

DISCUSSION RESOURCE

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PROJECT OF
5TH NATIONAL ELDER
ABUSE CONFERENCE

HOSTED BY SENIORS
RIGHTS SERVICE



ELDER ABUSE AND THE LGBTIQ COMMUNITY

HON. MICHAEL KIRBY
AC CMG





ABOUT THIS PROJECT

In February 2018, Seniors Rights Service hosted the 5th National Elder Abuse Conference, which brought together more than 500 delegates from a broad range of backgrounds. The conference culminated in an announcement by the Commonwealth Attorney-General, Hon Christian Porter MP, that a “*National Plan*” would be developed to ensure the protection of older people in Australian society.

To further the conversations generated by the conference, Seniors Rights Service engaged Ellen Fanning to conduct a series of interviews with experts who attended the conference. These videos, along with a discussion sheet for each video, are freely available to community members, professionals and students of all sectors, to enable engagement with the content using suggested discussion questions and to follow up with further reading.

IMPORTANT! READ THIS BEFORE HOLDING A DISCUSSION GROUP

Many people will share and benefit from participating in study and discussion on the topics.

Due to the sensitive nature of the topics, however, group leaders should ensure they are prepared to support individuals to find qualified assistance in a timely manner, should a topic generate personal concerns or issues for individuals.

As a minimum, group leaders should have available information sheets and phone numbers from the relevant seniors' legal rights service and/or elder abuse prevention service in your state or territory (on page 5 and current as of 2018).

ABOUT THIS RESOURCE

SHORT DESCRIPTION

The Hon. Michael Kirby discusses how the particular vulnerability for the lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) community is related to “the deal made between themselves and society” – to keep quiet about their sexual orientation; to live in silence about their relationships. Justice Kirby explains how enacting a law (such as marriage equality) doesn't immediately change views, so there are potential difficulties around openness in an institutional setting, with both staff and other residents. These taboos and deeper cultural views perpetuate the vulnerability of LGBTQI older people in relation to elder abuse.

FOCUS AREA

Elder abuse and the LGBTQI community

RELATED TOPICS

Elder abuse prevention, elder abuse intervention, LGBTQI, rainbow communities, diversity, discrimination

AUDIENCES

Community members, health workers, aged-care workers, community workers, researchers, students, advocates, policy officers, legal professionals

MATERIALS FOR FURTHER READING

Audio file) Radio National Drive, Former High Court judge on elder abuse of LGBTQI Australians and the hypocrisy of Barnaby Joyce, accessed from www.abc.net.au/radionational/programs/drive/former-high-court-judge-on-elder-abuse-of-lgbti-australians-and/9467758

SUGGESTED AGENCIES

The Hon. Michael Kirby AC CMG website, including speeches, news and events, www.michaelkirby.com.au/



HON. MICHAEL KIRBY AC CMG

RETIRED JUDGE OF THE HIGH COURT OF AUSTRALIA AND LGBTQI ADVOCATE

BIOGRAPHY

When he retired from the High Court in 2009, Michael Kirby was Australia's longest-serving judge, having first been appointed in 1975 to the Australian Conciliation and Arbitration Commission. His distinguished judicial career included roles as inaugural chairman of the Australian Law Reform Commission, judge of the Federal Court and president of the NSW Court of Appeal, before he was appointed in 1996 to the High Court, where he served 13 years, with two periods as Acting Chief Justice. In addition to his judicial duties, Justice Kirby was chancellor of Sydney's Macquarie University and was involved with many international bodies, including the United Nations, the World Health Organisation and UNESCO, in roles focusing on human rights, HIV and AIDS. Since retiring, he has been editor-in-chief of *The Laws of Australia* and a member of the Eminent Persons Group on the future of the Commonwealth of Nations. He chaired the UN Commission of Inquiry on Human Rights Violations in North Korea in 2013-14 and is currently co-chair of the International Bar Association's Human Rights Institute.

ELDER ABUSE AND THE LGBTQI COMMUNITY

DISCUSSION QUESTIONS

What does Justice Kirby describe as the vulnerability for the LGBTQI community as they age?

Justice Kirby says the vulnerability relates to the "deal that was made during their growing up, between society and them", which was to "keep quiet about their sexual orientation, not to confront mainstream Australia with that orientation and then mainstream Australia will leave you alone". Justice Kirby explains that as people who identify as LGBTQI get older, they have the disadvantage that they often don't have the same family arrangements, they have not been given the same rights to marriage and relationship recognition, they have had to live in isolation and silence and have had to "internalise the feeling of less worth". He says there are people in aged care still striving to overcome this situation. For example, a person in residential care "may not feel they can put up photos or memorabilia of the people they have loved". Justice Kirby explains that even some family members may not want the person to be open about these issues.

What examples does Justice Kirby give of how a new generation of LGBTQI older people will experience challenges in aged care, and will challenge aged care by insisting on their rights?

Justice Kirby refers to this situation as "a complex challenge in a time of transition ... (that will) eventually get better and better". He provides examples of how a new generation of LGBTQI older people may experience challenges and will challenge aged care. For example, he says the cohort of older gay aged-care residents who are living with HIV, which is a treatable disease, will find themselves in situations of "medical dependency and maybe difficulties of securing and keeping privacy that may endanger their health outcomes". Justice Kirby also speaks of difficulties of LGBTQI older people forming relationships and having relationships in aged-care facilities, when they show affection and engage in sexual activity. He explains this is a generation that may have been part of the "flower generation, who, in 1968, went to San Francisco with flowers in their hair". Now that they are quite elderly, their attitudes to showing sexuality may be quite "shocking" to some gay and straight people in aged-care facilities. He also argues that the trans community have had "the hardest journey of all" because they have been discriminated against in both the heterosexual community and the gay community, because of ignorance about their needs.

What does Justice Kirby conclude about the process of the marriage equality survey in Australia, and how have he and his partner taken a personal stance in relation to insisting on human rights for all in Australia?

Justice Kirby says that in his opinion, a 40 per cent "no" response

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DISCUSSION SHEET INFORMATION



to the marriage equality survey was not a good outcome. He is critical of the process whereby Australia was one of the last countries in the western world to have taken the step to address marriage equality. He argues the decision not to take the issue directly to parliament, which would have been faster, and which was the usual process for such issues, revealed a group of "very conservative politicians who had very strong views ... were really reflecting their private religious views in public life". In response and as an important step to ensure human rights in Australia, Justice Kirby says he has been encouraged by his partner to stand up and say, "Look at me. Do you really hate me? Do you really feel I'm less worthy? Because I'm not going to go along any longer with the deal. I'm not going to pretend I'm straight." Justice Kirby and his partner Johan van Vloten believe it is important to be open and honest or else nothing in this country will ever change.



STATE/TERRITORY	AGENCY CONTACT	CONTACT
AUSTRALIA-WIDE	Older Persons Advocacy Network (OPAN)	1800 700 600 Connects you with aged-care advocacy services in your state or territory
NEW SOUTH WALES	Seniors Rights Service	1800 424 079
	NSW Elder Abuse Helpline	1800 628 221
AUSTRALIAN CAPITAL TERRITORY	Older Persons Abuse Prevention Referral and Information Line (APRIL)	(02) 6205 3535
	A.C.T. Disability, Aged and Carer Advocacy Service (ADACAS)	02 6242 5060
NORTHERN TERRITORY	Elder Abuse Information Line	1800 037 072
	Seniors and Disability Rights Service of Darwin Community Legal Service	1800 812 953
QUEENSLAND	Elder Abuse Prevention Unit	1300 651 192
	Aged and Disability Advocacy Australia (ADA Australia)	1800 818 338
	Caxton Legal Centre	(07) 3214 6333
SOUTH AUSTRALIA	Aged Rights Advocacy Service	(08) 8232 5377 (Adelaide)
	Alliance for the Prevention of Elder Abuse	1800 700 600 (rural)
	Legal Services Commission of South Australia	1300 366 424 (08) 8111 5555
TASMANIA	Tasmanian Elder Abuse Helpline	1800 441 169
	Advocacy Tasmania Inc. (ATI)	(03) 6224 2240
	Legal Aid Commission of Tasmania	1300 366 611 (03) 6236 3800
VICTORIA	Seniors Rights, Victoria	1300 368 821
	Elder Rights Advocacy (ERA)	(03) 9602 3066 1800 700 600 (rural)
WESTERN AUSTRALIA	Advocare Inc.	1300 724 679 (Perth) 1800 655 566 (rural)
	Older Persons Rights Service, Northern Suburbs Community Legal Centre	(08) 9440 1663 (Mirrabooka) (08) 9301 4413 (Joondalup)

DISCLAIMER

This is information only, not legal advice. If you have a legal problem, call our service directly or see your lawyer. The views expressed in the video are the views of the individual making them, not those of Seniors Rights Service Inc.