageism and age discrimination
- Policies and laws to reduce ageism
- Education and intergenerational initiatives
- Specific areas for further research
- Starting conversations about ageism.²⁷

Remedies and Redress

5. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to participate in and contribute to sustainable development?

Response:

Australia does not have specific national practices of this kind. Complaints might be made to the Australian Human Rights Commission based on age discrimination under the *Age Discrimination Act 2004* in respect of administration of Commonwealth laws and programs.

²⁵ <https://humanrights.gov.au/our-work/age-discrimination/publications/whats-age-got-to-it-2021>

²⁶ Ibid, page, 15.

²⁷ Ibid, pages 220-223.

FOCUS AREA 2: ECONOMIC SECURITY

National legal and policy framework

1. What are the legal provisions and policy frameworks in your country that guarantees the minimum essential level of the enjoyment of economic, social, and cultural rights, in particular the right to an adequate standard of living?

Response:

Australia has no national human rights laws that guarantees the minimum essential level of the enjoyment of economic, social, and cultural rights, in particular the right to an adequate standard of living

2. How is poverty defined in the national policy framework?

Response:

Australia has no national plan or strategy to reduce poverty.

The Australian Council of Social Service (ACOSS) reports, “Australia has the 16th highest poverty rate out of the 34 wealthiest countries in the OECD – higher than the average for the OECD; higher than the UK, Germany and New Zealand.”²⁸ There have been several significant civil society reports on Poverty in Australia.²⁹ Poverty in Australia 2020: Part 1, Overview found that there are 3.24 million people (13.6%) living below the poverty line of 50% of median income.³⁰

ACOSS uses two international poverty lines to measure poverty in Australia. These lines are set as a proportion of median income, and define a level of income, below which people are regarded as living in poverty. We use two poverty lines – 50% of median income and 60% of median income, whereby people living below these incomes are regarded as living in poverty. ACOSS also consider the costs of housing when calculating income – referring to income before or after housing costs are considered. They mostly use ‘after housing costs’, because housing is the largest fixed costs for most households. Those households with lower housing costs can afford a higher standard of living than those on the same income with higher housing costs.

3. What are challenges faced by older persons living in poverty, including the impact of intersectional discrimination and inequality based on age, gender, and other grounds?

Response:

Intersecting factors include gender, employment status, disability, country of birth, housing tenure, location indigenous status.³¹

4. What data, statistics and research are available regarding older persons living in poverty?

²⁸ <https://povertyandinequality.acoss.org.au/poverty/>

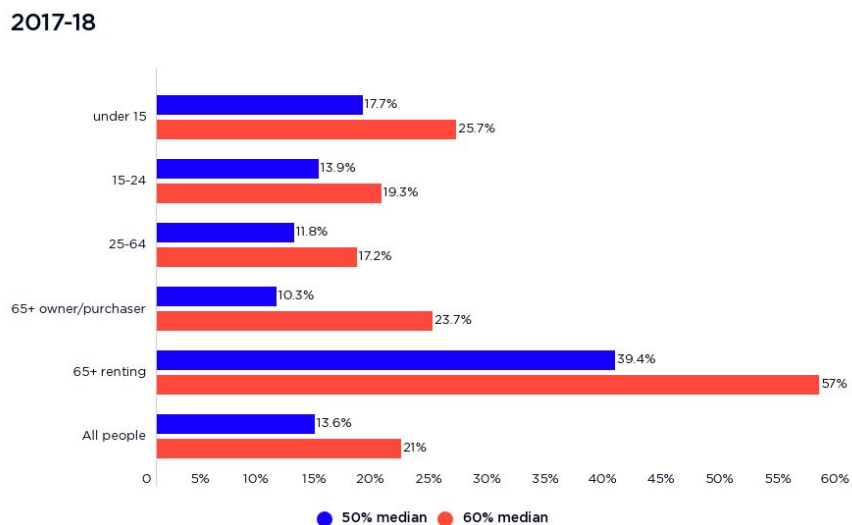
²⁹ Davidson, P., Saunders, P., Bradbury, B. and Wong, M. (2020), Poverty in Australia 2020: Part 1, Overview. ACOSS/UNSW Poverty and Inequality Partnership Report No. 3, Sydney: ACOSS; Davidson, P., Bradbury, B., and Wong, M. (2020), Poverty in Australia 2020: Part 2, Who is affected? ACOSS/UNSW Poverty and Inequality Partnership Report No. 4, Sydney: ACOSS; Randolph, B., Liu, E., And Bradbury, B. (2021) Poverty, Property and Place A Geographic Analysis of Poverty After Housing Costs In Australia A Report for the ACOSS-UNSW Poverty and Inequality Partnership by the City Futures Research Centre and the Social Policy Research Centre at UNSW.

³⁰ <https://povertyandinequality.acoss.org.au/poverty/>

³¹ See Davidson, P., Bradbury, B., and Wong, M. (2020), Poverty in Australia 2020: Part 2, Who is affected? ACOSS/UNSW Poverty and Inequality Partnership Report No. 4, Sydney: ACOSS.

Response:

ACOSS provides an online resource about poverty in Australia from which various reports, profiles and data can be extracted. For example, ACOSS Poverty Data provides the **Rate of Poverty by Age of People**:³²



ACOSS Reports people 65 years and over who own or are buying their home are less likely to experience poverty than the rest of the population when the 50% poverty line is used (10.3%) but more likely when the 60% poverty line is used (23.7%). This figure also shows the profound impact of housing costs on poverty rates among older people by displaying the poverty rate among the 10% of older people who rent their homes, which is considerably higher than that of older people who own their homes, at 41% when the 50% poverty line is used and 58.1% when the 60% poverty line is used.

ACOSS notes that single persons over 65 years have a 26% rate of poverty.³³

Progressive realization and the use of maximum available resources

5. What steps have been taken to address economic insecurity and poverty in older age and to ensure the right to an adequate standard of living for older persons?

Response:

There has been a reduction in the relative poverty of older persons associated with the increase in pensions in 2009.

However, ACOSS warns, “[A]t a given level of income, outright homeowners can achieve a much higher standard of living than most tenants or people with mortgages because their housing costs are lower. This is especially important when measuring poverty among older people.”³⁴ This manifest where the poverty rate among

³² <https://povertyandinequality.acoss.org.au/poverty/rate-of-poverty-by-age-of-people/>

³³ Davidson, P., Bradbury, B., and Wong, M. (2020), Poverty in Australia 2020: Part 2, Who is affected? ACOSS/UNSW Poverty and Inequality Partnership Report No. 4, Sydney: ACOSS, page 37.

³⁴ Davidson, P., Bradbury, B., and Wong, M. (2020), Poverty in Australia 2020: Part 2, Who is affected? ACOSS/UNSW Poverty and Inequality Partnership Report No. 4, Sydney: ACOSS, page 20.

the 10% of older people who rent their homes is over four times that for older people who own or are purchasing their home (at 41% and 10% respectively).³⁵

6. What is the impact of macroeconomic policies on economic insecurity and poverty among older persons and vice versa? What policy options are available and/or implemented to expand fiscal space and maximize available resources to ensure economic security and the right to an adequate standard of living for older persons?

Response:

ACOSS places three issues at the centre of their bid to reduce poverty:

- Australia's social security system: Our system for supporting people does not provide enough help to prevent people from slipping into poverty.
- Unemployment and underemployment: There are not enough jobs available for people who are looking for paid work; and there are people who, while employed, need more paid work. There is only one job available for every eight people looking for paid work, and often those jobs require specific skills or knowledge about new technologies.
- Increased costs of living, especially housing: The cost of housing and essential services is increasing.³⁶

ACOSS suggests the need for economic reform to taxation,³⁷ quality community services,³⁸ action on climate change and clean, affordable energy,³⁹ income support and employment,⁴⁰ quality health services,⁴¹ and housing and homelessness.⁴²

7. What good practices are available in terms of ensuring older persons' economic security, including through a life-course approach?

Equality and non-discrimination

8. What measures are being taken to eliminate ageism and discrimination based on age that prevent older persons to access economic and other productive resources, including financial services, land, adequate housing, and the right to inheritance?

Response:

Complaints about age discrimination can be made to the Australian Human Rights Commission based on age discrimination under the *Age Discrimination Act 2004* or under provincial anti-discrimination laws.

Remedies and redress

9. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their economic security and enjoyment of the right to an adequate standard of living?

³⁵ Ibid, page 32.

³⁶ <https://povertyandinequality.acoss.org.au/causes-and-solutions/>

³⁷ <https://www.acoss.org.au/economics-tax/>

³⁸ <https://www.acoss.org.au/community-services/>

³⁹ <https://www.acoss.org.au/climate-and-energy/>

⁴⁰ <https://www.acoss.org.au/employment-income-support/>

⁴¹ <https://www.acoss.org.au/health/>

⁴² <https://www.acoss.org.au/housing-homelessness/>

Response:

Australia does not have specific national laws or practices of this kind. Complaints might possibly be made to the Australian Human Rights Commission based on age discrimination under the *Age Discrimination Act 2004* in respect of administration of Commonwealth laws and programs.

One such claim recently launched in the Federal Court looks at the intersection of age and indigenous status whereby Aboriginal and Torres Strait Islander persons who have a gap in life expectancy are disadvantaged by the Government's use of an age proxy to determine eligibility for age pension.⁴³

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⁴³ <https://www.hrlc.org.au/news/2021/9/26/legal-challenge-launched-to-secure-fair-access-to-the-age-pension-for-aboriginal-and-torres-strait-islander-people>