

DISCUSSION RESOURCE

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PROJECT OF
5TH NATIONAL ELDER
ABUSE CONFERENCE

HOSTED BY SENIORS
RIGHTS SERVICE



ELDER ABUSE PREVENTION – THE ROLE OF SOLICITORS

DARRYL BROWNE





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 4 and current as of 2018).

ABOUT THIS RESOURCE

SHORT DESCRIPTION

Mr Browne discusses how lawyers can be active in preventing financial elder abuse by assisting clients when drawing up enduring documents. He argues that a lack of care and diligence in the preparation of an enduring power of attorney can lead to financial elder abuse.

FOCUS AREA

Elder abuse prevention – the role of solicitors

RELATED TOPICS

Elder abuse prevention, elder abuse intervention, financial elder abuse, legal responses, law, social work, protection, autonomy, safeguarding

AUDIENCES

Legal professionals, police officers, community members, health workers, aged-care workers, community workers, researchers, students, advocates, policy officers

MATERIALS FOR FURTHER READING

Law Council of Australia, Submission #351, Australian Law Reform Commission Elder Abuse Inquiry, accessed from www.alrc.gov.au/sites/default/files/subs/351._law_council_of_australia.pdf

SUGGESTED AGENCIES

Elder Law and Succession Committee, Law Council of Australia www.lawcouncil.asn.au/about-us/advisory-committees/elder-law-and-succession-committee



DARRYL BROWNE

PRINCIPAL, BROWNE
LINKENBAGH LEGAL
SERVICES

BIOGRAPHY

Darryl Browne is the principal of Browne Linkenbagh Legal Services. He is an accredited specialist in wills and estates. He facilitates the Law Society's working group on elder abuse. Mr Browne is a member of the Law Council of Australia's elder law and succession committee and the NSW State Government's prevention of elder abuse steering committee. He is a member of the Society of Trust and Estate Practitioners Aust. Ltd. (STEP) and the Self Managed Super Fund (SMSF) Association.

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DISCUSSION QUESTIONS

What does Mr Browne see as the role of lawyers in preventing elder abuse?

Mr Browne believes lawyers can be most helpful because they can be proactive in helping to prevent elder abuse. Examples he gives include preparing clients to identify what the issues are and what issues may come up, such as thinking about appointing someone as an agent for their affairs. He explains that without this support, problems may arise if a person appointed to manage the affairs does not have the qualifications or experience or attitudes the client needs for their personal or financial affairs to be managed the way they intended them to be. Mr Browne says lawyers can assist the older person to understand what is involved in the role of managing affairs on their behalf, and to assist the older person to carefully think whether the person they were considering is the right person for that role.

What reasons does Mr Browne give for powers of attorney not working to adequately protect older people in all circumstances?

Mr Browne says that in NSW, previous law reforms changed powers of attorney from a document in which every single power needed was enumerated, to a very short-form document, which covered all powers unless they were excluded. The reform was made because the longer-form documents were unwieldy and exposed attorneys to risks they were not prepared to bear. Now, he says, there is need for the balance to tip the other way, to include more detail about powers.

What does Mr Browne argue should be the priorities of reform in this area?

Mr Browne believes the most important area for reform is to engage in prevention. He believes lawyers are crucial in this area, particularly in relation to financial elder abuse. He says with enduring appointments lawyers can be very active to help prevent elder abuse by working closely with individuals to consider their specific circumstances and what kinds of skills and attributes are needed for a person to fulfil their wishes. A second priority, he argues, is redress for those people who have been victims of financial elder abuse. This, Mr Browne explains, would involve reclaiming monies where powers of attorney were misused. He says a national response is important, but these two priorities would have more impact and are needed now.



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.