

Australian Comments – Guidelines for the implementation of the right to adequate housing.

The document contains some duplication and overlap. For example:

- guideline 5 (ensure gender equality) and guideline 9 (ensure the right to housing for migrants) overlap and to some extent duplicate guideline 4 (address discrimination and ensure equality). These could potentially be merged into guideline 4, rather than singling out women and migrants over other equally vulnerable groups (e.g. people with disabilities)
- implementation measure 28(d) (involving women in the design of housing programs) duplicates the implementation measures in guideline 10 (involving all those affected in the design of policies and programs)
- implementation measures 28(f) (give women equal access to credit, mortgages etc) and 41(h) (lenders to remove barriers to access to credit for women) are duplicative.

The guidelines as a whole are ambitious and some implementation measures when combined are potentially at odds with one another. For example, implementation measure 61(d) (climate change efforts to assist those who live in dangerous sites to move to safer sites) may be challenging to implement in conjunction with implementation measure 54(g) (recognise the right of residents to remain in situ whenever possible).

The guidelines could acknowledge the need to balance measures for the right to housing with other rights and laws, such as proper order and the right to own property. For example, implementation measure 58(c) (protect from forced eviction, people living informally on land or in housing for which they do not have title or formal authorisation to occupy) could acknowledge that this ideal must be balanced with article 17 of the *Universal Declaration of Human Rights* which states:

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

Introduction - comments

The claims in the introduction do not appear to be supported by evidence, or the evidence base does not appear to be robust. For example, the source for the 15 million forced evictions comes from the Witness Forced Evictions advocacy group. It is not clear how the Witness Forced Evictions came up with this estimate.

We would suggest removing the quotation marks around the word “assets” which have not been supported with any evidence in the guidelines.

It is unclear what ‘unbridled accumulation’ refers to – for instance, wealth, property or other things.

We would suggest moving paragraph 11 towards the beginning of the introduction to make clear that the definition of ‘State’ used in the document refers to all levels of government and not just national governments.

Australian context

Right to Housing

- In Australia the right to housing is recognised in state legislation. For example, the New South Wales Housing Assistance Act 2001 (the Act) - the Objects of this Act include to maximise the opportunities for all people in New South Wales to have access to secure, appropriate and affordable housing.
- Australia's housing policy objectives are outlined in the National Housing and Homelessness Agreement (NHHA) between the Australian Government and state and territory governments (states).
- The NHHA's objective is to contribute to improving access to affordable, safe and sustainable housing across the housing spectrum, including to prevent and address homelessness, and to support social and economic participation.
- The NHHA aspires to contribute to six key outcomes:
 - a well-functioning social housing system;
 - affordable housing options for people on low-to-moderate incomes;
 - an effective homelessness service system, which responds to and supports people who are homeless or at risk of homelessness to achieve and maintain housing, and addresses the incidence and prevalence of homelessness;
 - improved housing outcomes for Indigenous Australians;
 - a well-functioning housing market that responds to local conditions; and
 - improved transparency and accountability in respect of housing and homelessness strategies, spending and outcomes.
- Under the NHHA, states and territories are required to develop and make public their housing and homelessness strategies that include reforms and initiatives to help reduce the incidence of homelessness and housing priority areas.
- Homelessness strategies must address the following NHHA priority homelessness cohorts:
 - women and children affected by family and domestic violence;
 - older people;
 - children and young people;
 - people leaving institutions and care (including prison and mental health facilities);
 - Indigenous Australians; and
 - people experiencing repeat homelessness.

- Housing strategies must also address the following NHHA housing priority policy areas:
 - affordable housing;
 - social housing that is responsive to the needs of tenants and is appropriately renewed and maintained;
 - encouraging growth and supporting the viability of the community housing sector;
 - tenancy reform that encourages security of tenure;
 - home ownership; and
 - planning and zoning reform initiatives.

Australian Government's housing and homelessness policy contributions

- The Australian Government understands that housing is fundamental to the welfare of all Australians.
- While Australian state and territory governments are primarily responsible for housing and homelessness, Australia's federal government (the Australian Government) also contributes.
- The Australian Government will spend more than \$6 billion to improve housing and homelessness outcomes in 2019-20 including:
 - around \$4.6 billion in Commonwealth Rent Assistance to help eligible Australians pay their rent; and
 - more than \$1.5 billion a year through the National Housing and Homelessness Agreement (NHHA) to states and territories;
 - This includes **\$125 million** in dedicated homelessness funding;
- Additional measures to improve housing and homelessness outcomes include:
 - establishing the First Home Loan Deposit Scheme to support first home buyers;
 - establishing the National Housing Finance and Investment Corporation (NHFIC) to help grow the community housing sector;
 - establishing the \$1 billion National Housing Infrastructure Facility (NHIF) to help unlock new housing supply, including social housing;
 - up to \$118 million for the delivery of 103 Reconnect youth, homelessness prevention services over five years;
 - \$30 million to build more than 100 social and affordable homes under the Hobart City Deal; and
 - \$78 million for domestic violence housing services including \$60 million to build emergency accommodation and \$18 million for the Keeping Women Safe in their Homes program.

Background

Information provided in Australia's response to the OECD Questionnaire on Affordable and Social Housing in 2019 included:

Is the right to housing recognised:

	Yes	Uncertain	No
in the Constitution			<input checked="" type="checkbox"/>
in other legislation at national level			<input checked="" type="checkbox"/>
in other legislation at regional level	<input checked="" type="checkbox"/>		
Other	<input checked="" type="checkbox"/>		

Australia is a party to seven core international human rights treaties. The right to an adequate standard of living is contained in article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Also the Convention on the Elimination of All Forms of Racial Discrimination (CERD) requires countries to guarantee the right of everyone to housing, without distinction as to race, colour, or national or ethnic origin.

Are asylum seekers* immediately eligible for social rental housing?

- Yes
- No

* Asylum seekers are people who have formally applied for asylum, but whose claim is pending. In practice, only a minority of asylum seekers are granted refugee or some other form of humanitarian migrant status, while the rest have to leave the country.

Are those with newly granted refugee status* immediately eligible for social rental housing?

- Yes
- No

*Refugee status is a special legal protection available to a person who has fled his/her country owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality, and is unable or, owing to such fear is unwilling to avail himself/ herself the protection of that country.

Allocation of social housing in Australia

The majority of social housing in Australia is allocated to households in greatest need.

Source: <https://www.pc.gov.au/research/ongoing/report-on-government-services/2019/housing-and-homelessness/housing/rogs2019-partg-chapter18.pdf>

Individual settings differ by state and territory.

In NSW, senior citizens are a priority criteria. Priority for social housing is based on being unable to meet urgent housing need in the private rental market and assessed as having one or more particular vulnerabilities.

In WA, priority assistance is based on individual circumstances and no client cohorts are treated as a priority by default (see:

http://www.housing.wa.gov.au/HousingDocuments/Priority_Housing_Need_Policy.pdf).

For the ACT, see:

https://www.communityservices.act.gov.au/hcs/services/social_housing/eligibility_for_early_allocation_of_housing

In Queensland, a segmented Housing Register and wait turn system within the segments is used to allocate housing assistance. All approved applications are given a priority classification as determined by a Housing Needs Assessment. Offers of housing are made based on a priority system, with the applicants with the highest needs offered assistance ahead of applicants with lower housing needs.