



2025 Progress Report

Implementation of the Recommendations of the
Royal Commission into Aged Care Quality and Safety

Embedding Human Rights in Aged Care

New legislation, the *Aged Care Act 2024* (the Act), creates a rights-based aged care system that supports older people to live with dignity, wellbeing and independence. It promises, amongst others, a right to culturally appropriate, trauma-aware and healing-informed care.

The Inspector-General wants to ensure the intention of the Act is supported by implementation mechanisms, enforcement actions and the right policy settings. She wants older people to feel their rights are being respected when they receive aged care.

Where the promise of human rights remains unfulfilled

The new Act embeds rights but does not provide a robust enforcement mechanism. Elements of the reform agenda are not consistent with a rights-based framework for care. The Inspector-General is concerned there are gaps between intention and implementation.

Under the new Act, rights can only be pursued where they are breached, and then only by individuals who have the self-efficacy, or an advocate supporting them to raise a complaint.

The Inspector-General considers this insufficient. A genuine commitment to rights means they should be embedded across the entire aged care system's administration and a broader part of the regulatory system, rather than just the narrow remit of complaints.

Examples where there are consequent risks

Impact on Aboriginal and Torres Strait Islander Elders

The Statement of Rights embeds the right to culturally safe, culturally appropriate, trauma-aware and healing-informed care. The Statement also includes a right to stay connected to community, Country and Island Homes.

These rights are clearly positive; however, the lack of enforcement powers undermines their significance.

The decision by government to mainstream Aboriginal and Torres Strait Islander care for the next 4 years increases the risk to Elders access to, and options for, receiving culturally safe, trauma-aware and culturally intelligent care.

Restrictive practices remain in use

Important rights have not been included in the Act, most notably the right to liberty, freedom of movement, and freedom from restraints.

The continued reliance on restrictive practices, such as chemical and physical restraint, is not being adequately addressed.

Action to reduce and eliminate restrictive practices is one area where the disability sector is well in front. The new Act does not directly address the continued over-reliance on restrictive practices.

Restrictive practices can be a serious human rights abuse. Further action is urgently needed. Failure to do so seriously compromises the most basic of rights contained within the Act.

Important changes are needed

Legislative reform can only be as successful as its implementation.

The Inspector-General considers the application of the Statement of Rights should also be broadened to cover government agencies in the aged care sector. This is consistent with the Royal Commission's approach, which found government can be complicit in the neglect and abuse a rights-based framework seeks to address.

The Inspector-General calls on government to consider the following:

Evaluation of whether the Act is delivering human rights

To ensure the government is formulating evidence-based aged care policy and appreciates the impact of its reforms, the Inspector-General calls on the government to institute and administer a robust evaluation framework to determine whether its reforms are delivering the rights and definition of high-quality care embodied by the Act

Broadening available mechanisms to enforce rights

If options to amend the Act to include broader enforcement mechanisms are available, the Inspector-General encourages the government to consider providing other enforcement mechanisms that widen people's scope to claim their rights, including the ability to initiate their own legal or other administrative proceedings.

Providing this recourse would help to guarantee individuals' rights are upheld through increasing the onus on providers to consistently deliver rights-based care.

Stronger complaints process

The Inspector-General believes the role of the Complaints Commissioner, and Aged Care Quality and Safety Commission, in supporting the transformation of the aged care system into a rights-based, person-centred framework cannot be overstated. The Inspector-General will monitor these authorities to ensure whether and how they are promoting human rights in the exercise of their functions and powers.

Protecting human rights can't wait. Every older person deserves to live with dignity and safety.