

A New Model for Regulating Aged Care: The Foundations Consultation Paper No. 2 (Exposure Draft)

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Submitted by The Centre for Cultural Diversity in Ageing (supported by Benetas)

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Introduction

The Centre for Cultural Diversity in Ageing, supported by Benetas, is pleased to provide this submission to inform the development of the new Aged Care Act.

The submission focuses on the new Aged Act (the Act) particularly in the context of culturally appropriate aged care:

- Embedding culturally Inclusive aged care and service delivery throughout the whole Act;
- The rights of individuals (i.e. seniors) from culturally, linguistically and spiritually diverse backgrounds;
- Equitable participation of individuals from culturally, linguistically, and spiritually diverse backgrounds in the community and the promotion of equitable access to Government-subsidised and funded aged care services;
- Whole of organisation, governance and government approaches to diversity, equity and inclusion including a targeted strategy by the Australian Government to deliver culturally inclusive aged care; and
- The collective rights of individuals from culturally, linguistically and spiritually diverse backgrounds.

The Centre for Cultural Diversity in Ageing also supported the Department of Health and Aged Care to consult with key stakeholders from the culturally appropriate/ multicultural aged care sector on the new Act.

This submission reinforces some of the key issues outlined in our previous submission¹ in September 2023 to Consultation Paper No. 1.

About The Centre for Cultural Diversity in Ageing

The Centre for Cultural Diversity in Ageing currently receives project funding from the Australian Government Department of Health and Aged Care to administer the Partners in Culturally Appropriate Care (PICAC) program. The PICAC program provides funding to an organisation in each state and territory who is funded to:

- Improve partnerships between aged care service providers, Culturally and Linguistically Diverse (CALD) communities and the Department of Health and Aged Care;
- Ensure the special needs of older people from diverse cultural and linguistic backgrounds are identified and addressed.

The Centre for Cultural Diversity in Ageing is the PICAC Victoria provider and delivers expertise in relation to culturally inclusive policy and practice for the aged services sector. It has over 25 years of experience in supporting aged care providers in addressing the needs of seniors from culturally, linguistically, and spiritually diverse backgrounds.

The purpose of the Centre for Cultural Diversity in Ageing is to build the capacity and capabilities of Australian aged care providers to deliver services that are welcoming, inclusive, and accessible. The Centre for Cultural Diversity in Ageing's service areas include:

¹ <https://www.culturaldiversity.com.au/resources/research>

- Inclusive practice training and workshops;
- Capacity building to promote cultural inclusion and equity; and
- Diversity advice and consulting.

The Centre for Cultural Diversity in Ageing's Commitment to Diversity and Inclusion within Aged Care

The Centre for Cultural Diversity in Ageing works with aged care providers to better respond to the needs and preferences of seniors from culturally, linguistically, and spiritually diverse backgrounds. As part of The Centre for Cultural Diversity in Ageing's work on inclusive care, the Inclusive Services Standards² have been developed to guide and train aged care organisations to deliver inclusive services. The Inclusive Service Standards provide a framework for services to adapt and improve their services and organisational practices, so they are welcoming, safe and accessible. By meeting the Inclusive Service Standards aged care providers will be able to:

- Better understand the diverse interests, goals and needs of their consumers;
- Empower consumers to make informed decisions about their service provision;
- Deliver flexible, accessible services free of barriers and discrimination; and
- Implement the Consumer Directed Care approach and achieve quality outcomes for all consumers.

The Inclusive Service Standards have been recognised by the Aged Care Quality and Safety Commission as a key resource in promoting consumer choice and dignity.

The Centre for Cultural Diversity in Ageing's Resources to Support the Aged Care Sector in Adopting Diversity and Inclusion Approaches

The Centre for Cultural Diversity in Ageing is funded to coordinate and update the national website which has a range of resources for aged care providers to access in relation to culturally appropriate care. Some of the resources include The Centre for Cultural Diversity in Ageing's Practice Guides³ with topics such as:

- Ten Steps to Developing a Diversity Plan;
- Accessing Diverse Media;
- End-of-Life Care;
- Spiritual Support;
- Accessing Interpreter Services;
- Communication;
- Data and Demographics;
- Food and Nutrition;
- Working with Bilingual Staff;
- Developing a policy for use of interpreter services;
- Culturally Specific Information;
- Digital Inclusion;
- Culturally Inclusive Feedback;
- Using Culturally Inclusive Language; and

² <http://www.culturaldiversity.com.au/inclusive-service-standards>

³ <http://www.culturaldiversity.com.au/service-providers/practice-guides>

- Effective Co-design with Consumers from Culturally and Linguistically Diverse Backgrounds.

The Centre for Cultural Diversity in Ageing's diversity webinar series^{4 5} designed from feedback from the sector with topics including:

- Culturally appropriate aged care in regional areas;
- Accessing Diverse Media;
- Supporting a Culturally Diverse Workforce;
- Inclusive Service Provision through an Intersectional Approach;
- Cross-Cultural Communication in an Aged Care Setting;
- Free translations in aged care;
- Collecting diversity data to promote inclusive services;
- The Inclusive Service Standards;
- Ten Steps to Developing a Diversity Plan;
- Supporting Older People from Culturally Diverse Backgrounds with a Hearing Impairment;
- Food for Thought – the Link between Food, Culture and Identity;
- Harmony Week Video Launch –The Voices of Multicultural Community Leaders and their Visions for a more Inclusive Aged Care System; and
- Cultural Awareness Walk and Talk – Hidden Culture/Decolonising Melbourne with Uncle Shane Charles.

The Centre for Cultural Diversity in Ageing has also designed tip sheets, templates, and resources to support aged care organisations on their inclusive service journey. They include a tip sheet that aligns the performance measures of Inclusive Service Standards to the Aged Care Quality Standards⁶.

A popular resource on the website is the multilingual resources page that provides updated multicultural aged care health information for culturally and linguistically diverse communities as well as the aged care communication cards⁷, phrases and signage available in, now, 70 languages. In addition, the 'Ageing in Australia: the Immigrant Experience'⁸ video covers four stories of seniors from culturally and linguistically diverse backgrounds and their versions of ageing in Australia. For more information about the range of resources available on The Centre for Cultural Diversity in Ageing's website, visit: www.culturaldiversity.com.au .

Statistics on Elderly Migrants and Refugees in Australia

According to the ABS Census from 2021, 36.4 percent of people aged 65 and over were born overseas⁹. The majority of those were born in mainly non-English speaking countries. The Centre for Cultural Diversity in Ageing notes that the number of seniors from culturally diverse backgrounds is likely to be higher due to underreporting and barriers experienced in disclosing their cultural identity in the ABS Census. This may be due to adverse experiences with government authorities, fear of

⁴ <https://www.culturaldiversity.com.au/training-development/2022-23-diversity-webinar-series>

⁵ <https://www.culturaldiversity.com.au/training-development/interactive-webinar-series-2023-2024>

⁶ http://www.culturaldiversity.com.au/images/tip_sheets_templates/TipSheet_AligningPerformanceMeasuresWithACQS.pdf

⁷ <https://www.culturaldiversity.com.au/resources/multilingual-resources>

⁸ <https://www.youtube.com/@CCDAAUS/videos>

⁹ ABS 2021 Census data, Australian Institute of Health and Welfare

getting their visas revoked, lack of access to the Census, language and health literacy barriers and limited opportunity to know how to complete the Census.

The Royal Commission into Aged Care

The Royal Commission into Aged Care Quality and Safety was established on 8 October 2018 and a final report on 26 February 2021 was released. The Royal Commission Executive summary of the final report recognised the gaps in the current aged care system in relation to culturally appropriate care.

“The existing aged care system is not well equipped to provide care that is non-discriminatory and appropriate for people’s identity and experience. We heard about aged care providers that do not provide culturally safe care, that is, care that acknowledges, respects and values people’s diverse needs. Across the aged care system, staff are often poorly trained in culturally safe practices, with little understanding of the additional needs of people from diverse backgrounds.”¹⁰

“The aged care system should be equally welcoming and supportive of everyone needing care. But we heard there can be a lack of understanding and respect for people’s culture, background, and life experiences.”¹¹

Some of the suggestions in the report include ensuring the aged care system is designed for diversity, difference, complexity and individuality and that cultural safety and trauma-informed training should be core requirement for all workers who are involved in direct contact with people seeking or receiving services in the aged care system.¹²

The report also suggests a new aged care system with a new “rights based” Act which places people at the centre of aged care. The report also suggests more resources are needed to support access for people entering and navigating the aged care system and access for groups who are already at a disadvantage.

Linking the Aged Care Quality Standards to The Centre for Cultural Diversity in Ageing’s Inclusive Service Standards

The Inclusive Service Standards, developed by The Centre for Cultural Diversity in Ageing, assist aged care providers to become better equipped at meeting the diverse needs of their consumers. They provide a framework to support organisations on their journey to becoming truly inclusive for all consumers. The Inclusive Service Standards guide organisations through articulating their commitment to inclusive services, developing systems that support inclusive services and ensuring that there is capacity to deliver inclusive services.

The Australian Aged Care Quality and Safety Commission references The Centre for Cultural Diversity in Ageing’s Inclusive Service Standards as a key resource in assisting providers to comply with the

¹⁰ page 7, <https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-executive-summary.pdf>

¹¹ page 11, <https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-executive-summary.pdf>

¹² <https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-executive-summary.pdf>

Aged Care Quality Standards. Meeting some or all the performance measures in the Inclusive Service Standards provides evidence that an organisation is working to embed an inclusive, non-discriminatory approach to its delivery of care and services. The Centre for Cultural Diversity in Ageing has aligned the performance measure of the Inclusive Service Standards with the relevant Aged Care Quality Standards requirements¹³.

¹³http://www.culturaldiversity.com.au/images/tip_sheets_templates/TipSheet_AligningPerformanceMeasureswithACQS.pdf

The Centre for Cultural Diversity in Ageing's Response to the Consultation Paper No. 2

The following are recommendations made by The Centre for Cultural Diversity in Ageing to support the integration of culturally inclusive principles throughout the new Aged Care Act. Please note the yellow highlighted words are new additions by The Centre for Cultural Diversity in Ageing.

Objects of the Act

There has been no reference in the new Act to the International Convention on the Elimination of All Forms of Racial Discrimination¹⁴. The Centre for Cultural Diversity in Ageing advocates that this international convention is referred to in the new Act and that safeguards are in place to help prevent incidences of racism towards culturally diverse and linguistically members of the aged care workforce and individuals accessing aged care from diverse cultural, linguistic, and faith backgrounds.

The Centre for Cultural Diversity in Ageing recommends therefore including a reference in the Objects of the Act in relation to the International Convention on the Elimination of All Forms of Racial Discrimination (See Chapter 1, Part 1, Section 5, Pages 2-3) as highlighted in *yellow*.

The objects of this Act are to:

(a) in conjunction with other laws, give effect to Australia's obligations under the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities, **and the International Convention on the Elimination of All Forms of Racial Discrimination**; and

Recommendation 1

The Centre for Cultural Diversity in Ageing recommends that reference is made to the International Convention of the Elimination of All Forms of Racial Discrimination in the Exposure draft to help protect individuals (i.e. seniors) and aged care workers from acts of racism.

Statement of Principles – A Person Centred Aged Care System

The right to communicate in one's preferred language is currently embedded in the Statement of Rights. The Centre for Cultural Diversity in Ageing advocates that the following wording is added to the Statement of Principles (See Chapter 1, Part 3, Division 2, Section 22, Page 33):

¹⁴ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>

That the Commonwealth aged care system supports individuals to:

(f) communicate in their preferred language and are offered multilingual options and inclusive methods of communications for those with low literacy levels across the whole aged care pathway of the individual.

Recommendation 2

The Centre for Cultural Diversity in Ageing recommends that the individual's right to communicate in one's preferred language is added to the Statement of Principles.

Addressing Linguistic and Cultural Diversity

The Centre for Cultural Diversity in Ageing advocates for linguistic diversity and the delivery of culturally responsive and appropriate services to be embedded across the entire aged care system in line with the individuals' rights to communicate in their preferred language. The right to linguistically and culturally appropriate care needs to be embedded as a principle in the Statement of Principles.

Recommendation 3

The Centre for Cultural Diversity in Ageing recommends that linguistically and culturally appropriate care is embedded across the whole aged care system.

Meaning of High Quality Care

The Exposure draft includes the meaning of 'high quality care'. The Centre for Cultural Diversity in Ageing advocates for the following words, highlighted in *yellow*, to be included in the current definition (See Chapter 1, Part 2, Division 2, Section 19, Pages 27-28):

The delivery of a funded aged care service by a registered provider to an individual is high quality care if the service is delivered in a manner that

- (a) puts the individual first; and
- (b) upholds the rights of the individual under the Statement of Rights; and
- (c) prioritises the following:
 - (i) kindness, compassion and respect for the life experiences, **culture and faith**, self-determination, dignity, quality of life, mental health and wellbeing of the individual;
 - (ii) the timely and responsive delivery of the service to the individual;
 - (iii) specific tailoring of care to the personal needs, aspirations and preferences of the individual, including preferences regarding the time when the service is delivered;
 - (iv) respecting the individual's preferences regarding privacy and time alone;

(v) supporting the improvement of the individual's physical and cognitive capacity, where the individual chooses to, including by keeping the individual mobile and engaged if they are living in an approved residential care home;

(vi) supporting the individual to participate in meaningful and respectful activities and remain connected to the community, where the individual chooses to;

(vii) supporting the individual to remain connected to the natural environment, and animals and pets, where the individual chooses to;

(viii) implementing inclusive policies and procedures, in partnership with and through co-design with Aboriginal or Torres Strait Islander persons and culturally and linguistically diverse communities, family and community to ensure that culturally safe, culturally appropriate and accessible care is delivered to those persons at all times, which incorporates flexibility and recognises the unique experience of those persons.

(ix) adapting policy, practices and environments to ensure that services are culturally appropriate for the diverse life experiences of individuals, including by engaging workers with lived experience of diversity in the provider's workforce and governing body.

(x) bilingual (change to bilingual and multilingual) aged care workers and interpreters being made available if requested by the individual.

(xi) worker retention and training to facilitate the delivery of the service by well-skilled and empowered aged care workers who are able to develop and maintain a relationship with the individual.

(xii) that services are delivered in the preferred language of the individual.

(xiii) that aged care workers' culture, ethnicity and faith are respected and recognised, including the promotion of associated human rights to prevent racism, and that consideration is given to trauma-informed practices with a view to promoting people's mental health and wellbeing across the workforce.

(Trauma informed practices are relevant as a significant proportion of aged care workers come from war-torn countries, have been refugees, and experienced different forms of individual and collective trauma).

(xiv) that takes into consideration the holistic needs and intersectional characteristics of the individual.

(xv) Deliberate and targeted outreach services and capability building and navigation services to find and support individuals who are not accessing the aged care system and are excluded such as those from diverse cultural, linguistic, and faith backgrounds.

Recommendation 4

The Centre for Cultural Diversity in Ageing recommends adding further details to the definition of high quality care by adding in sections on navigation services, the delivery of services in the individual's preferred language, the importance of co-designing services with individuals from culturally and linguistically diverse communities, the option to access services in one's preferred language, the respecting of the culture and faith of diverse workers, and trauma-informed support in the context of a culturally and linguistically diverse workforce.

The Centre for Cultural Diversity in Ageing advocates to include a definition of the concept of culturally appropriate care in the new Act in the definition of high quality care. The Centre for Cultural Diversity in Ageing recommends adding in an explanatory section on culturally appropriate care, for example after clause ix (See Chapter 1, Part 2, Division 2, Section 19, Page 28) along the lines of:

The delivery of a funded aged care service by a registered provider to an individual is high quality care if the service is delivered in a manner that embeds culturally appropriate approaches to all aspects of care through inclusive policies and procedures throughout the Act including, but not limited to:

- Culturally and spiritually appropriate food options and requirements;
- Culturally and spiritually appropriate lifestyle and recreational programs;
- Culturally and spiritually appropriate end of life, dementia and palliative care;
- Taking into consideration language diversity into all operations (e.g. providing bilingual/multilingual care and support);
- Culturally appropriate aged care navigation support to help individuals from cultural, linguistically and spiritually diverse backgrounds to access aged care; and
- Supporting the person to give feedback in a culturally appropriate manner.

The Centre for Cultural Diversity in Ageing notes that the requirement to deliver culturally appropriate care in the Act needs to be linked to and reflected in the new, strengthened aged care quality standards.

Recommendation 5

The Centre for Cultural Diversity in Ageing recommends adding in a detailed definition of what culturally appropriate care encompasses in the section of the meaning of quality care.

Complaint Mechanisms – Statement of Rights

The Centre for Cultural Diversity in Ageing underlines that person-centred complaints pathways need to be available for individuals to seek early resolution of concerns about their rights in a culturally inclusive and sensitive manner. In terms of operationalising the rights, it is essential that an empowerment approach facilitates culturally appropriate feedback and complaints mechanisms

and that individuals (i.e. seniors) from culturally, linguistically, and spiritually diverse backgrounds receive independent, culturally sensitive support through their preferred advocate(s). This needs to include that individuals from culturally, linguistically and spiritually diverse backgrounds may make their complaints in their preferred language and in accessible formats, such as in-language, voice recordings as individuals from culturally, linguistically, and spiritually diverse backgrounds may experience literacy issues in English and in their first language.

There is mention of broad support for using complaints pathways to safeguard the rights of older Australians in Consultation Paper 2. The Centre for Cultural Diversity in Ageing supports the notion that additional measures and clarity is needed to ensure complaints pathways are practicable, flexible, and accessible for culturally and linguistically diverse individuals. Thus, The Centre for Cultural Diversity in Ageing recommends adding in culturally appropriate complaints mechanisms in the new Act (Chapter 1, Part 3, Division 1, Section 20, Page 31):

An individual has a right to:

(a) make complaints using an accessible **and culturally appropriate** mechanism, without fear of reprisal, about the delivery of funded aged care services to the individual;

Recommendation 6

The Centre for Cultural Diversity in Ageing highlights the need to guarantee and enable culturally appropriate feedback and complaint mechanisms for individuals in the legislation and therefore recommends adding 'culturally appropriate' complaints mechanisms under the Statement of Rights.

Advocates, Significant Persons and Social connections – Statement of Rights

The Centre for Cultural Diversity in Ageing commends the Department of Health and Aged Care for referring to leisure, cultural, spiritual and lifestyle activities in the Statement of Rights and recommends adding in the word 'faith and cultural supports' (Chapter 1, Part 3, Division 1, Section 20, Page 31):

An individual has a right to opportunities, and assistance, to stay connected (if the individual so chooses) with:

the individual's community, including by participating in **and accessing** public life and leisure, cultural, spiritual, **faith** and lifestyle activities **and supports**;

Recommendation 7

The Centre for Cultural Diversity in Ageing recommends adding in accessing faith and cultural support services under the Statement of Rights.

Supporting Decision Making Arrangements

Feedback expressed the new Act should give no room for manipulation and elder abuse of potentially vulnerable people, such as older individuals from culturally, linguistically and faith diverse backgrounds or individuals living with dementia. The Centre for Cultural Diversity in Ageing supports this notion from Consultation Paper No. 2 and advocates that decision making arrangements are culturally, linguistically, and spiritually appropriate (See Chapter 1, Part 4, Division 1, Section 27, Page 39).

If the supporter is doing a thing under section 24 to support the individual to do a thing under, or for the purposes of, this Act, it is a duty of the supporter to:

- (a) act in a manner that promotes the will, preferences, and personal, cultural, **spiritual** and social wellbeing of the individual; and
- (b) act honestly, diligently and in good faith; and
- (c) support the individual only to the extent necessary for the individual to do the thing, applying the supporter's best endeavours to maintain the ability of the individual to make the individual's own decisions.

The Centre for Cultural Diversity in Ageing advocates for the inclusion of culturally appropriate decision making processes and supports where representatives are involved as part of a culturally appropriate aged care system and governance that supports culturally appropriate decision-making.

The Centre for Cultural Diversity in Ageing further recommends adding in a new, additional section to help ensure a culturally appropriate and sensitive decision making process (For example, after Chapter 1, Part 4, Division 1, Sections 31-32, Pages 43-44).

The Systems Governor promotes and supports a culturally appropriate aged care system which enables culturally appropriate and sensitive decision making by individuals from diverse cultural, linguistic, and faith backgrounds.

Recommendation 8

The Centre for Cultural Diversity in Ageing recommends that a reference is made to culturally appropriate engagement and decision-making support in a culturally sensitive manner in the new Act to promote the wellbeing of the individual and prevent abuse from occurring in culturally, linguistically and spiritually diverse communities.

Governance

The Centre for Cultural Diversity in Ageing strongly advocates that a Multicultural Seniors' Advisory Council is created and embedded into the proposed system governance functions to be included in the new aged care system (See [aged-care-system-governance-under-the-draft-new-aged-care-act.docx \(live.com\)](#)) to ensure appropriate and culturally sensitive representation of individuals from

diverse cultural, linguistic and faith backgrounds in aged care governance and policy and advisory committees.

Recommendation 9

The Centre for Cultural Diversity in Ageing recommends that a Multicultural Seniors' Advisory Council is created and embedded into the proposed system governance functions of the new aged care system and that members of this Multicultural Seniors' Advisory Council can be selected by the multicultural seniors' community.

Diversity Across the System

The Centre for Cultural Diversity in Ageing highlights that the diversity provisions of the new Act need to be strengthened and that diversity needs be reflected across the whole Act as outlined in the OPAN Key Issues Paper¹⁵.

Recommendation 10

The Centre for Cultural Diversity in Ageing recommends that diversity is strengthened including specific diversity considerations and imperatives applied across the new Act.

Eligibility

In relation to eligibility of access to aged care services, The Centre for Cultural Diversity in Ageing advocates including individuals aged 50-64 who have faced trauma and/or have had a refugee experience, similar to the current eligibility of individuals from Aboriginal and Torres Strait Islander backgrounds. The Centre for Cultural Diversity in Ageing recommends that eligibility requirements for individuals with a refugee experience is modified where it is required (See Chapter 2, Part 1, Section 36, Page 48).

Individuals can apply to the System Governor for access to funded aged care services and are assessed against a set of eligibility criteria. An individual with care needs who is age 65 or over (or age 50 or over and an Aboriginal or Torres Strait Islander person or homeless or at risk of homelessness or a person who has faced trauma due to having had a refugee experience) is eligible to undergo an aged care needs assessment by an approved needs assessor.

¹⁵ https://media.opan.org.au/uploads/2024/02/Aged-Care-Act-Exposure-Draft-Key-Issues-Paper_Jan-2024_FINAL_v1.pdf

Recommendation 11

The Centre for Cultural Diversity in Ageing recommends that including individuals aged 50-64 who have faced trauma, persecution, and who have had a refugee experience to be eligible to access aged care services.

Providers

Providers need to be aware of and responsive to culturally and linguistically appropriate service options when servicing individuals so they have choice and control over which services they would like to access.

Recommendation 12

The Centre for Cultural Diversity in Ageing recommends that a provision is included in the new Act, under provider governance, that aged care providers are required to offer services options that are culturally and linguistically appropriate to meet the individuals' cultural, linguistic, and spiritual needs and preferences.

Digital Platform Operators

It is essential that digital platform operators ensure their services are digitally accessible to culturally and linguistically diverse individuals and those with low literacy and digital literacy.

Recommendation 13

The Centre for Cultural Diversity in Ageing recommends that digital platform operators are required to provide services in a culturally appropriate and accessible manner.

Awareness Raising of the Act

The Centre for Cultural Diversity in Ageing advocates for the key implications of the new Act relating to individuals from diverse cultural, linguistic and faith backgrounds to be translated into key community languages so to allow access to the Act for all communities. This would need to go hand in hand with awareness raising sessions and a multilingual media campaign to ensure multicultural communities are familiar with the new Act.

Recommendation 14

The Centre for Cultural Diversity in Ageing recommends translating the new Act into key community languages to ensure it is accessible for culturally and linguistically diverse communities.

Systems Governor and Diversity of Service Delivery and Options

The Centre for Cultural Diversity in Ageing advocates that individuals have access to culturally appropriate and ethno-specific providers, that the capacity of providers is enhanced to ensure the delivery of culturally appropriate care and capacity building for multicultural communities to deliver culturally appropriate aged care services. The Centre for Cultural Diversity in Ageing recommends to amend the section of Functions of the Systems Governor in the following way (See Chapter 5, Part 2, Section 132, Page 133).

The System Governor has the following functions:

iii) promoting diversity of registered providers to enable individuals to choose between registered providers **including culturally diverse and appropriate providers**; and

(iv) providing education to build the capacity of registered providers to adopt best practice in the delivery of funded aged care services **including the capacity to deliver culturally appropriate care.**

(v) **building the capacity of diversity groups and their communities to establish inclusive aged care services, including working in partnership with newly arrived communities to enable access to culturally appropriate services and provide support to multicultural communities to set up community-run, ethno-specific services**¹⁶.

The Centre for Cultural Diversity in Ageing advocates additional subordinate legislation supporting cultural inclusion of individuals from diverse cultural, linguistic and faith diverse backgrounds in line with the cultural safety recommendations from the Royal Commission. This may also include reference to:

- Diversity planning and practice;
- Diversity reporting;
- Equitable access to language services;
- Culturally appropriate care training; and
- Cultural appropriate auditing.

The Centre for Cultural Diversity in Ageing further recommends that the legislation is linked to a targeted diversity policy approach, through the development of a Multicultural Aged Care Strategy, to address systemic issues to promote the cultural appropriateness of the aged care system and improve the experiences of individuals from diverse cultural, linguistic, and faith backgrounds who use or wish to access aged care services.

¹⁶ https://eccv.org.au/wp-content/uploads/2018/07/20-ECCV_Discussion_Paper_-_Healthy_Ageing_in_NEC.pdf

Recommendation 15

The Centre for Cultural Diversity in Ageing recommends amending the Systems Governor considerations to include reference to diversity of choice of culturally appropriate and ethno-specific providers as well as the importance of capacity building to train aged care providers to deliver culturally appropriate aged care.

Recommendation 16

The Centre for Cultural Diversity in Ageing recommends adding in a clause for multicultural community capacity building to help deliver culturally appropriate aged care services.

Recommendation 17

The Centre for Cultural Diversity in Ageing recommends the development of a Multicultural Aged Care Strategy to help ensure culturally appropriate care delivery across relevant government entities and funded aged care services.

Inclusive Data

The Centre for Cultural Diversity in Ageing advocates for better data collection mechanisms in aged care including the capturing of robust cultural diversity data in a culturally inclusive and sensitive manner. The appropriate collection of cultural diversity data will help to better inform and provide sound evidence to guide aged care related government entities to track and monitor the inclusiveness of aged care service delivery such as equitable access.

The Centre for Cultural Diversity in Ageing has received feedback from providers that suggests enacting the collection of cultural diversity data in aged care. Cultural diversity data collection in aged care may help to promote high quality, culturally appropriate care such as:

- Establishing an individual's need for interpreting services and/or translated information;
- Assessing individual needs to facilitate culturally appropriate service provision;
- Identifying service usage levels by individuals from culturally diverse backgrounds;
- Assessing if staff skills sets are adequate for meeting the needs of individuals from culturally diverse backgrounds; and
- Planning and designing culturally inclusive services¹⁷.

¹⁷ <https://www.culturaldiversity.com.au/documents/practice-guides/1542-data-and-demographics-2/file>

The Centre for Cultural Diversity in Ageing recommends amending the section on the Systems Governor in relation to research to include the collection of cultural diversity data (See Chapter 5, Part 2, Sections 132-133, Pages 133- 134).

(1) The System Governor has the following functions:
(f) to review the Commonwealth's administration of the aged care system, or a part of that system, including undertaking research, evaluation and analysis, such as periodic review of the Aged Care Quality Standards and commission and facilitate the collection of diversity data;

Recommendation 18

The Centre for Cultural Diversity in Ageing recommends making a reference to the collection of cultural diversity data in the new Act to inform and track inclusive practice and help promote an inclusive system.

Diversity Groups

The Centre for Cultural Diversity in Ageing advocates that the new Aged Care Act considers collective/group rights in addition to individual rights. The Centre for Cultural Diversity in Ageing recommends that collective rights and considerations exist side-by-side with individual rights in the new legislative framework by adding in the concept and terminology of Diversity Groups. The Centre for Cultural Diversity in Ageing notes that a large proportion of culturally and linguistically diverse communities stem from collectivist cultures thus holding collectivist views and see themselves part of a community, family, ethnicity, or social group. The Centre for Cultural Diversity in Ageing, therefore, recommends making reference to Diversity Groups including those from culturally, linguistically and spiritually diverse communities across the exposure draft to enshrine the special status of Diversity Groups with specific considerations in the legislation. This will ensure collective and group rights are also incorporated in the new Act as it was the case with the 1997 Aged Care Act.

The Centre for Cultural Diversity in Ageing strongly advocates for the amendment of Diversity Groups in the legislation and recommends changing the Exposure draft to (See Chapter 1, Part 3, Division 2, Section 22, Pages 33-34):

The Commonwealth aged care system offers accessible, culturally safe, culturally appropriate, trauma-aware and healing-informed funded aged care services, if required by an individual and based on the needs of the individual, regardless of the individual's location, background and life experiences.

Note: This may include individuals who identify with the following diversity characteristics and/or Diversity Groups:

(a) are Aboriginal or Torres Strait Islander persons, including those from stolen generations; or...

Recommendation 19

The Centre for Cultural Diversity in Ageing recommends including the concept and terminology of Diversity Groups in the new the Act.

Spiritual and Faith Diversity

The Centre for Cultural Diversity in Ageing advocates to flesh out cultural diversity and include the words 'spiritually and faith diverse' in the new Act in relation to diverse individuals and groups (See Chapter 1, Part 3, Division 2, Section 22, Page 34).

This may include individuals who identify with the following diversity characteristics and/or Diversity Groups:

(a) are Aboriginal or Torres Strait Islander persons, including those from stolen generations; or (b) are veterans or war widows; or (c) are from culturally, ethnically, spiritually, faith and linguistically diverse backgrounds; or (d) are financially or socially disadvantaged; (e) are experiencing homelessness or at risk of experiencing homelessness; or (f) are parents and children who are separated by forced adoption or removal; or (g) are adult survivors of institutional child sexual abuse; or (h) are care-leavers, including Forgotten Australians and former child migrants placed in out of home care; or (i) are lesbian, gay, bisexual, trans/transgender or intersex or other sexual orientations or are gender diverse or bodily diverse; or (j) are an individual with disability or mental ill-health; or (k) are neurodivergent; or (l) are deaf, deafblind, vision impaired or hard of hearing; or (m) live in rural, remote or very remote areas.

Recommendation 20

The Centre for Cultural Diversity in Ageing recommends adding in the words spiritually and faith diverse in the new Act in relation to individuals from Diversity Groups.

Assessment

The Centre for Cultural Diversity in Ageing highlights that the single aged care assessment process needs to be culturally appropriate and recommends adding in a clause of the importance of culturally appropriate assessment (See Chapter 2, Part 2, Division 3, Section 45, Page 54):

Undertaking aged care needs assessments

(2) The aged care needs assessment must include:

- (a) a discussion with the individual about what the assessment has identified in terms of funded aged care services the individual may require access to and may assist the individual to maintain the individual's independence; and
- (b) a discussion with the individual about the individual's preferences and goals, the next steps in terms of the individual's application for funded aged care services and how the individual will be informed of the outcome of the application;
- (c) a discussion with the individual that supports any cultural, linguistic, and faith preferences, needs and requirements to ensure a culturally appropriate and holistic assessment process; and
- (d) any other thing prescribed by the rules.

Recommendation 21

The Centre for Cultural Diversity in Ageing recommends including wording on culturally appropriate assessment in the new Act to ensure the individual's access to culturally appropriate assessment.

Concluding Remarks

The Centre for Cultural Diversity in Ageing is confident that its submission will help to ensure that the new Aged Care Act will holistically address the needs and preferences of individuals from culturally, linguistically, and spiritually diverse communities. It provides an opportunity to continue to ensure that Australia is regarded as a leading nation in the delivery of and support for culturally appropriate aged care.

The Centre for Cultural Diversity in Ageing appreciates the opportunity to contribute to the current considerations to inform the development of a new Aged Care Act and would be pleased to provide further details and information to the Department of Health and Aged Care upon request.

For more information, please contact Nikolaus Rittinghausen, Manager, The Centre for Cultural Diversity in Ageing, on telephone 03 8823 7979 and e-mail nikolaus@culturaldiversity.com.au .