

Australian Council of Human Rights Authorities

Statement - April 2019

The Australian Council of Human Rights Authorities (ACHRA), which comprises the state, territory and federal human rights, equal opportunity and anti-discrimination authorities, met in Sydney on 4-5 April 2019 to consider a number of issues of common concern and interest. Apart from the issues about which the statements below have been made, issues discussed included older women and homelessness, disability justice plans, children's rights, human rights and technology, the federal intersex inquiry, outcomes of the Review into Religious Freedom, Male Champions of Change, anti-discrimination law reform and 'Free and equal: and Australian conversation on human rights'.

Guest presenters were Mr Bill Mitchell, Principal Solicitor at the Townsville Community Legal Centre and Mr Russell Westacott, Co-Chair of Elder Abuse Action Australia and CEO of Seniors Rights Advocacy Service.

The ACHRA members listed at the bottom of this document endorse the following statements:

Christchurch Terrorist Attack

ACHRA honours and remembers the victims of the recent terror attack in Christchurch, New Zealand. Members express their deep condolences and sympathies to those affected. We stand in solidarity and unity with the Muslim community and wider community in New Zealand and Australia, and remain resolutely committed to upholding the values of acceptance, respect, harmony, unity and inclusion. The tragedy in Christchurch is another reminder of the lesson that there is no place for racial or religious bigotry, prejudice, discrimination or hatred in our society. We congratulate the bipartisan censuring of Islamophobic comments from members of our Parliament.

ACHRA Welcomes Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

ACHRA members welcomed the bi-partisan support for the establishment of a Royal Commission inquiry into violence, abuse, neglect and exploitation of people with disability, and the Federal Government's subsequent \$527 million commitment to the inquiry in the Federal Budget.

Numerous reviews and inquiries have recognised that violence, abuse and neglect of people with disability is a serious and prevalent issue that requires urgent action. The Royal Commission offers a real step towards justice for people with disability by shining a light on their experiences of violence, abuse and neglect that often go undetected, unreported, non-

investigated, non-prosecuted and unpunished. The Royal Commission offers real opportunity for driving systemic change and delivering redress for people with disability.

ACHRA congratulates former Disability Discrimination Commissioner, Alastair McEwin, on his appointment as one of the six Royal Commissioners who will preside over the inquiry.

ACHRA looks forward to working with the Royal Commission, people with disability and the broader community to inform the inquiry.

Farewell to Disability Discrimination Commissioner, Alastair McEwin and Welcome to new Commissioner, Ben Gauntlett

ACHRA acknowledges the important contribution of Alastair McEwin, who finished his term as Disability Discrimination Commissioner on 4 April 2019 to take up an appointment as Commissioner for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. We pay tribute to Alastair's outstanding work as Disability Discrimination Commissioner where he has worked tirelessly and passionately with stakeholders to promote and protect the rights of all people with disability across Australia. We thank him for his inspiring leadership, compassion, wisdom, and courage.

ACHRA welcomes Dr Ben Gauntlett who has been appointed as Australia's new Disability Discrimination Commissioner for a five-year term. Ben has extensive legal experience as a barrister in Victoria and Western Australia and will bring a range of skills and experiences to the role, including lived experience of disability. Ben will commence the position on 7 May 2019 and ACHRA members look forward to working collaboratively with him to protect and promote the rights of people with disability. In the interim, we thank President of the Australian Human Rights Commission, Emeritus Professor Rosalind Croucher AM, for her contributions as acting Disability Discrimination Commissioner.

Disability Standards for Accessible Public Transport – Strengthening Accountability through Public Compliance Reporting

In the wake of the Third Review of the Disability Standards for Accessible Public Transport 2002, ACHRA members are concerned that work to establish a national framework for compliance reporting has once again stalled.

In their August 2018 issues paper, the Department of Infrastructure, Regional Development and Cities noted that after careful consideration, they would be concentrating on modernising the Transport Standards in the first instance rather than developing a national reporting framework as a priority.

Given the first and second reviews of the Standards recommended the need for a national framework, and this recommendation has not been actioned for more than seven years, ACHRA members agreed that there is a strong case for prioritising this work.

In the absence of a national reporting framework, it is difficult to review and monitor the effectiveness of the Standards and enforce compliance targets. The lack of response to repeated recommendations also calls into question the validity of the five yearly Standards review

process and its ability to deliver improvements to the Standards, which are one of the primary mechanisms for driving compliance and addressing non-compliance with the federal Disability Discrimination Act.

Adult Safeguarding Models and their Impact on Human Rights

With the Royal Commission into Aged Care Quality and Safety established on 8 October 2018, the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability recently announced, and South Australia's introduction of Australia's first adult safeguarding legislation in November 2018, ACHRA members considered adult safeguarding models and their impact on human rights.

- ACHRA cautions that systems of adult safeguarding have the potential to undermine human rights, and further entrench negative social constructions of age and disability, thereby legitimising and furthering discriminatory practices.
- ACHRA acknowledges the central importance of adult safeguarding legislation that incorporates mechanisms that reflect relevant human rights and provide mechanisms by which those rights are balanced and enforced.
- ACHRA supports regular dialogue between human rights, guardianship, safeguarding, and health authorities, about the law, policy and practice of safeguarding.
- ACHRA acknowledges the central importance of the rights of individual autonomy and agency and the fine balance needed in any setting or circumstance that seeks to limit those rights.
- ACHRA calls for clarification on the definition of safeguarding, including how the process interacts with and complements contemporary normative standards and systems of decision-making, and how it complies with Australia's obligations under the Convention on the Rights of Persons with Disabilities, particularly Article 12 and General Comment 1).
- ACHRA calls for the independent evaluation of safeguarding models to see how they compare and interact with other models of protection from interpersonal violence, and where opportunities exist to remove discriminatory constructions.
- ACHRA calls for safeguarding laws to be model, uniform and consistent, lest they fall into the same problems that beset Powers of Attorney, Guardianship and Administration regimes.

A National Approach to the Accreditation and Registration of Assistance Animals

- ACHRA members continue to receive enquiries and complaints from people with disability who have been denied access to public venues and public transport because they rely on assistance animals. People travelling interstate face particular disadvantage because there is currently no national uniform approach to the accreditation and registration of assistance animals.
- Animals, such as dogs, are commonly perceived as posing a risk to public health and safety. Identification systems are needed to give the community confidence in assistance animals. Service providers and business owners need to be able to quickly and easily identify assistance animals and people with disability need to be able to distinguish their animals from companion animals, without having to answer intrusive questions about their disability and without having to carry extensive paperwork.

- ACHRA calls on Federal, State and Territory governments to introduce a national approach to the accreditation and registration of assistance animals, similar to the work done to harmonise State and Territory disability parking schemes. This would reduce administrative burden faced by people with disability under the current system and make the recognition of assistance animals automatic, helping to ensuring proprietor compliance with the law.

Workplace Sexual Harassment National Inquiry

ACHRA members have been actively engaged in the Sexual Harassment National Inquiry led by the Sex Discrimination Commissioner, Kate Jenkins, since its commencement in 2018. To date ACHRA members have provided data, arranged and attended consultations, provided submissions and shared information about the Inquiry through their communication channels. The Inquiry has completed close to 100 individual and group consultations, and received approximately 450 submissions. There is international interest in the outcomes of the Inquiry and the Australian Government and Australian Human Rights Commission recently presented a session at the United Nations on this work. The Inquiry is now considering its potential recommendations for change and will report later in 2019.

Passage of the Queensland Human Rights Act 2019

ACHRA welcomes the passage of the *Human Rights Act 2019* in Queensland on 27 February and congratulates the Queensland Parliament for leading Australia by extending protection to economic, social and cultural rights (including access to education and health services) and creating a new human rights dispute resolution mechanism.

ACHRA looks forward to the transition of the Anti-Discrimination Commission of Queensland to the Queensland Human Rights Commission and calls upon the Queensland Government to ensure that the Commission is appropriately resourced to carry out its important additional functions.

For further information, contact:

- South Australia: Commissioner & Chair of ACHRA Dr Niki Vincent, 0439 493 303
- Australian Human Rights Commission: Emeritus Professor Rosalind Croucher, 02 9284 9600
- Australian Capital Territory: President and Human Rights Commissioner Dr Helen Watchirs, 0423 821 718
- Australian Capital Territory: Disability and Community Services Commissioner Karen Toohey, 02 6205 2222
- New South Wales: President Anti-Discrimination Board Dr Annabelle Bennett AO SC, 02 9268 5544
- Northern Territory: Commissioner Sally Sievers, 08 8999 1444
- Queensland: Commissioner Scott McDougall, 07 3021 9120
- Tasmania: Commissioner Sarah Bolt, 03 6165 7515
- Victoria: Commissioner Kristen Hilton, 0447 526 642
- Western Australia: Commissioner Dr John Byrne, 08 9216 3955