

*The Partners in Culturally Appropriate Care (PICAC) Alliance provides a national conduit for collaboration between PICAC organisations in every state and territory in Australia.*

*Funded by the Australian Commonwealth Government since 1997, PICAC organisations support aged care providers to deliver culturally appropriate care and strengthen cultural responsiveness through collaboration, training, and advocacy.*

## Written Submission to the UN Call for Inputs

### General framework, architecture and guiding principles of a legally binding instrument on the human rights of older persons

Submitting organisation: **PICAC Alliance (Partners in Culturally Appropriate Care)**  
– national network supporting culturally appropriate aged care delivery across Australia.

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## EXECUTIVE SUMMARY (KEY POINTS)

- 1. The legally binding instrument (LBI) should centre older persons as rights-holders while avoiding a single, culturally specific model of personhood.** It must recognise both “person-centred” and “person-within-community” approaches and require systems to respect the older person’s stated preference regarding who is involved in communication, decision-making and care.
- 2. Discrimination must be addressed with specificity.** Culturally and linguistically diverse (CALD) older persons require culturally appropriate and responsive systems and language access obligations suited to migrant-receiving societies. First Nations older persons require cultural safety measures and explicit recognition of the ongoing impacts of colonialism. Generic “diversity” approaches risk tokenism, one-size-fits-all solutions, and ineffective cost-shifting.
- 3. Implementation must be enforceable and practical.** This includes partnership-based participation (co-design), continuity across the health-aged care-disability continuum, and data systems that can communicate with one another, alongside transparent reporting that demonstrates what has been learned and will change will (“so what” and “where to from now”).
- 4. Persistent “no data” and under-representation must be addressed as a rights issue.** The LBI should require proportionate inclusion of CALD older persons in publicly funded research, evaluation and data systems. Where representation is not proportionate, budgets and methods must be adjusted; otherwise, funding should not proceed.

## WHY THIS MATTERS

(SYSTEM FRICTION → AVOIDABLE HARM → LONG-TERM COST)

When care systems are designed around a single assumed model of personhood and communication - often defaulting to independent individualism - **mismatches with the older person's preferred decision-making arrangements and cultural or linguistic context create system friction**. This friction manifests as repeated assessments, delayed access, missed or misunderstood information, avoidable escalation to crisis care, unsafe transitions, and increased caregiver burden through default cost-shifting onto families.

These are not minor inconveniences; they **generate avoidable harm, including preventable safety risks, distress, disengagement, and poorer continuity of care**.

Over time, this compounds into **higher system costs through duplication, inefficient navigation, late intervention and preventable deterioration**.

**A legally binding instrument** that requires preference-based participation, culturally appropriate and responsive access measures, continuity across the care continuum, and transparent, data-driven accountability **reduces friction, prevents harm, and improves sustainability and public value**.

## MINIMUM IMPLEMENTATION INDICATORS

**To enable measurable accountability, States should publicly report (at least annually) on the following minimum indicators:**

### 1) Preference-based participation

**Percentage of older persons with documented decision-making and participation preference** (including who they want involved in communication, consent, and care planning), reviewed within the last 12 months.

### 2) Language access timeliness

**Median time to interpreter provision** (urgent and non-urgent), and the percentage of encounters where language needs were identified and appropriately met.

### 3) Continuity at transitions

**Percentage of care transitions** (home ↔ hospital ↔ community/ residential care ↔ palliative/ hospice care) **with a completed handover that includes communication needs and decision-making preferences**.

### 4) Interoperable data coverage

**Percentage of relevant service settings using interoperable data-sharing arrangements that enable continuity of care** across health, aged care, and disability systems.

### 5) Transparency and learning-to-action reporting

**Annual public reporting** that includes (a) equity findings; (b) "so what?" (what has been learned), and (c) "where to from now?" (specific changes to planning, funding, or service design).

### 6) Proportionate representation in publicly funded research and evaluation

**Percentage of publicly funded studies and evaluations in which** participant cohorts reflect the proportionate composition of the relevant older population (or provide a justified exception approved through independent review), with budgeted language access and culturally responsive methods.

## 1. OVERARCHING FRAMEWORK (OHCHR QUESTION 1)

**PICAC Alliance recommends a framework grounded in universality of human rights, equality and non-discrimination, participation, accessibility, accountability, and substantive (not merely formal) equality. The LBI should strengthen protection against ageism and ensure older persons can exercise rights in ways that reflect diverse cultural, linguistic and family or community contexts.**

### 1.1 Rights-holders without imposing a single model of personhood

Many current systems - through policies, standards, assessment tools, consent practices, privacy settings, and “choice architecture” - implicitly assume the older person as an independent individual decision-maker operating alone. While this approach may support some older persons, it should not be presumed as the default.

The LBI should require States to ensure service systems can operate with:

- **Person-centred approaches** (where the older person prefers individual decision-making), **and equally,**
- **Person-within-community approaches** (where the older person prefers relational participation, including family or community involvement).

Safeguard: Services should not assume independent individualism unless the older person confirms that this preference. “Person-centred” care must not be operationalised as “person alone.”

### 1.2 Participation as partnership, not consultation-as-formality

**Participation should be framed as partnership.**

For CALD older people, co-design should be recognised as a human rights requirement rather than a discretionary engagement activity. Consultation alone is insufficient to address structural power imbalances, language barriers, and culturally embedded decision-making norms. Rights-based frameworks should require the active involvement of CALD older people, families and representative organisations as partners in the design, implementation, and evaluation of policies, service models, and system reforms. This is particularly critical during periods of system transformation.

Participation must be accompanied by transparent feedback loops that show how input was used, what was learned, and what will change next.

## 2. CORE PRINCIPLES (OHCHR QUESTION 2)

**PICAC Alliance proposes the following core principles, with implementation obligations that prevent tokenistic compliance.**

## 2.1 Non-discrimination with specificity

**Discrimination must be addressed explicitly in relation to age combined with language, migration history, ethnicity, religion, disability, socio-economic status and geographic location.** “Diversity within diversity” must be explicitly recognised in rights-based frameworks.

**CALD older people** are not homogeneous group. Differences in migration pathways, age at arrival, reasons for migration (including voluntary migration, displacement, or forced migration), length of settlement, levels of acculturation and assimilation, language retention or loss, religious and cultural practice, and intergenerational transmission of values all shape how ageing is experienced and how care decisions are made.

Generational differences within families, changing expectations regarding independence, and culturally patterned roles of older people and family carers further influence engagement with services. Rights frameworks that rely on broad “diversity” categories without attending to this internal complexity risk privileging those who most closely resemble the dominant system user, while obscuring the needs of older people whose experiences of ageing are culturally patterned, relational, and context-specific.

## 2.2 Meaningful access and accessibility across the care continuum

**Equality should be defined as meaningful access**, not merely equal formal entitlement. Meaningful access requires **systems to address communication barriers, navigation complexity, and service fragmentation**, particularly at high-risk transition points.

## 2.3 “Person-within-community” alongside “person-centred” care

**Systems must support the older person’s chosen decision-making arrangement**, including family or community involvement where desired, while protecting against coercion or exclusion.

**This requires practical mechanisms**, including documentation of preferences, review over time, supported decision-making options, and accessible complaint pathways. where family/ community involvement is not desired.

## 2.4 Cultural appropriateness and responsiveness

**For CALD older persons, culturally appropriate and responsive care must be operationalised as an enabling condition for rights.** This includes workforce capability, organisational accountability, and service practices that support culturally responsive communication and decision-making.

## 2.5 Continuity of connection, roles and purpose

**The LBI should recognise older persons’ rights to maintain** family and community connections, continuity of roles and life purpose, **and to be supported – timely and respectfully** – when frailty or dependence increases.

### **3. REAFFIRMING RIGHTS AND ADDRESSING GAPS (OHCHR QUESTION 3)**

**While reaffirming existing human rights standards, the LBI must address system-level gaps that continue to disadvantage CALD older people.**

#### **3.1 Individualism-constructed systems**

Systems designed around individualised defaults (e.g., privacy, consent models, assessment tools, and care planning requirements) often unintentionally exclude family or community participation even where desired by the older person.

**The LBI should require accommodation of relational and collectivist models when preferred.**

#### **3.2 Fragmentation across systems and transitions**

Older people are particularly vulnerable at transitions across health, aged care, disability and end-of-life pathways.

**The LBI should require continuity-of-care obligations with cross-sector accountability.**

Major care system transitions present heightened risk for culturally and linguistically diverse older people unless culturally appropriate safeguards are embedded as rights-enabling measures.

Across many countries, reforms introducing new funding models, eligibility pathways, assessment frameworks, or service delivery arrangements can unintentionally disadvantage CALD older people who rely on language support, family involvement, or trusted intermediaries to navigate systems.

Rights-based instruments should therefore require States to demonstrate that large-scale transitions include culturally appropriate communication, responsive assessment and reassessment processes, access to advocacy and navigation support, and monitoring of equity impacts during and after transition.

#### **3.3 Data invisibility and accountability gaps**

**Where systems do not collect, link, and analyse culturally relevant data, inequities remain invisible and are repeatedly justified as “no data.”**

The LBI should require interoperable systems for continuity and planning; transparent reporting, and explicit accountability for how data informs planning and funding.

#### **3.4 Research exclusion**

**Under-representation of CALD older persons in research and evaluation must be treated as rights issue. Public funding should be contingent on proportionate representation and culturally responsive methodologies.**

#### 4. PROPOSED ARCHITECTURE/ STRUCTURE (OHCHR QUESTION 4)

**PICAC Alliance recommends an architecture that is clear, implementable, and measurable:**

We propose the instrument include:

4.1 **Preamble** recognising ageism, migration, cultural and linguistic diversity; and the Indigenous peoples' rights.

4.2 **Definitions** covering "person-centred" and "person-within-community" care, cultural responsiveness, cultural safety, supported decision-making, and language access.

4.3 **General principles** of dignity, equality, autonomy (including "relational autonomy"), participation, and accountability.

4.4 **General obligations** requiring meaningful access, including language access and culturally responsive service design, continuity across systems and transitions, data interoperability and grievance mechanisms regardless of language.

4.5 **Substantive rights addressing equality and non-discrimination; freedom from violence, abuse, neglect and exploitation; health and long-term care; autonomy and legal capacity (including supported decision-making); community inclusion (including living independently); adequate housing and ageing in place; participation in public life; and access to justice.**

4.6 **Implementation and monitoring mechanisms** including partnership and co-design, workforce accountability, data reporting, and regular review.

#### **CLOSING**

PICAC Alliance welcomes the opportunity to contribute to the development of a legally binding instrument that strengthens the human rights of older persons by ensuring those rights are culturally meaningful, system-ready and enforceable in practice. This submission reflects PICAC Alliance's specialist expertise in translating rights frameworks into workable aged care systems for culturally and linguistically diverse people.

Sincerely,

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On behalf of PICAC Alliance (Partners in Culturally Appropriate Care)

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- COTA NT – PICAC NT
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- Fortis Consulting WA – PICAC WA
- Migrant Resource Centre Tasmania - PICAC Tasmania
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