**Mandate of the Independent Expert on the enjoyment of all human rights by older**

**persons**

**Call for inputs: Violence, abuse and neglect against older persons**

**Draft response**

(Word count: 1,487not incl. headings or attachments section)

**Legal, policy and institutional frameworks**

Australia’s federal *Age Discrimination Act 2004* (ADA) protects Australians from age discrimination. The ADA makes it unlawful to treat someone less favourably on the basis of their age in specific areas of public life such as employment, education, accommodation and provision of goods and services.

Under the *Australian Human Rights Commission Act 1986*(Cth), the Australian Human Rights Commission is responsible for administering anti-discrimination laws. The Commission’s functions include 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.

The *National Plan To Respond To The Abuse Of Older Australians (2019–2023)* provides the key policy framework for action by Commonwealth, State and Territory governments to address the abuse of older Australians across five key priority areas:

* Enhancing our understanding
* Improving community awareness and access to information
* Strengthening service responses
* Planning for future decision-making, and
* Strengthening safeguards for vulnerable older adults.

The Government is currently developing a new *Aged Care Act*, which will include:

* A statement of rights which outlines the specific rights of older people who are seeking or accessing the aged care system.
* New system oversight and accountability arrangements
* A new regulatory model to improve accountability for aged care providers to ensure delivery of safe and high-quality services, and to strengthen enforcement powers for the regulator.

Ahead of the Act’s introduction, interim legislative amendments have been made to improve safety, transparency and accountability in aged care services.

**Manifestations of violence**

The Australian Institute of Family Studies (AIFS) delivered Australia’s first, large scale [National Elder Abuse Prevalence Study](https://aifs.gov.au/research/research-reports/national-elder-abuse-prevalence-study-final-report)(the Study)**.** Published in 2021, the Study contained data relating to prevalence, perpetrator characteristics, help-seeking, and attitudes:

* 14.8% of older Australians reported experiencing abuse in the 12 months prior to being surveyed.
* Elder abuse can take the form of psychological abuse (12%), neglect (3%), financial abuse (2%), physical abuse (2%) and sexual abuse (1%).
* Some older people experience more than one type of abuse (4%).
* Perpetrators of elder abuse were often family members (most often adult children), but could also be friends, neighbours and acquaintances.
* Two thirds of older people don't seek help when they are abused (61%), however 82% took some form of action to try and stop the abuse.

**Intersectionality**

The National Elder Abuse Prevalence Study also analysed the extent to which the experience of elder abuse varied according to various socio-demographic characteristics, including gender, age, Indigenous status, country of birth, religion, household income, and location:

* The prevalence of elder abuse was slightly higher for women than for men (16% compared with 14%).
* People with poor physical or psychological health and higher levels of social isolation were at higher risk of experiencing abuse. People with lower socio-economic status were at higher risk of experiencing abuse.
* The experience of elder abuse by people of a culturally and linguistically diverse (CALD) background, did not differ greatly from the non-CALD population (14% compared with 15%).
  + CALD participants in the study were less likely to report their children as perpetrators of abuse.
* Older people living with disability experienced higher rates of elder abuse than those without disability.

**Data**

In addition to the National Elder Abuse Prevalence Study, the following data relating to violence, abuse and neglect of older persons is available in Australia:

* The [Australian Bureau of Statistics (ABS) Personal Safety Survey](https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release) collects national data about the nature and extent of violence experienced since the age of 15 and in the past 12 months. Data is disaggregated by age group.
* The Aged Care Quality and Safety Commission’s (ACQSC) [sector performance data](https://www.agedcarequality.gov.au/sector-performance) contains national quarterly data about violence and abuse in residential aged care facilities and home services.
* The [National Homicide Monitoring Program](https://www.aic.gov.au/publications/sr/sr39) contains information on domestic homicides, disaggregated by age group.
* The [ABS Recorded crime – Victims](https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/latest-release) data contains annual information on police involvement in violence and abuse.
* The [AIHW Specialist Homelessness Services](https://www.aihw.gov.au/about-our-data/our-data-collections/specialist-homelessness-services-collection) data collection contains annual national data about people who access homelessness services following family and domestic violence.
* The [AIHW National Hospital Morbidity Database](https://www.aihw.gov.au/about-our-data/our-data-collections/national-hospitals-data-collection) contains information about hospital admissions following violence.
* The Australian Competition and Consumer Commission (ACCC) collects data about scams reported to its [Scamwatch](https://www.scamwatch.gov.au/system/files/Targeting%20scams%20-%20report%20of%20the%20ACCC%20on%20scams%20activity%202021.pdf) service, including how they have affected older Australians.

Data on the abuse and neglect of older Australians receiving Commonwealth-funded aged care services is available at the national level through the Serious Incident Response Scheme ([SIRS](https://www.agedcarequality.gov.au/sirs)). Under SIRS, aged care providers must notify the ACQSC of any reportable incidents, including:

* Unreasonable use of force
* Unlawful sexual contact or inappropriate sexual conduct
* Psychological or emotional abuse
* Unexpected death
* Stealing or financial coercion by a staff member
* Neglect
* Inappropriate use of restrictive practices
* Unexplained absence/missing consumer

Nationally, in the last published quarter (1 July – 30 September) of the ACQSC [Sector Performance Reports](https://www.agedcarequality.gov.au/sector-performance), there were 11,677 reportable incidents within residential aged care. The number of serious incident notifications does not necessarily relate to the number of instances of harm to an older person.

**Access to justice**

In Australia, responsibility for addressing and preventing elder abuse sits across the Commonwealth, State, and Territory governments.

Since 2019, the Commonwealth Attorney-General’s Department has funded the trial of 12 specialist elder abuse services. The services are being delivered across three service models:

* Specialist elder abuse units: Lawyers, social workers and other specialist and support staff, work side by side with clients to develop a case plan and respond to the individual’s needs.
* Health-justice partnerships : Older people in the health care system who are identified by health care workers or social workers as being at risk or potentially subjected to elder abuse, can access specialised legal support services. These work in partnership with the health system and related referral agencies, such as community aged care services.
* Case management and mediation services: work with the older person and their family, to find solutions to the underlying problems driving abuse.

In March 2019, the Australian Government established a national elder abuse helpline, in joint partnership with State and Territory governments. The service is a single free-call phone line which automatically redirects callers to a help line in the state or territory from where the call originated.

The Australian Government is also providing funding to establish a dedicated Aged Care Complaints Commissioner within the ACQSC, to improve the Commission’s ability to investigate, manage and respond to complaints.

**Access to information**

In Australia, responsibility for raising awareness about elder abuse sits across the Commonwealth, State, and Territory governments.

The Australian Government commissioned the establishment of a national elder abuse knowledge hub, [Compass.info](https://www.compass.info/), which was launched in November 2019. Compass.info provides a wide range of resources to assist older people, their families or others seeking information about elder abuse.

The Australian Government conducts ongoing awareness-raising campaigns concerning elder abuse, including around World Elder Abuse Awareness Day, International Day of Older Persons, and [Scams Awareness Week](https://www.accc.gov.au/media-release/scams-awareness-week-2022-empowers-australians-to-spot-a-scam-0#:~:text=People%20aged%2065%20and%20over,in%20losses%20across%201%2C440%20reports.). A [range of materials](https://www.ag.gov.au/rights-and-protections/protecting-rights-older-australians) have been developed to support awareness raising activities, including videos and posters. Three ﷟[elder abuse awareness video campaigns](https://humanrights.gov.au/elderabuse) have also been developed and launched, coinciding with the International Day of Older Persons, and elder abuse awareness materials in 20 languages most spoken by older Australians (including English) have been developed and distributed. The ACCC’s [Little Black Book of Scams](https://www.accc.gov.au/system/files/Little%20Black%20Book%20of%20Scams%202021.pdf) is a free resource to raise awareness of common scams.

The Age Discrimination Commissioner regularly engages with the community on issues of elder abuse via media interviews and public speaking engagements and events, including activities during World Elder Abuse Awareness Day.

The Australian Government funds the [Older Persons Advocacy Network (OPAN)](https://opan.org.au/) to provide the [National Aged Care Advocacy Program](https://www.health.gov.au/our-work/national-aged-care-advocacy-program-nacap) (NACAP). The NACAP provides free, confidential, and independent support to older people seeking or receiving government-funded aged care services, including to people who may be experiencing, or at risk of, abuse.

The ACCC recently received funding to establish a [National Anti-Scams Centre](https://consultation.accc.gov.au/accc/national-anti-scams-centre-survey/) which will provide consumers with one contact point for advice on how to prevent scams and what to do when they have been affected.

**Good practice examples**

Further to the above, good practice examples in Australia include:

* The Age Discrimination Commissioner has worked closely with Elder Abuse Action Australia, OPAN, and EveryAGE Counts and has supported and contributed to a [nation-wide intergenerational project](http://www.embraced.com.au/) involving teenagers painting portraits of centenarians.
* The ABS has developed a [framework to support the collection and reporting of information related to family, domestic and sexual violence](https://www.abs.gov.au/statistics/people/crime-and-justice/defining-data-challenge-family-domestic-and-sexual-violence/latest-release) (FDSV).
* Using the ABS framework as a guide, the AIHW’s [*Family domestic and sexual violence in Australia: continuing the national story 2019*](https://www.aihw.gov.au/reports/domestic-violence/family-domestic-sexual-violence-australia-2019/contents/summary)includes national information on FDSV, including violence against older people.
* The OPAN Elder Abuse Prevention project, includes an eLearning Package on the abuse of older persons for Health and Aged Care professionals, as well as the [#readytolisten project](https://opan.org.au/support/support-for-professionals/ready-to-listen/) which builds the skills of residential aged care service providers in identifying and responding to sexual assault.
* The ACCC uses enforcement action to deter companies from taking advantage of elderly persons. In 2018, the ACCC [took action against hearing aid retailers](https://www.accc.gov.au/media-release/hearing-aid-retailers-fined-25-million-for-misleading-pensioners) for false and misleading representations to pensioners in their advertisements.

**List of attachments:**

1. Australian Human Rights Commission Complaint Statistics 2021-2022
2. Violence by Age – Australian Bureau of Statistics (data from ABS Personal Safety 2016 and Recorded Crimes – Victims 2021 surveys)