

Seniors Rights Service

***Response to the call for input on the
general framework, architecture, and
guiding principles of a legally binding instrument
on the human rights of older persons***

April 2026

About Seniors Rights Service

For 40 years Seniors Rights Service has given voice through advocacy, informed through education and advised through legal service. Seniors Rights Service is an accredited specialist Community Legal Centre that provides assistance to older people in NSW. Our legal service provides free legal advice, casework assistance, information, referral and community legal education. In NSW Seniors Rights Service delivers the National Aged Care Advocacy Program providing information and support to people using or seeking to access in home and residential aged care services including specialist financial advocacy that helps to understand fees, costs and pricing, resolve concerns relating to costs and support consumer choice. As the largest Ageing Peak Body in NSW we work closely with the Department of Communities and Justice and other key NSW bodies and departments to further the NSW Government's Ageing Well in NSW: Senior Strategy 2021 -2031 with a specific role under the Ageing Well action plan under focus area 4: Being resilient and informed.

Our Vision

A society that respects and upholds the rights of older people.

Our Purpose

The purpose of Seniors Rights Service is to raise awareness and empower older people to activate, uphold, extend and defend their individual rights. We foster communities to respect and value seniors and their rights. We achieve our purpose by providing accessible and confidential legal services, aged care advocacy and information.

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Gadigal Land

Suite 201 / 418A Elizabeth Street Surry Hills NSW 2010

02 9281 3600 | 1800 424 079 | info@SeniorsRightsService.org.au | SeniorsRightsService.org.au

Seniors Rights Service ABN 98 052 960 862

17 April 2026

H E Ambassador Carlos Mario Foradori Ambassador and Permanent Representative of Argentina to the International Organisations in Geneva
Chair, UNHRC Intergovernmental Working Group the Rights of Older Persons
C/- Office of the High Commissioner for Human Rights
United Nations Office at Geneva HCHR-UNOG
8-14 Avenue de la Paix, 1211 Geneve 10
Switzerland

By email: OHCHR-SecretariatIGWGOlderPersons@un.org

Dear Ambassador, Foradori

Seniors Rights Service welcomes the call for inputs on the general framework, architecture, and guiding principles of a new international legally binding instrument on the human rights of older persons.

As a localised organisation present in community right across the Australian State of New South Wales Seniors Rights Service witnesses the systemic issues that older people face both in community and systemically; we have worked for 40 years to ensure the rights of older people in our community are upheld and fought for. We welcome Human Rights Council Resolution 58/13 to elaborate an international legally binding instrument on the human rights of older persons.

Seniors Rights Service has participated for many years in the discussions over the need for a new international convention on the human rights of older persons, with its representatives having attend a number of sessions of the UN General Assembly Open-ended Working Group on Ageing and of the Human Rights Council as well as the most resent session of this Working Group in February 2026. As members of Rights of Older People Australia and The Global Alliance for the Rights of Older People we are part of an active thriving civil society movement in the space of rights of older people in Australia and globally. We endorse in principle the Global Alliance for the Rights of Older People discussion paper presented to the working group.

Seniors Rights Service provides the following responses to the key questions and types of input to inform the deliberations on the general framework, architecture, and guiding principles of a legally binding instrument on the human rights of older persons, in preparation for the first substantive session of the working group to be held from 13 to 17 July 2026.

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1. Overarching Framework

Seniors Rights Service considers that the overarching framework of the international legally binding instrument should be based on a clear and nuanced understanding of the gaps, limitations and deficiencies in the existing human rights framework and should be based on the lived experiences of older persons. In particular the new instrument must proceed from an understanding of both the conceptual and practical limitations of the existing human rights framework. Those gaps, deficiencies and limitations have been exposed and analysed over the last decade and a half by many stakeholders; the results of those analyses should frame the goal of the treaty and its content.

Seniors Rights Service shares the view of the Office of the United Nations High Commissioner Human Rights set out in its *Updated Study of 2021* where OHCHR states that the underlying problems with the current international human rights framework are fundamental and conceptual:

“There is no clear articulation in any of the United Nations human rights treaties of the nature and significance of ageing, its social construction and the phenomenon of ageism. Without such a coherent conceptual framework to inform the interpretation and application of existing human rights norms and to frame the development of new norms and interpretations that address the realities of older persons’ lives, the international human rights system will continue to fall short in delivering on its promises to ensure that all persons, including all older persons, fully enjoy their human rights and fundamental freedoms, by stimulating changes at the national level.”¹

Similarly, in its report to the UN Human Rights Council in January 2022 OHCHR concluded that *“To deliver on the promise to ensure that all persons, including all older persons, fully enjoy their human rights and fundamental freedoms, it is necessary to move expeditiously towards developing and adopting a coherent, comprehensive and integrated human rights framework that reflects an*

¹ OHCHR, *Update to the 2012 Analytical Outcome Study on the normative standards in international human rights law in relation to older persons*, Working paper prepared by the Office of the High Commissioner for Human Rights, March 2021, para 1, <https://www.ohchr.org/sites/default/files/2022-01/OHCHR-HROP-working-paper-22-Mar-2021.pdf>

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up-to-date and nuanced understanding of the social construction of ageing, the nature and extent of ageism and age discrimination, and the experiences of diverse groups of older persons."

If a new convention is to comprehensively and effectively address the shortcomings of the present international framework, it must go beyond trying to plug identified individual "gaps" : it must engage with the social nature and meaning of ageing and older age, with the implications of increased longevity for both individuals and societies, with the nature and widespread existence of ageism and age discrimination, and with the diversity of older people around the world, as well as addressing the many new and emerging issues that affect the human rights of older people as well as others.

Thus, what is needed is not just the filling of individual "gaps" but a holistic rethinking of human rights and older age – a paradigm conceptual shift similar to that seen in the development of the Convention on the Rights of Persons with Disabilities. ²Established rights must be affirmed but also carefully examined in order to address their limitations and to adapt them to the circumstances that older person face by new formulations [and codification of progressive practice under the UN human rights treaties.

² See Andrew Byrnes, " The struggle for equality, freedom and visibility: the campaign to achieve a new United Nations treaty on the human rights of older persons" in Helen Meenan and Christa Tobler (eds), *Realising Protection from Age Discrimination: International, Regional, and National Perspectives* (Edward Elgar, 2025) 24-54, at 33-35.

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1.1. Essential elements of an overarching framework

Seniors Rights Service considers that it is critical to include the following elements in order to ensure that the instrument best reflects and reinforces the recognition that older persons are rights holders:

- 1.1.1. *A clear statement of the social construction and meaning of ageing:* Context-appropriate application of older age is essential to acknowledge that the experience and meaning of older age is shaped by social and cultural norms as well as social expectations. Framing older age exclusively or primarily as chronologically based and without taking full account of the cultural and social norms that help to define older age and its significance in different societies, will mean that the instrument will fail to address effectively patterns of discrimination and exclusion in many societies. A broader approach will fully reflect the lived realities of older age, ensure the inclusion of contextual, place-based understanding and application for states and local communities and ensure that acknowledgement and inclusion of diverse and evolving cultural understandings of ageing
- 1.1.2. *Older people as existing rights holders:* Older persons are already rights holders under international human rights law, even if those rights are often not fully realised. They fully participate in society and have a right to full legal personhood with full legal capacity. The extent to which they enjoy those rights before they are designated as “older persons” should not be in any way diminished because they are older: at later stages of life they are entitled to enjoy the full range of human rights and fundamental freedoms guaranteed under international, regional and national laws and this should not cease once they are defined as old. The new instrument should therefore include a comprehensive catalogue of human rights and fundamental freedoms; it should not be limited to non-discrimination guarantees or to a limited list of rights that are seen as “especially relevant” to older persons – all human rights are relevant to older persons. To reinforce and protect the reality that older people are rights holders it must be stated clearly that rights do not diminish in time or as a person ages and transitions through life. Rights transcend time, lived experience and shifting identities and regardless of these people are entitled to the full and equal enjoyment of all human

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rights and fundamental freedoms. This must be outlined front and centre in the legally binding instrument.

- 1.1.3. *Diversity and intersectionality are central:* The instrument must acknowledge the diversity of older persons and the intersectional nature of the discrimination which they face, as well as the explicit multiple and cumulative discrimination that many older people face. The instrument should also underline the importance of adopting a life course approach that recognises that the extent to which older persons enjoy their rights in older age is often significantly influenced by experiences and rights enjoyment or violations at earlier stages of their lives.
- 1.1.4. *Process for drafting the instrument and the importance of lived experience:* The process of drafting the legally binding instrument and its substantive content must be informed by the lived experience of older persons in all their diversity. The development of a legally binding instrument on the human rights of older people must take place within a human rights-based approach which always aims to centre and co-create with those in whose name the work is undertaken. Full and meaningful participation and engagement in the drafting process by older people and their representative organisations is a right and an essential element of the process. This participation and engagement must be implemented from the outset of the actual drafting and be an integral part of each stage of work on the convention. The workplan of the Intergovernmental Working Group should also be developed so as to ensure ample time for older persons and their representative organisations to carry out consultations with their communities so that their participation and engagement can occur in a meaningful and effective way. This is critical to both the legitimacy and effectiveness of the proposed legally binding instrument
- 1.1.5. *Ageism must be recognised as a root cause of violations:* Ageism - understood as “the stereotypes, prejudice and discrimination directed towards others or oneself based on age” is a root cause of many human rights violations experienced by older people. The elimination of all forms of ageism is essential to the realisation of the human rights of older people and the legally binding instrument should accordingly include an explicit obligation on States parties to eliminate ageism in all its forms

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2. Core Principles, Affirmation Of Existing Rights And Further Development As Needed

2.1. Core principles

Core underlying principles should be stated clearly in a standalone article in the opening, general part of the instrument to make clear that they underpin the whole instrument and will inform the interpretation of its provisions. Drawing on its experience as a community organisation that advocates at individual and systemic levels for the rights of older people, Seniors Rights Service urges that the following fundamental principles be included

- Respect for inherent dignity and autonomy including independence
- Equality
- Equitable participation and inclusion in society
- Accessibility
- Non discrimination
- Accountability

This list is without prejudice to the inclusion of other appropriate principles.

It is essential that these core principles they are integrally linked to and underpin the general obligations of States. Ensuring alignment between principles and obligations can help to ensure that States and other actors are encouraged to undertake, substantive principled action that leads to change at national and localised levels, with a resulting positive benefit in the lives of older persons. leading to great impact on older people in communities. This alignment will also aid States to develop their own approaches once the instrument is adapted and the connections can be clearly made with accountability mechanisms and monitoring.

2.2. Reaffirming the status of older persons as rightsholders under existing international law

The new instrument should affirm existing human rights for older persons in the following ways:

- The new legally binding instrument should be a comprehensive instrument, guaranteeing the full range of existing human rights and fundamental freedoms, and affirming and tailoring their application to the situations older people face every day in their context while

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also allowing for responsiveness to new challenges and technologies that may cause direct and/or indirect harm to older people.

- The treaty should reaffirm the application of all human rights to older persons in all their diversity and obligate States to promote, respect, protect and fulfil the rights guaranteed under national and international laws ensuring non-discrimination. It should include a full catalogue of human rights and fundamental freedoms, as well as general obligations including non-discrimination that apply across specific rights. The instrument should oblige State parties:
 - to take specific measures to ensure equality in law and in practice and abolish and modify existing laws, regulations, customs and practices which constitute discrimination against older people (*including intersectional discrimination)
 - obligate States to facilitate accessibility and equitable participation and inclusion in society by older persons
 - ensure mechanisms are in place in law and policy to protect the independence and autonomy of older persons in law and in practice, and to guarantee the legal capacity of older persons, their legal standing and right to exercise that capacity and to access supported decision-making if they so choose.

2.3. Right to remedy is essential: The inclusion of an explicit right to a remedy in the text of the instrument is essential. The legally binding instrument should explicitly call on states to ensure pathways to remedy are available and guarantee the right to access justice, including the right to a remedy under national law, for violations of the rights and freedoms embodied in the legally binding instrument by either State/public bodies or private actors. Support and assistance to navigate remedial processes from specialist advocate and legal services must also be provided and supported by State actors to ensure equity of access for all older people.

3. Overall Structure Or Architecture Of The Convention

Seniors Rights Service recommends that the instrument should adopt the standard UN human rights treaty structure and include the following components:

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- Preamble
- Purpose, scope, concepts and definitions
- General principles that underpin the convention
- General obligations of State Parties that apply across the convention
- Specific human rights to be included in the convention
- Implementation, monitoring, data collection and accountability mechanisms
- Formal and administrative matters.

Selection and characterisation of human rights: As set out above, Seniors Rights Service considers that the new instrument should be a comprehensive instrument, guaranteeing the full range of existing human rights and fundamental freedoms, one that affirms and tailoring their application to the situations older people face every day in their context. The rights to be guaranteed should not be rigidly divided into different categories on the assumption that different obligations apply to different categories of rights (such as civil and political versus economic, social and cultural rights). The instrument should recognise the developments in human rights law over the last four decades which have demonstrated that all human rights are fundamental and have immediately realisable dimensions.

In addition, Seniors Rights Service sees the following as essential to the development of a legally binding instrument on the human rights of older persons:

- The legally binding instrument must contain clear definitions of key terms such as ageism, age discrimination and elder abuse and draw on and further develop existing international standards on these.
- Contextualisation and awareness of key terms and their impacts is critical at United Nation, State and local levels to achieving the objectives of such a convention. Older people must be included in awareness-raising campaigns both in their design and implementation as well as a cohort to be informed. This will ensure key terms are understood but older people themselves are made more aware of social drivers that are limiting their access to rights
- Gender dimension of human rights must be considered throughout the instruments development. State parties must be obliged to take action to ensure older women in all their diversity and intersections have their rights protected and promoted. The limited

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consideration of age within gender spaces, combined with tokenistic recognition of older women's experiences of violence and abuse in various forms, reinforces a harmful pattern that renders older women increasingly invisible and unheard, perpetuating silence as a form of violence.

- The legally binding instrument must be remedial and transformative in its approach and outlook, setting out aspirations and rights-based framework that requires States to enact localised positive changes to social structures and attitudes which will enable older persons to realise their full potential and enhance their participation in all aspects of life.
- The legally binding instrument needs to ensure that no existing limitations, exceptions, or biases that have constrained the full and equal enjoyment of human rights by older persons are carried forward or replicated in its provisions. States must instead remedy gaps and shortcomings that have historically limited the full and equal realisation of human rights in older age and ensure formal and informal approaches are adapted to their context.

Conclusion:

Seniors Rights Service urge's the working group to continue to heed the call from the Human Rights Council to take into account inputs from all stakeholders as the process to develop a legal binding instrument progresses. We urge all working group members to ensure the voices of older people and civil society organisations are continuously centred and their input facilitated and considered across each stage of the instruments development to ensure the greatest impact and realisation of human rights for older people.

We looks forward to continuing to participate in the work of the Intergovernmental Working Group and contributing constructively to the elaboration of the new international legally binding instrument.

Yours sincerely



Shannon Wright
Chief Executive Officer
Seniors Rights Service

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