

## QUESTIONNAIRE

Human Rights Council resolution 24/20 requested the United Nations Independent Expert on the enjoyment of all human rights by older persons to **assess the human rights implications of the implementation of the Madrid International Plan of Action on Ageing (MIPAA)**.

MIPAA was adopted at the Second World Assembly on Ageing in 2002. It requires that States take measures to address ageing in order to achieve a society for all ages and calls for the mainstreaming of ageing into national and global development agendas. It also contains recommendations for action focused on three priority areas: (i) older persons and development; (ii) advancing health and well-being into old age; and (iii) ensuring enabling and supportive environments, which are divided into specific issues, objectives and actions.

The Independent Expert prepared the questionnaire below with the objective to collect information about whether the implementation of MIPAA has enhanced the enjoyment of all human rights by older persons or whether it has had a negative impact and which rights have been affected. It also seeks to identify good practices and challenges encountered by Member States regarding the promotion and protection of all human rights by older persons in the implementation of MIPAA.

All information collected is intended to help the Independent Expert on the enjoyment of all human rights by older persons to elaborate her comprehensive report that will be presented to the Human Rights Council in September 2016.

The questionnaire should preferably be completed in English, French or Spanish by **31 July 2015**. Kindly indicate whether you have any objection for the responses provided to be made available on the OHCHR website of the Independent Expert on the enjoyment of all human rights by older persons.

### **Question 1:**

**What is the role of your organization? Do you participate in MIPAA implementation or monitoring thereof?**

The Australian Human Rights Commission (the Commission) is an ‘A status’ National Human Rights Institution (NHRI). It is an independent statutory body established by a law of the Australian Government, namely the *Australian Human Rights Commission Act 1986* (Cth) (AHRC Act).

The Commission is made up of a President and six Commissioners. The Commissioners are: the Aboriginal and Torres Strait Islander Social Justice Commissioner, Age and Disability Discrimination Commissioner, Human Rights Commissioner, National Children’s Commissioner, Race Discrimination Commissioner and Sex Discrimination Commissioner.

The Commission’s functions include: administering four federal anti-discrimination laws covering the areas of race, sex, disability and age;<sup>1</sup> investigating and conciliating complaints of discrimination or breaches of human rights; contributing to policy and legislative development through advice and submissions to government; undertaking public education and awareness programs, conducting research and inquiring into human rights issues of national importance.

MIPAA is not included in the definition of ‘human rights’ under the AHRC Act. However, MIPAA is referred to in the objects of the *Age Discrimination Act 2004* (Cth) (ADA).<sup>2</sup> Accordingly, the Commission has specific responsibility for the implementation and monitoring of MIPAA to the extent that it has been given effect by the ADA. Further, section 53 of the ADA gives the Commission the following two functions directly relating to the objects of the Act:

- (c) to undertake research and educational programs, and other programs, on behalf of the Commonwealth for the purpose of promoting the objects of this Act;
- (d) to examine enactments, and (when requested to do so by the Minister) proposed enactments, for the purpose of ascertaining whether the enactments or proposed enactments are, or would be, inconsistent with or contrary to the objects of this Act, and to report to the Minister the results of any such examination.

### **Question 2:**

**Has a human rights-based approach been integrated in the implementation framework of MIPAA in your country and if so, how did this translate into concrete policies and normative actions? Are there any mechanisms to monitor and assess the impact of MIPAA implementation on the enjoyment of all human rights by older persons?**

In 2001 the Australian Government developed the National Strategy for an Ageing Australia: An Older Australia, Challenges and Opportunities for All.<sup>3</sup> This document is no longer current

however some states and territories in Australia have since developed their own ageing agendas and strategies such as the NSW Ageing Strategy.<sup>4</sup>

In 2010, the Australian Government launched Australia's Human Rights Framework,<sup>5</sup> under which the 2012 National Action Plan on Human Rights (National Action Plan) was developed.<sup>6</sup> The National Action Plan contains a specific section on older persons, however the emphasis of both the Human Rights Framework and National Action Plan is on Australia's obligations under the seven core treaties that Australia has ratified rather than the priorities set out in MIPAA.<sup>7</sup>

While the abovementioned strategies and frameworks reflect a number of human rights principles, some of which can be related to the MIPAA priorities, there is currently no comprehensive human-rights based framework for older persons that specifically implements or makes reference to MIPAA. As stated by the Australian Department of Social Services (DSS), Australia takes a 'whole-of-government' approach to matters of ageing through the shared responsibilities of a number of Ministers and Departments rather than by separate implementation of MIPAA.<sup>8</sup>

Current protections for older Australians are solid and wide-ranging. Many of these policies and protections can be categorised under the three priorities of the MIPAA. Some examples are provided below:

#### Priority 1: Older persons and development

- Australia provides means-tested social protection for older persons including pensions, allowances and concessions (for example, rent assistance, carer and widow allowances, tax-offsets, and discounted transport, shopping and pharmaceuticals).<sup>9</sup> Australia also has a three-pillar retirement income system comprising of a non-contributory age pension, compulsory superannuation savings and voluntary contributions.
- Incentives exist for employers to hire and retain older workers such as through the [Corporate Champions](#) and [Restart Wage Subsidy](#) programs. Older workers are also encouraged to participate in the workforce through [tax-offsets](#) and the [Work Bonus](#), which allows pensioners to keep more of their earnings before their pension is reduced.

#### Priority 2: Advancing health and well-being into old age

- Australia has a universal healthcare system that provides free public hospital care, subsidised medical services and pharmaceuticals, preventative health programs such as certain free vaccinations through the [Immunise Australia Program](#), and free public and subsidised private health insurance schemes.<sup>10</sup>
- Dementia, which affects over 300,000 Australians aged 65 and over, is one of Australia's nine National Health Priority Areas.<sup>11</sup> Examples of Australian initiatives for dementia care, education, prevention and training include the National Dementia Helpline, Your Brain Matters and Living with Memory Loss, which are administered

by Alzheimer's Australia with support from the Australian Government.<sup>12</sup> There are also various policies and guides to assist care staff and health professionals to respect the rights of persons with dementia such as within hospital and care settings.<sup>13</sup>

- Older persons with disability are covered under general disability policies and strategies including the National Disability Strategy 2010-2020, which is designed to guide implementation of the Convention on the Rights of Persons with Disability and covers the following areas: inclusive and accessible communities; health and wellbeing; learning and skills; rights protection, justice and legislation; and personal and community support.<sup>14</sup>

### Priority 3: Ensuring enabling and supportive environments

- Australia's aged care system recognises and supports the concepts of 'ageing in place' and 'continuum of care' by providing a mix of residential, community and home care options as well as flexible, transition and respite care services.<sup>15</sup>
- Under the *Aged Care Act 1997* (Cth) and associated Principles,<sup>16</sup> all aged care services that receive government funding must meet the prescribed quality standards and undergo processes of accreditation and regular monitoring as required by the Act. The rights of care recipients are further promoted through the Charter of Residents' Rights and Responsibilities for residential and home care, the Aged Care Commissioner, Aged Care Complaints Scheme; [National Aged Care Advocacy Program](#) and [Community Visitors' Scheme](#).
- The Australian Government recognises and supports carers through the *Carer Recognition Act 2010* (Cth),<sup>17</sup> financial assistance and practical supports,<sup>18</sup> and the development of a National Carer Gateway to help carers access information and support services such as respite care, training and counselling.<sup>19</sup>
- Measures for preventing the neglect, violence and abuse of older persons include compulsory reporting by approved government-subsidised aged care providers of alleged or suspected reportable assaults and mandatory police checks for aged care staff and unsupervised volunteers every three years.

In terms of monitoring and assessment, Australia participated internationally and regionally in progress reporting on MIPAA including during the First and Second Review and Appraisal of MIPAA and the UNESCAP Preparatory Meeting for the Second Regional Review of MIPAA.

Domestically, monitoring of older persons' rights may occur through public inquiries or departmental reviews on particular topics or issues, for example, the Australian Law Reform Commission's 2012 inquiry into Commonwealth legal barriers to workforce participation by older workers.<sup>20</sup> The Australian Government also produces an Intergenerational Report every five years to assess the sustainability of government policies in relation to changes in population size and age profile.<sup>21</sup>

Despite the extensiveness of current protections and the existence of some monitoring mechanisms, the absence of a comprehensive human rights strategy for older persons means that Australian laws and policies develop predominantly in response to certain social problems or government priorities rather than towards progressive realisation of a coherent human rights agenda.

Monitoring and assessment of older persons' rights is also carried out less systematically and rigorously when compared with reporting on other binding human rights conventions. For example, one important human rights monitoring mechanism in Australia is the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth), which establishes the Joint Parliamentary Committee on Human Rights to scrutinise all bills and legislative instruments for compatibility with the seven core human rights treaties that Australia has ratified.<sup>22</sup> The Committee is not required to consider other instruments such as MIPAA in assessing human rights compatibility. Since there is currently no specific convention on older persons, the human rights of older persons are not given specific consideration aside from what is generally contained in the existing seven treaties. Australia also reports to the Universal Periodic Review (UPR) and other treaty bodies, however in the absence of a specific treaty body for older persons, Australian reports have tended to focus on groups whose rights are enunciated in particular binding conventions, especially those with specific reporting requirements (such as the Convention on the Rights of People with Disabilities Article 35).<sup>23</sup>

### **Question 3:**

#### **Have the needs of specific groups of older persons been taken into consideration in the process of implementation of MIPAA and if so, how?**

A number of specific groups are defined in the *Aged Care Act 1997* (Cth) and the *Allocation Principles 1997* (Cth) as 'people with special needs'.<sup>24</sup> These include: people from Aboriginal and Torres Strait Islander communities, people from culturally and linguistically diverse backgrounds, people who live in rural or remote areas, people who are financially or socially disadvantaged, veterans, people who are homeless or at risk of becoming homeless, care-leavers, parents separated from their children by forced adoption or removal, and lesbian, gay, bisexual, transgender and intersex people. These specific groups are taken into account in the planning and allocation of aged care places.

In 2012, the Australian Government released the *National Ageing and Aged Care Strategy for People from CALD Backgrounds* (CALD Strategy).<sup>25</sup> The CALD Strategy aims to inform government about the needs of older people from CALD backgrounds and support the aged care sector to deliver culturally sensitive and appropriate care. Funding has been provided in each state and territory to one organisation or Partner in Culturally Appropriate Care to conduct training and develop resources to equip aged care providers to deliver appropriate care to CALD communities.

The *National LGBTI Ageing and Aged Care Strategy* (LGBTI Strategy) was also released in 2012.<sup>26</sup> The Strategy recognises the lifelong discrimination and inequity experienced by many

LGBTI people and aims to improve the ageing and aged care experience of LGBTI people by responding to their needs and supporting the aged care sector to deliver appropriate care. Funding has been provided to the National LGBTI Health Alliance to deliver national LGBTI sensitivity training for people who work in aged care.

The Australian Government funds the National Aboriginal and Torres Strait Islander Flexible Aged Care Programme and Remote and Aboriginal and Torres Strait Islander Aged Care Service Development Assistance Panel to support organisations to provide appropriate care to older Aboriginal and Torres Strait Islander people close to home and community, including in remote areas.<sup>27</sup>

The Australian Government has also developed an information package, *Caring for Forgotten Australians, Former Child Migrants and Stolen Generations*,<sup>28</sup> which will assist aged care services to provide appropriate and responsible care, including access to counselling and other supports, to persons who were formerly in institutional care during the 20<sup>th</sup> Century. These include the Forgotten Australians, Former Child Migrants and Stolen Generations.

Australia supports older women and older people with disability through general gender and disability frameworks rather than as specific categories within the older persons' cohort.

#### **Question 4:**

**Have older persons been informed about MIPAA and if so, how? How are older persons participating in the implementation of MIPAA including in decision-making about MIPAA implementation?**

Relative to other binding human rights instruments, there are few specific references to MIPAA in Australian laws, policies, programs and other communications, though there have been some occasional references to MIPAA in Commission documents and speeches delivered by the Age Discrimination Commissioner.<sup>29</sup>

Whether MIPAA-related or not, older Australians can nonetheless participate in decision-making about matters relating to older persons including through compulsory voting, public inquiries, representation by non-government organisations (e.g. National Seniors, the Council of the Ageing (COTA) etc.) and direct communication with members of parliament, the Age Discrimination Commissioner and other relevant government bodies.

#### **Question 5:**

**What impact has MIPAA implementation had on equality and non-discrimination of older persons?**

Australia's *Age Discrimination Act 2004* (Cth) specifically references the MIPAA (see Question 1) and protects individuals across Australia from discrimination on the basis of age in many areas of public life, including employment, education, accommodation and the provision of goods and services.

Australia's first national Age Discrimination Commissioner, the Hon Susan Ryan AO, was appointed in 2011. Her role includes raising awareness of age discrimination, educating the community about the impact of age discrimination and monitoring and advocating for the elimination of age discrimination across all areas of public life. Recent work undertaken by the Age Discrimination Commissioner include:

- Fact or Fiction? Stereotypes of Older Australians – a research report on the prevalence of negative stereotypes and underrepresentation of older persons in business, community and media. This research found that over half of all respondents aged 18-54 perceived older people as lonely, isolated and forgetful and 60% held predominantly negative attitudes towards older people.<sup>30</sup>
- Your Rights at Retirement – a guide (available in English, Greek, Italian and Chinese) which assists older Australians to understand their rights and entitlements at and after retirement.<sup>31</sup>
- The Power of Oldness – a community awareness campaign highlighting the discrimination mature workers face when trying to gain or maintain jobs.<sup>32</sup>
- National Prevalence Survey of Age Discrimination in the Workplace – a national survey into the prevalence, nature and impact of age discrimination in the workplace. The survey found that over a quarter of Australians aged 50 years and over had experienced some form of age discrimination in the past two years and 80% of those who experienced age discrimination report negative impacts.<sup>33</sup>
- Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability – a national inquiry examining practices, attitudes and Commonwealth laws that deny or diminish equal participation in employment of older Australians and Australians with disability.<sup>34</sup>

The Commission is also responsible for receiving and attempting to resolve complaints of discrimination under Australia's four anti-discrimination laws. In 2013-14 the Commission received 184 complaints alleging discrimination under the ADA, of these 168 were finalised. Employment was the main area of complaint at 62% followed by goods, services and facilities at 24%.<sup>35</sup>

Other government agencies with complaint handling functions include the Fair Work Commission for work-related matters,<sup>36</sup> the DSS' Aged Care Complaints Scheme for matters relating to government subsidised aged care services,<sup>37</sup> and human rights and equal opportunity commissions at the state and territory levels.

#### **Question 6:**

**What impact has MIPAA implementation had on the fulfillment of the right of older persons to an adequate standard of living?**

Government income assistance programs are intended to provide families with adequate income to purchase food and essential amenities. NGOs like the Salvation Army also provide welfare and food services. The Australian Government promotes food safety and nutrition through policies and programs such as the [National Nutrition Policy](#), [Eat for Health: Australian Dietary Guidelines](#), [Remote Indigenous Stores and Takeaways \(RIST\) Project](#) and a bi-national [Food Regulation System](#) involving Australia, New Zealand and all states and territories.

According to the Australian Bureau of Statistics, about 73% of older Australians own their home outright, 5% are mortgagees, 10% are private renters and 8% are social housing tenants. Over 90% of older Australians want to stay in their current accommodation.<sup>38</sup> On Census night in 2011, approximately one in seven Australians experiencing homelessness was 55 years or over.<sup>39</sup> The [Commonwealth Home Support Programme](#) supports the notion of ‘ageing in place’ by providing services and supports to help older Australians live independently in their homes for longer. Homeless older persons can also be linked with appropriate care and housing through these services.

The availability of affordable and age-friendly housing options are important considerations in supporting and enabling ‘ageing in place’. Current initiatives and supports include [Rent Assistance](#), which is available to recipients of the Age Pension who pay rent in private accommodation. The Australian Government also released the [Liveable Housing Design Guidelines and the National Dialogue on Universal Housing Design Strategic Plan](#) in 2010, which was supported with government funding from 2011 to 2014. State and territory initiatives include Western Australia’s An Age-Friendly WA: The Seniors Strategic Planning Framework 2012-2017<sup>40</sup> and the Australian Capital Territory’s ACT Strategic Plan for Positive Ageing 2010-2014: Towards an Age-Friendly City.<sup>41</sup> While some inroads have been made towards the development of age-friendly communities, the availability of suitable housing that conforms to universal design standards remains fragmented and limited in cities by planning and land-use regulations. Together with rising housing and rental costs, there is the need for a national, coordinated approach to housing and urban design with a particular focus on the needs and incomes of older Australians.

#### **Question 7:**

**Please provide examples of best practices from a human rights perspective in your country in the implementation, monitoring, review and appraisal of MIPAA.**

See Question 2.

#### **Question 8:**

**Please provide information about the main challenges (such as institutional, structural and circumstantial obstacles) your country faces at the various levels of government (communal, provincial and national etc.) to fully respect, protect and fulfill the human rights of older persons in the implementation of MIPAA.**



Overall, Australia has some robust domestic protections for older persons. While many of these protections are consistent with MIPAA priorities, the extent to which MIPAA has been used to guide government actions and policies is unclear. MIPAA is not widely referenced in Australia and current human rights-related legislation, policies and frameworks have tended to prioritise the seven binding human rights conventions as opposed to non-binding instruments such as MIPAA.

Australian protections for older persons would be bolstered by the development of a binding human rights convention on the rights of older persons, which could build on MIPAA to provide a more comprehensive human rights framework for older persons with strengthened monitoring and accountability mechanisms. As stated in the *Report of the United Nations High Commissioner for Human Rights*:

After 10 years of its adoption, the non-binding Madrid International Plan of Action on Ageing remains the only international instrument devoted to older persons. The Madrid International Plan of Action on Ageing prioritizes the social sector, notably health, and enabling and supportive environments for older persons. While the positive impact of the Madrid Plan during this decade is undeniable, this instrument does not provide a comprehensive human rights framework for older persons. Important human rights issues, for instance equality before the law and non-discrimination, access to effective remedies, or freedom from torture or other cruel, inhuman or degrading treatment or punishment, are not provided for. The implementation of the Plan of Action does not systematically consider linkages to the obligations of State parties under international human rights instruments. Furthermore, the instrument does not provide for independent monitoring and accountability mechanisms to assess fully the progress on its implementation.<sup>42</sup>

In contrast to the MIPAA, a new binding convention dedicated to the human rights of older persons could:

- Bring older persons as a specific cohort within the scope of the Human Rights Framework and National Action Plan along with the other seven binding human rights conventions.
- Provide structure and inspiration for the development of a national strategy for older persons in Australia that implements the new convention.
- Improve monitoring and accountability mechanisms by bringing older persons' rights within the scope of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth); leading to the development of a dedicated Treaty Body for older persons; and encouraging more detailed consideration of older persons' rights in the UPR and other progress reports.
- Streamline Australia's contributions to international aid and development by clarifying the rights of older persons and the obligations of states. Specifically, a new convention would enhance Australia's assistance to other countries in the Asia-Pacific region, where there is substantial support for a new convention (See Appendix A). The issues affecting older persons in the Asia-Pacific region and benefits that a new convention could bring were discussed at the recent UNESCAP *Workshop on the Social Integration*

*and the Rights of Older Persons in the Asia-Pacific Region* held in Bangkok, 30 September to 1 October 2014.<sup>43</sup>

**APPENDIX A: 2012 GA Resolution Voting Record**

**Third Committee - 46th Meeting**

Vote Name: *A/C.3/67/L.9/Rev.1*

Subject: **Towards a comprehensive and integral international legal instrument to promote & protect rights & dignity of older persons**

Item#: 27 (b) Recorded - Adopted  
Vote#: 2

YES 53	NO 3	ABSTAIN 109
-----------	---------	----------------

Date - Time: 27 November 2012 - 5:01 PM

A AFGHANISTAN	Y ECUADOR	Y MALAYSIA	Y SINGAPORE
A ALBANIA	Y EGYPT	Y MALDIVES	A SLOVAKIA
A ALGERIA	Y EL SALVADOR	Y MALI	A SLOVENIA
A ANDORRA	Y EQUAT GUINEA	A MALTA	SOLOMON
A ANGOLA	Y ERITREA	MARSHALL ISLAND	N SOMALIA
A ANTIGUA-BARBUDA	A ESTONIA	A MAURITANIA	Y SOUTH AFRICA
ARGENTINA	Y ETHIOPIA	Y MAURITIUS	A SOUTH SUDAN
ARMENIA	A FIJI	Y MEXICO	A SPAIN
A AUSTRALIA	A FINLAND	MICRONESIA (FS)	Y SRI LANKA
A AUSTRIA	A FRANCE	A MONACO	A SUDAN
A AZERBAIJAN	Y GABON	A MONGOLIA	SURINAME
A BAHAMAS	A GAMBIA	A MONTENEGRO	A SWAZILAND
A BAHRAIN	A GEORGIA	A MOROCCO	A SWEDEN
Y BANGLADESH	A GERMANY	A MOZAMBIQUE	A SWITZERLAND
A BARBADOS	A GHANA	MYANMAR	A SYRIAN AR
A BELARUS	A GREECE	NAMIBIA	A TAJIKISTAN
A BELGIUM	GRENADA	Y NAURU	Y THAILAND
Y BELIZE	Y GUATEMALA	A NEPAL	A THEFYR MACEDONI
A BENIN	Y GUINEA	A NETHERLANDS	Y TIMOR-LESTE
Y BHUTAN	A GUINEA-BISSAU	A NEW ZEALAND	Y TOGO
Y BOLIVIA	Y GUYANA	Y NICARAGUA	TONGA
A BOSNIA-HERZEGOV	Y HAITI	A NIGER	A TRINIDAD-TOBAGO
A BOTSWANA	Y HONDURAS	A NIGERIA	A TUNISIA
Y BRAZIL	A HUNGARY	A NORWAY	A TURKEY
Y BRUNEI DAR SAL	A ICELAND	A OMAN	Y TURKMENISTAN
A BULGARIA	A INDIA	A PAKISTAN	TUVALU
A BURKINA FASO	Y INDONESIA	PALAU	A UGANDA
A BURUNDI	A IRAN (ISLAM REP	Y PANAMA	A UKRAINE
Y CAMBODIA	IRAQ	A PAPUA N GUINEA	A UNITED A EMI
A CAMEROON	A IRELAND	Y PARAGUAY	A UNITED KINGDOM
N CANADA	A ISRAEL	Y PERU	Y UNITED R TANZ
CAPE VERDE	A ITALY	Y PHILIPPINES	N UNITED STATES
CENTRAL AFR REP	A JAMAICA	A POLAND	Y URUGUAY
CHAD	A JAPAN	A PORTUGAL	A UZBEKISTAN
Y CHILE	A JORDAN	A QATAR	A VANUATU
A CHINA	Y KAZAKHSTAN	A REP OF KOREA	Y VENEZUELA
Y COLOMBIA	A KENYA	A REP OF MOLDOVA	Y VIET NAM
A COMOROS	KIRIBATI	A ROMANIA	A YEMEN
Y CONGO	A KUWAIT	A RUSSIAN FED	Y ZAMBIA
Y COSTA RICA	A KYRGYZSTAN	RWANDA	A ZIMBABWE
COTE D'IVOIRE	LAO PDR	SAINT KITTS-NEV	
A CROATIA	A LATVIA	SAINT LUCIA	
Y CUBA	Y LEBANON	SAINT VINCENT-G	
A CYPRUS	A LESOTHO	SAMOA	
A CZECH REPUBLIC	A LIBERIA	A SAN MARINO	
Y DEM PR OF KOR	LIBYA	A SAO TOME PRINCI	
A DEM REP CONGO	A LIECHTENSTEIN	A SAUDI ARABIA	
A DENMARK	A LITHUANIA	Y SENEGAL	
A DJIBOUTI	A LUXEMBOURG	A SERBIA	
DOMINICA	A MADAGASCAR	SEYCHELLES	
Y DOMINICAN REPUB	A MALAWI	A SIERRA LEONE	

**Summary of voting record for Asia-Pacific region:**

*Abstained (marked A) and Yes (marked Y shaded).*

Member State	Voting Record
Afghanistan	A
Australia	A
Bangladesh	Y

India	A
Indonesia	Y
Jordan	A
Malaysia	Y
Maldives	Y
Myanmar	-
Nepal	A
New Zealand	A
Philippines	Y
Qatar	A
Korea	A
Sri Lanka	Y
Thailand	Y
Timor-Leste	Y
Cambodia	Y
Vietnam	Y

<sup>1</sup> *Racial Discrimination Act 1975* (Cth); *Sex Discrimination Act 1984* (Cth); *Disability Discrimination Act 1992* (Cth); *Age Discrimination Act 2004* (Cth) (ADA). See: Australian Human Rights Commission, *Legislation*, <https://www.humanrights.gov.au/our-work/legal/legislation> (viewed 1 July 2015).

<sup>2</sup> ADA s3 states: “The objects of this Act are: to ... bearing in mind the international commitment to eliminate age discrimination reflected in the Political Declaration adopted in Madrid, Spain on 12 April 2002 by the Second World Assembly on Ageing”.

<sup>3</sup> Commonwealth of Australia, *National Strategy for an Ageing Australia: An Older Australia, Challenges and Opportunities for All* (2001). At [http://www.ifa-fiv.org/wp-content/uploads/2012/11/062\\_Australia-2001-National-Strategy-for-an-Ageing-Australia.pdf](http://www.ifa-fiv.org/wp-content/uploads/2012/11/062_Australia-2001-National-Strategy-for-an-Ageing-Australia.pdf) (viewed 2 July 2015).

<sup>4</sup> NSW Government Department of Family & Community Services Ageing, Disability & Home Care, *NSW Ageing Strategy* (2012). At [http://www.adhc.nsw.gov.au/about\\_us/strategies/nsw\\_ageing\\_strategy](http://www.adhc.nsw.gov.au/about_us/strategies/nsw_ageing_strategy) (viewed 2 July 2015).

<sup>5</sup> Commonwealth of Australia, *Australia’s Human Rights Framework*, Attorney-General’s Department (April 2010). At <https://www.ag.gov.au/Consultations/Documents/Publicsubmissionsonthedraftbaselinestudy/AustraliasHumanRightsFramework.pdf>, (viewed 2 July 2015).

<sup>6</sup> Commonwealth of Australia, *Australia’s National Human Rights Action Plan*, Attorney-General’s Department (2012). At <http://www.ag.gov.au/Consultations/Documents/NationalHumanRightsActionPlan/National%20Human%20Rights%20Action%20Plan.doc> (viewed 2 July 2015).

---

<sup>7</sup> *International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination Against Women, Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, Convention on the Rights of the Child, Convention on the Rights of Persons with Disabilities.* See, *Australia's Human Rights Framework*, note 5, p 4.

<sup>8</sup> Commonwealth of Australia, *United Nations Economic and Social Commission for Asia and the Pacific, Regional Survey on Ageing 2011: Australia – Regional Survey on Ageing 2011 – Annex 1*, p 5.

<sup>9</sup> See generally, Commonwealth of Australia, *Older Australians*, Department of Human Services, <http://www.humanservices.gov.au/customer/themes/older-australians> (viewed 6 July 2015) and Commonwealth of Australia, *Seniors and Retirees*, Australian Taxation Office, <https://www.ato.gov.au/Individuals/Seniors-and-retirees/Tax-offsets/> (viewed 6 July 2015).

<sup>10</sup> See generally, Commonwealth of Australia, *Medicare Services*, Department of Human Services, <http://www.humanservices.gov.au/customer/subjects/medicare-services> (viewed 7 July 2015) and Commonwealth of Australia, *Public and private healthcare*, Department of Health, <http://www.health.gov.au/internet/main/publishing.nsf/Content/Healthcare+systems-1> (viewed 16 July 2015).

<sup>11</sup> Commonwealth of Australia, *Dementia*, Australian Institute of Health and Welfare, <http://www.aihw.gov.au/dementia/> (viewed 13 July 2015).

<sup>12</sup> Alzheimer's Australia, <https://fightdementia.org.au/> (viewed 13 July 2015).

<sup>13</sup> See for example, Commonwealth of Australia, *Decision Making Tool: Supporting a Restraint-Free Environment*, Department of Social Services, <https://www.dss.gov.au/our-responsibilities/ageing-and-aged-care/publications-articles/resources-learning-training/decision-making-tool-supporting-a-restraint-free-environment> (viewed 13 July 2015); Australian Commission on Safety and Quality in Health Care, *A Better Way to Care: Actions for Health Service Managers* (2014), <http://www.safetyandquality.gov.au/publications/a-better-way-to-care-actions-for-health-service-managers/> (viewed 20 July 2015); Commonwealth of Australia, *My Aged Care – Caring for Someone With Dementia*, Department of Social Services, <http://www.myagedcare.gov.au/caring-someone-particular-need/caring-someone-dementia> (viewed 13 July 2015); Dementia Behaviour Management Advisory Services, <http://dbmas.org.au/> (viewed 13 July 2015)

<sup>14</sup> Commonwealth of Australia, *2010-2020 National Disability Strategy: An initiative of the Council of Australian Governments*, Department of Social Services (2011). At <https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/national-disability-strategy-2010-2020> (viewed 7 July 2015).

<sup>15</sup> See generally, Commonwealth of Australia, *Ageing and Aged Care – Programs & Services*, Department of Social Services, <https://www.dss.gov.au/our-responsibilities/ageing-and-aged-care/programs-services> (viewed 8 July 2015).

<sup>16</sup> See Commonwealth of Australia, *Legislation – Aged Care Reform*, Department of Social Services, <https://www.dss.gov.au/our-responsibilities/ageing-and-aged-care/aged-care-reform/legislation-aged-care-reform> (viewed 16 July 2015).

<sup>17</sup> *Carer Recognition Act 2010* (Cth) at <https://www.comlaw.gov.au/Details/C2010A00123> (viewed 8 July 2015).

<sup>18</sup> See Commonwealth of Australia, *Disability and Carers – Benefits & Payments*, Department of Social Services, <https://www.dss.gov.au/our-responsibilities/disability-and-carers/benefits-payments> (viewed 16 July 2014)

---

and Commonwealth of Australia, *Caring for Someone*, Department of Social Services, <http://www.myagedcare.gov.au/caring-someone> (viewed 20 July 2015).

<sup>19</sup> Commonwealth of Australia, *Carer Support Services – National Carer Gateway*, 2015, <https://www.dss.gov.au/disability-and-carers/news/2015/carers-support-services-national-carer-gateway> (viewed 8 July 2015).

<sup>20</sup> Australian Law Reform Commission, *Access All Ages – Older Workers and Commonwealth Laws*, ALRC Report 120 (2012). At <http://www.alrc.gov.au/publications/access-all-ages-report120> (viewed 6 July 2015).

<sup>21</sup> Commonwealth of Australia, *2015 Intergenerational Report*, The Treasury, <http://www.treasury.gov.au/PublicationsAndMedia/Publications/2015/2015-Intergenerational-Report> (viewed 6 July 2015).

<sup>22</sup> *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) available at <https://www.comlaw.gov.au/Details/C2011A00186> (viewed 16 July 2015).

<sup>23</sup> See for example, Commonwealth of Australia, *Australia’s Universal Periodic Review*, Attorney General’s Department (2011) para 93-95 cf para 77-83 and other sections. At <https://www.ag.gov.au/RightsAndProtections/HumanRights/UniversalPeriodicReview/Pages/default.aspx> (viewed 7 July 2015).

<sup>24</sup> *Aged Care Act 1997* (Cth), note 16, section 11-3.

<sup>25</sup> Commonwealth of Australia, *National Ageing and Aged Care Strategy for People from Culturally and Linguistically Diverse (CALD) Backgrounds*, Department of Social Services (2012). At <https://www.dss.gov.au/ageing-and-aged-care/older-people-their-families-and-carers/people-from-diverse-backgrounds/national-ageing-and-aged-care-strategy-for-people-from-culturally-and-linguistically-diverse-cald-backgrounds> (viewed 2 July 2015).

<sup>26</sup> Commonwealth of Australia, *National Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Ageing and Aged Care Strategy*, Department of Social Services (2012). At <https://www.dss.gov.au/our-responsibilities/ageing-and-aged-care/older-people-their-families-and-carers/people-from-diverse-backgrounds/national-lesbian-gay-bisexual-transgender-and-intersex-lgbti-ageing-and-aged-care-strategy> (viewed 2 July 2015).

<sup>27</sup> Commonwealth of Australia, *Flexible Care*, Department of Social Services, <https://www.dss.gov.au/our-responsibilities/ageing-and-aged-care/programs-services/flexible-care> (viewed 10 July 2015).

<sup>28</sup> Australian Government Department of Social Services, *People from Diverse Backgrounds*, <https://www.dss.gov.au/our-responsibilities/ageing-and-aged-care/older-people-their-families-and-carers/people-from-diverse-backgrounds> (viewed 2 July 2015).

<sup>29</sup> See for example, Australian Human Rights Commission, *Respect and Choice: A Human Rights Approach for Ageing and Health* (2012) pp 6-7. At <https://www.humanrights.gov.au/our-work/age-discrimination/publications/human-rights-approach-ageing-and-health-respect-and-choice> (viewed 8 July 2015). The Hon S Ryan AO, *Human Rights and our Ageing Community* (Speech delivered at Aged and Community Services Australia, National Community Care Conference, Adelaide Convention Centre, 21 May 2012). At <https://www.humanrights.gov.au/news/speeches/human-rights-and-our-ageing-community-2012> (viewed 8 July 2015). The Hon S Ryan AO, *UN Convention for the Rights of Older Persons* (Speech delivered at

---

Older Women's Network Event, 20 August 2014). At <https://www.humanrights.gov.au/news/speeches/un-convention-rights-older-persons> (viewed 8 July 2015).

<sup>30</sup> Australian Human Rights Commission, *Fact or Fiction? Stereotypes of Older Australians* (2013) pp 34-6. At <https://www.humanrights.gov.au/our-work/age-discrimination/projects/fact-or-fiction-stereotypes-older-australians> (viewed 6 July 2015).

<sup>31</sup> Australian Human Rights Commission, *Your Rights at Retirement* (2013). At <https://www.humanrights.gov.au/our-work/age-discrimination/publications/your-rights-retirement> (viewed 6 July 2015).

<sup>32</sup> Australian Human Rights Commission, *Power of Oldness*, <http://www.powerofoldness.com/> (viewed 6 July 2015).

<sup>33</sup> Australian Human Rights Commission, *National Prevalence Survey of Age Discrimination in the Workplace* (2015) p 2. At <https://www.humanrights.gov.au/our-work/age-discrimination/publications/national-prevalence-survey-age-discrimination-workplace> (viewed 6 July 2015).

<sup>34</sup> Australian Human Rights Commission, *Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability*, <https://www.humanrights.gov.au/our-work/disability-rights/projects/willing-work-national-inquiry-employment-discrimination-against> (viewed 6 July 2015).

<sup>35</sup> Australian Human Rights Commission, *Annual Report 2013-14*, <https://www.humanrights.gov.au/publications/annual-report-2013-14/appendix-3-complaint-statistics> (viewed 6 July 2015).

<sup>36</sup> Fair Work Commission, *Resolving issues, disputes and dismissals*, <https://www.fwc.gov.au/resolving-issues-disputes-and-dismissals/what-the-commission-does> (viewed 10 July 2015).

<sup>37</sup> Commonwealth of Australia, *Aged Care Complaints Scheme*, Department of Social Services, <http://agedcarecomplaints.govspace.gov.au/> (viewed 10 July 2015).

<sup>38</sup> Australian Institute of Health and Welfare, *A Desire to Age in Place Among Older Australians*, Bulletin 114, April 2013, pp 4, 8-11. At <http://www.aihw.gov.au/publication-detail/?id=60129543093> (viewed 10 July 2015).  
Rf Australian Bureau of Statistics, *Household Income and Income Distribution, Australia, 2009-10*, Catalogue No 6523.0. At <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6523.02009-10?OpenDocument> (viewed 10 July 2015).

<sup>39</sup> Homelessness Australia, *Homelessness and Older People*, Fact Sheet, April 2013. At <http://www.homelessnessaustralia.org.au/index.php/about-homelessness/fact-sheets> (viewed 13 July 2015).

<sup>40</sup> Government of Western Australia, *An Age Friendly WA: The Seniors Strategic Planning Framework 2012-2017*, Department of Local Government and Communities. At <http://www.communities.wa.gov.au/communities-in-focus/seniors/Pages/Age-Friendly-WA-.aspx> (viewed 10 July 2015).

<sup>41</sup> ACT Government, *ACT Strategic Plan for Positive Ageing 2010-2014: Towards an Age-friendly City*, Department of Community Services. At [http://www.communityservices.act.gov.au/wac/ageing/strategic\\_plan](http://www.communityservices.act.gov.au/wac/ageing/strategic_plan) (viewed 13 July 2015).

---

<sup>42</sup> United Nations High Commissioner for Human Rights, *Report of the United Nations High Commissioner for Human Rights*, E/2012/51 (2012), p 5.

<sup>43</sup> United Nations Economic and Social Commission for Asia and the Pacific, *Workshop on the Social Integration and the Rights of Older Persons in the Asia-Pacific Region*, <http://www.unescap.org/events/workshop-social-integration-and-rights-older-persons-asia-pacific-region> (viewed 13 July 2015).