



Seniors Rights
Service

**ABUSE OF OLDER PEOPLE:
A COMMUNITY RESPONSE
FINAL REPORT**



CONTENTS

Foreword	4	4. FEEDBACK ON PURPOSE, PRINCIPLES & FRAMEWORK FOR NATIONAL PLAN	26
Organisations that contributed to this awareness raising report	6	4.1 High-level principles to underpin the National Plan	26
Executive summary	8	4.2 Important principles to underpin our understanding of elder abuse	27
Recommendations to government	10	4.3 Important principles to underpin the Australian response and service system	28
1. BACKGROUND	12	4.4 Practical “client interaction level” principles	28
1.1 Purpose and context of this report	12	4.5 A conceptual framework for the National Plan	28
1.2 Elder abuse In A nutshell	12	5. PRIORITIES AND STRATEGIES FOR NATIONAL PLAN	30
1.3 Recent work In the elder abuse space	13	5.1 General comments	30
1.4 Recent 5th National Elder Abuse Conference	13	5.2 Promoting autonomy and agency of older people	30
2. INFORMANT VIEWS OF CURRENT SITUATION	14	5.3 Addressing ageism and promoting community understanding of elder abuse	30
2.1 What is currently working well across all Australia	14	5.4 Achieving national consistency	31
2.2 What is not working well at the moment?	15	5.5 Safeguarding “at risk” older people and improving responses	31
2.3 Addressing elder abuse in diverse populations	16	5.6 Building the evidence base	32
3. FEEDBACK ON RECENT AUSTRALIAN LAW REFORM COMMISSION REPORT	18	6. ISSUE AREAS FOR MORE CONSULTATION	34
3.1 Top-level feedback	18	7. NEXT STEPS	36
3.2 Most valuable part/s of the report	18	7.1 References	36
3.3 Limitations of the report	18	7.2 Appendix 1: Recent Work Addressing Elder Abuse	37
3.4 Gaps in the report	19	7.3 Appendix 2: Elder Abuse Strategy Forum	37
3.5 Feedback on specific recommendations	19		

This Report is part of an Action Learning Project sponsored by the Commonwealth Attorney-General’s Department and OPAN, led by Seniors Rights Service in collaboration with a National Work Group.

Les Stahl

Lee Thomas

Facilitation Plus Australia Pty Ltd.

1 May 2018

on behalf of concerned community advocates and leaders throughout Australia.



FOREWORD

I am pleased to present ***Abuse of Older People: A Community Response***, the final report of a high-level community-led elder abuse strategy event attached to the 5th National Elder Abuse Conference hosted by Seniors Rights Service in February 2018. The conference was attended by 550 delegates who both contributed to the drafting of and endorsed a final conference statement. Around 70 high-level stakeholders participated in a community-led strategy event on the third day of the conference. This report has been produced from these two processes.

This widely endorsed report sets out an agenda that the community has articulated as a set of priorities that need to be embraced by policy-makers and governments to effectively reduce the risk of elder abuse in Australian society whilst also supporting those affected.

The abuse of older Australians is complex and multi-faceted. An effective, sustained response that mitigates this abuse across our society needs to be ambitious and comprehensive. It needs to involve older people themselves, civil society and governments at all jurisdictional levels. It needs to be well planned and coordinated ... and very importantly, it needs to be well-resourced and regularly evaluated.

The delegates at the 5th National Elder Abuse Conference were excited to hear the Attorney-General the Hon Christian Porter MP announce the creation of a ***National Plan*** to combat the abuse of older Australians. Attorneys-General from all jurisdictions have committed to this. As a society we must now grasp the opportunity to resource strategic and meaningful responses to this issue. This report provides a blueprint from the community sector which offers the wisdom of key experienced stakeholders in developing a pathway forward.

As the National Plan takes shape this report – generated by civil society – will no doubt provide a key underpinning of strategy development and implementation.

I would like to thank all those who participated in the 5th National Elder Abuse Conference for influencing discussion and debate that was then nuanced by leaders at the subsequent strategy event. Thanks to colleagues across multiple sectors who worked on the planning and execution of the strategy day. I look forward to this report being used in the months and years ahead to lobby for, plan for and create an Australian society where the risks of abuse to older people are greatly diminished whilst support for those affected is greatly enhanced.



Russell Westacott
Chief Executive Officer



Funding for this project has been provided by:



Australian Government
Attorney-General's Department



THANKS TO THE NATIONAL WORK GROUP
WHO WORKED TOGETHER TO PLAN THIS PROJECT:



ORGANISATIONS THAT PARTICIPATED IN THE FEBRUARY 2018 NATIONAL STRATEGY FORUM

ACT Disability, Aged and Carer Advocacy Service (ADACAS) (ACT)
Advocare (WA)
Aged Rights Advocacy Service (ARAS)
Aged and Community Services Australia (ACSA)
Aged and Disability Advocacy Australia (ADA Australia) (QLD)
ANZ Banking Group Limited
Australian Association of Gerontology (AAG)
Australian Catholic University (ACU)
Australian Nursing & Midwifery Federation (ANMF)
Carers NSW
Caxton Legal Centre
Council on the Ageing (COTA)
Darwin Community Legal Service (DCLS)
Eastern Community Legal Centre (ECLC)
Elder Abuse Prevention Unit (QLD)
Elder Rights Advocacy (ERA)
Elderlaw
FMC Mediation and Counselling (VIC)
Facilitation Plus Australia Pty Ltd
Federation of Ethnic Communities Councils of Australia (FECCA)
Justice Connect
Law Society of NSW
Leading Age Services Australia (LASA)
Mid North Coast Community Legal Centre (MNCCLC)
NSW Elder Abuse Helpline and Resource Unit
National Aboriginal Community Controlled Health Organisation (NACCHO)
National Ageing Research Institute (NARI)
National Association of Community Legal Centres (NACLC)
National LGBTI Health Alliance

National Seniors Australia
Older Persons Advocacy Network (OPAN)
Older Persons Legal Service Network (OPLSN)
Relationships Australia
Seniors Rights Service
Seniors Rights Victoria
Stand Out Report
Taylor Street Community Legal Service (TSCLS)
Townsville Community Legal Service (TCLS)

NAMES OF OBSERVERS AT THE FEBRUARY 2018 NATIONAL STRATEGY FORUM

Age Discrimination Commissioner
Aged Care Complaints Commissioner
Commonwealth Attorney General's Department
Commonwealth Department of Health
Department of Family and Community Services (FACS NSW)
Department for Health and Ageing (SA)
Home Department of Local Government and Communities (WA)
Legal Aid Commission of Tasmania
National Legal Aid (NLA)
New South Wales Police Force
Office of the Public Advocate (QLD)
Office of the Public Advocate (VIC)
Victoria Police
Western Australia Police Force, Family and Domestic Violence Unit

EXECUTIVE SUMMARY

The community sector has come together to devise strategies to address and eradicate the abuse of older people. This report is the product of their views and should be seen as advice and recommendations to the Australian government and all state and territory governments.

The report is the culmination of six months consultation and discussion with key community advocates, consumers, leaders and service providers throughout Australia as well as feedback from the recent 5th Elder Abuse Conference held in Sydney. This report makes eight key recommendations. It also provides:

- informant views of the current situation in Australia in relation to the abuse of older people;
- feedback on the recent Australian Law Reform Commission (ALRC) Report;
- advice on the purpose, underpinning principles and frameworks for a National Plan to address the abuse of older people; and
- suggested priorities and strategies for the National Plan.

The informants report there is good work materialising in Australia, which addresses elder abuse, but this work is often dispersed and disconnected from any nationally agreed solutions. The paper also itemises several areas where informants believe that progress to address the abuse of older people is not going well. Informants all agree on the importance of having responses and services that are targeted and relevant for the many diverse communities within Australia.

Significantly, in a number of areas, the majority of informants had similar (or at least not incompatible) ideas about what governments throughout Australia should do to address abuse in older populations.

The facilitators were able to distil:

- important underpinning principles in addressing elder abuse;
- conceptual frameworks to consider in developing a National Plan;
- key priorities that must be included in a National Plan;
- priority strategies for a National Plan; and
- seven areas where further discussion is warranted.

Consistent with the End-Of-Conference Statement from the recent National Elder Abuse Conference, the 70 people

involved directly in the development of this report, call all governments in Australia to action saying there is no excuse not to act nationally NOW to address the abuse of older people in Australia.

As the views and opinions expressed in this discussion paper are those of informants, the authors – Facilitation Plus Australia Pty Ltd – and Seniors Rights Service take no responsibility for factual errors or omissions.

The authors wish to acknowledge and thank the many informants to this project for their volunteered time and wisdom – including Russell Westacott (Seniors Rights Service) and all the members of the 5th National Elder Abuse Conference and Strategy Forum Work Group.

Les Stahl and Lee Thomas
1 May 2018



RECOMMENDATIONS TO GOVERNMENT

1. All governments within Australia should act on the endorsed statement and call to action from the 5th National Elder Abuse Conference, which is: “There is no excuse not to act nationally NOW against Elder Abuse. Come together to create and fully resource the strong, effective, nationally consistent and accountable change needed to:

- create respectful cultures that value older people within our diverse country and communities (a whole-of-community shift) to prevent an epidemic of abuse against older people;
- deliver early intervention and empower older people;
- support and safeguard those older persons experiencing abuse.

“Involve older people and all the key stakeholders in developing the National Plan to address elder abuse to ensure all older people experience dignity, their rights and personal well-being as a daily way of life.”

2. All governments throughout Australia to decisively act now by:

- developing an agreed and fully funded national plan that works to eradicate elder abuse;
- achieving an agreement by all governments to act against the abuse of older people;
- endorsing an Australian definition of elder abuse;
- developing national principles to prevent elder abuse and a national framework of priority actions to address it.

3. The National Plan needs commitment and support from the Council Of Australian Governments (COAG).

4. The Australian elder abuse framework must be rights-based.

5. Ensure the National Plan:

- a. places the older person central to it and focuses on achieving results that impact positively for older people;
- b. is a philosophically sound “person-focused” framework which:
 - i) promotes the autonomy and agency of older people;

- ii) addresses ageism;
 - iii) informs all Australians about elder abuse and that it is unacceptable;
- c. enables all Australians to know how to report abuse and initiate support for themselves or a loved one;
 - d. provides the financial and human resources for “support” and “safeguarding” agencies to enable them to do their job effectively, including conducting preventative, educational and prosecutory interventions with abusers;
 - e. defines abuse of the older person, and does so with a broad definition;
 - f. recognises and is consistent with any relevant international instruments;
 - g. recognises abuse of the older person is a complex personal, social and legal phenomenon requiring multi-jurisdictional, multi-sectoral, multi-disciplinary and multi-faceted responses;
 - h. has national priorities and strategies that:
 - address ageism;
 - promote community understanding through nationwide community awareness and education campaigns;
 - enable early intervention;
 - provide a clear, simple and well-advertised “front door” or “pathway” for anyone wanting information or help;
 - provide effective support services;
 - provide improved safeguarding powers;
 - include protection from violence, abuse and neglect;
 - provide more effective responses and intervention with abusers;
 - are appropriate for the diverse populations and at-risk cohorts;
 - include both existing and new initiatives building on both to produce an evidence base and community of practice;
 - achieve national consistency;
 - announce greater support by Australia in the development of and signatory support to relevant international instruments

- build the evidence base including conducting an “elder abuse impact study” (this “wider” study is preferred to the proposed, narrower “prevalence” study).
 - i. is a focused, outcomes-based plan that addresses critical issues/areas, not just the “low-hanging fruit” easy for governments and other stakeholders to achieve
- j. must include implementation strategies where government and other stakeholders can be held accountable;
- k. includes transparent and accountable evaluation, review and reporting processes;
- l. is developed in consultation with older people and all key stakeholder groups.
- e. the degree to which there should be intervention in the banking/finance sectors;
- f. the degree of focus on formal aged care services when abuse also occurs elsewhere;
- g. how best to improve the justice-services interface especially in health, aged care and finance services.

6. Achieve national consistency and better co-ordination between governments, including:

- a. harmonising/standardising legislation and creating better laws that protect people experiencing abuse;
- b. reducing all state/commonwealth perverse cost-shifting incentives.

7. Conduct nationwide community awareness and education campaigns that cover themes such as:

- a. reducing ageism and encouraging older people to make their own decisions;
- b. there’s no excuse for elder abuse – and it’s worse (more prevalent) than you think;
- c. how to access information, assistance & support;
- d. take action & report any abuse of the older person.

8. Conduct further consultations to resolve differences of opinion regarding a number of matters, including:

- a. the relationship between abuse of older people and family violence;
- b. enhancing and clarifying safeguarding powers;
- c. deciding whether to improve existing laws or create new laws;
- d. whether improvements to laws should be made at the commonwealth or state and territory jurisdictional levels;

1. BACKGROUND INFORMATION

1.1 PURPOSE AND CONTEXT OF THIS REPORT

This report provides the Federal Government and all other governments in Australia with key advice in relation to addressing, with the aim of eradicating, the abuse of older people in our communities.

This report is foundational work allowing the community sector to articulate its vision, and provide evidence-based quality advice to government and policy makers accordingly. This is an opportunity for sectors addressing the abuse of older people to align, collaborate and strategically position themselves. As a result, we will be better placed to articulate our calls for improved responses to prevent and mitigate the abuse of older people in Australian society.

It is acknowledged, in the short time available to develop the report, some perspectives may have not been captured, or have been unintentionally diluted. Nevertheless, this report offers a platform of ideas, opinions and information to assist in the development of the National Plan.

The report is based on an earlier discussion paper, which was informed by the views of 30 key stakeholders together with approximately 200 respondents to an online survey of registrants to the 5th National Elder Abuse Conference. Seventy persons who attended a full-day elder abuse strategy forum in February 2018 assisted, both during and following the forum, in refining the report (Refer Appendix 1).

Most participants at the strategy forum were advocates for older people, special population cohorts and solicitors. Representatives from police, the banking sector, the aged care sector and government departments also attended the forum.

1.2 ELDER ABUSE IN A NUTSHELL

Elder abuse- the abuse and neglect of older people - is increasingly reported. Some stories in the media reveal shocking problems in residential aged care. Abuse also occurs outside institutional settings, including being perpetrated by family members or someone who is trusted by the older person. It is the private nature of the abuse that makes it difficult to know how often and to whom it is happening. It should be noted there is a broad range of conduct that amounts to mistreatment of older people including social, financial, psychological, emotional, physical and sexual misconduct.

The abuse of older people occurs in all cultures and across all levels of society. The World Health Organization (WHO) estimates one in six older people have experienced abuse in the past year¹. Although the available evidence suggests that prevalence varies across abuse types, with psychological and financial abuse being the most common types of abuse reported², one Australian study suggests that neglect could be as high as 20% among women in the older age group³.

Many older people and their supporters have shared their lived experience of abuse. Services supporting older people have also helped to bring its prevalence and impact to the fore. Together, these perspectives have given us a rich qualitative understanding of the complex and evolving nature of abuse. Despite these reports, Australia does not yet have a rigorous national estimate of the prevalence of elder abuse.

As identified above, the abuse of older people takes many forms, including financial, social, psychological, emotional, physical and sexual mistreatment. The financial exploitation of older people is the most common reported to support organisations and other institutions. It ranges from the theft of small amounts of money, which, while low in value, have a significant impact on those living on low incomes, to older people being coerced into gifting large amounts of money or selling their home. Psychological and emotional abuse are common and often occur concurrently as an enabler and sustainer of financial abuse.

There are multiple factors at play and we still have a lot to learn about the dynamics and drivers of abuse of the older person. What we do know is that abuse harms, and abuse costs. Harm occurs to the abused person but also negatively impacts whole families and, indeed, communities. The victim sustains a cost, sometimes a very high cost, from the abuse, and there are family, social and economic costs to abuse.

The abuse of older people must be stopped! There is no excuse not to act nationally NOW!

1.3 RECENT WORK ADDRESSING ELDER ABUSE

Over the last few years, there have been some positive developments addressing elder abuse like the family violence changes in Victoria. Some of the key pieces of work are summarised in Appendix 2, noting, however, that it is not a complete list of all activity undertaken.

¹ World Health Organization Elder Abuse Fact Sheet, January 2018.

² Elder abuse: Understanding Issues, Frameworks and Responses, 2015.

³ Australian Longitudinal Study on Women's Health, 2014

Information provided in Appendix 2 includes a brief outline of:

- legislative reviews
- recent relevant Australian government reports
- state and territory reviews
- Council of Attorneys-General, and
- current international work on elder abuse.

Of course lessons have been learnt, such as the challenges involved in working with rural and remote and culturally and linguistically diverse (CALD) communities about the abuse of older people, the history of systemic abuse of Aboriginal and Torres Strait Islanders (A&TSI) and lesbian, gay, bisexual, transgender and intersex (LGBTI) people, and the abuse stemming directly from past government policies.

1.4 RECENT 5TH NATIONAL ELDER ABUSE CONFERENCE

This two-day conference was held on the 19th and 20th February 2018 in Sydney and was attended by 550 delegates.

In the final session of the conference the following End-Of-Conference Statement was endorsed:

“OUR CALL TO ACTION TO ALL GOVERNMENTS IN AUSTRALIA

“There is no excuse not to act nationally NOW against elder abuse.

“Come together to create and fully resource the strong, effective, nationally consistent and accountable change needed to:

- create respectful cultures that value older people within our diverse country and communities (a whole-of-community shift) to prevent an epidemic of abuse against older people
- deliver early intervention and empower older people
- support and safeguard those older persons experiencing abuse.

“Involve older people and all the key stakeholders in developing the National Plan to address Elder Abuse to ensure all older people experience dignity, their rights and personal well-being as a daily way of life.”

2. INFORMANT VIEWS OF CURRENT SITUATION

2.1 WHAT IS CURRENTLY WORKING WELL ACROSS ALL AUSTRALIA

- Increasing awareness by the Australian community, service agencies, financial institutions, government departments and politicians of the prevalence and awful consequences of older people being abused;
- Some good collaborative and integrated work happening in different agencies and in different sectors, including using contemporary promotional material and imagery, referral, advocacy, prevention and early-intervention strategies;
- The commitment of funding to specific services in Victoria;
- The definition of elder abuse for research purposes, is being led by the Australian Institute of Family Studies as part of the National Research Agenda for Elder Abuse;¹
- The disability sector and Guardianship Act changes made in NSW;
- There are at least two guidelines concerning elder abuse under review and being updated within the financial sector;
- There are the early beginnings of harmonisation and standardisation of laws and regulations;
- Some increased awareness in the Australian Parliament (The Australian Government committed \$15 million via their election commitment to “Our Plan to Protect the Rights of Older Australians”).

1. Under the Australian Government's election commitment, the Attorney-General's Department is funding the Australian Institute of Family Studies to work with the National Ageing Research Institute, the Australian National University's Social Research Centre and the Social Policy Research Centre at the University of New South Wales on Stage One of the National Research Agenda on Elder Abuse. Stage One has three components:

- a. To develop an Australian definition of elder abuse for research purposes.
- b. To develop and rigorously test survey tools to measure the extent of abuse of older people, and to better understand the knowledge and behaviours that contribute to abuse in the general community and by service providers.
- c. To mine existing data sources, largely collected by the Australian Bureau of Statistics, to discover what they can tell us about the drivers and dynamics of abuse.

In parallel, the Australian Institute of Health and Welfare is mining their data holdings to build an understanding of elder abuse in Aboriginal and Torres Strait Islander communities.

2.2 WHAT IS NOT WORKING WELL AT THE MOMENT

For older people:

- There is a lack of guidance and advice from services accessed, such as visiting community workers and professionals, GPs, hospitals, Centrelink and the police;
- A lack of a clear, acceptable, culturally appropriate, easy contact numbers or pathways for an older person seeking help (including a lack of an accessible, ideally national, repository of information for older people)
- A lack of culturally appropriate intervention services available to assist an older person, including services that can assist an older person who knows they are being abused but is too fearful (for example) to do anything about it;
- A lack of services that can effectively work with abusers and potential abusers to cease and prevent abuse from occurring;
- Ongoing ageist attitudes that fuel elder abuse;
- A low level of awareness of elder abuse by the wider community;
- The voices of older people themselves are consistently not listened to.

For responders & service providers:

- Lack of a human rights-based framework in Australia;
- A general lack of easily understood laws and/or regulations that prevent referrals about suspected elder abuse being made without fear of breaching privacy laws, and for the referrals to have a good chance of actually being actioned successfully in the interests of the older person;
- A lack of a safeguarding agency/agencies with sufficient powers to comprehensively act in a suspected case of elder abuse (where the only service entry criterion is suspected elder abuse and no other criteria being required);
- No nationwide view, coordinated agreement, effective policy or legal framework that gives direction and support to agencies trying to help older people in distress;
- A lack of co-ordination between sectors (for example a bank, an aged care facility, advocacy and safeguarding agencies);

- A lack of practical and nationally uniform education for the workforce about how best to identify and confirm suspicions of older person abuse, and then how to act in “good faith” to assist. This situation is allegedly more difficult in the aged care sector because staff levels and qualifications are low and residents/clients are increasing in both number and acuity. Care staff in residential facilities and those who provide care in people’s own homes are reporting an increase in the incidence of suspected physical, financial and emotional abuse, often perpetrated by family members or those in trusted relationships. This discovery is distressing to staff. It is also reported there is a lack of knowledge about the rights under powers of attorney and the extent and application of privacy laws, which can cause confusion and inertia in frontline staff of service agencies;
- A lack of coordinated and sufficient funding by governments throughout Australia to make real headway in addressing abuse of older people (funding is currently piecemeal);
- Inter-jurisdictional differences, different/unharmonised laws, lack of co-ordination and co-operation between agencies and state and territory jurisdictions (for example a lack of tools to deal with accommodation agreements);
- There is insufficient co-ordination between jurisdictions and no uniform national register for enduring powers of attorney;
- Tribunals lack the capacity to deal with elder abuse.

For governments:

- No agreed common language or Australia-wide definition of older person abuse;
- The language of elder abuse is not universally accepted. The word “elder” has specific meaning in some communities. The term “disrespectful behaviours” was one term suggested as an alternative;
- Lack of understanding about the scope and prevalence of, and pathway triggers in, elder abuse, partly because of current piecemeal data sets;
- Lack of understanding of the existing evidence base and the capacity already available in states and territories before making any further plans (it was suggested that a mapping exercise is required);
- “Cost-shifting” behaviours by government-funded agencies that can systematise and entrench institutional

abuse of the older person. (As an example, it was commented that if an ageist attitude of “all elderly people will end up in an aged care institution anyway” is combined with tight hospital budgets and a lack of hospital beds, it becomes much easier for hospital administrators to simply refer an elderly hospital patient to a federally funded residential aged care facility, rather than broker further state-funded health care, support or rehabilitation services for the elderly patient);

- A lack of data on the interventions that work and don't work;
- Current lack of agreed bipartisan support across all political jurisdictions and a lack of a systematic strategy for educating and lobbying MPs to achieve real action.

It was commented that, as with most other social issues, what happens to older members of our community is an accurate reflection of our society's true, but perhaps covert, attitudes towards older people. We were encouraged to think about this and act to change and improve our society's underlying attitudes towards the value of older people.

2.3 ADDRESSING THE ABUSE OF OLDER PEOPLE IN DIVERSE POPULATIONS

Many informants referenced the importance of specific strategies to address abuse of older people experienced within the many diverse population groups of older people.

It was reported, that an effective response to the abuse of older people would require an understanding that “one size does not fit all”. Also an understanding of concepts such as “intersectionality”, where an older person may experience abuse through layers of disadvantage associated with cultural mores, cultural and individual trauma, lifelong systemic discrimination, gender, poverty, disability, language, isolation, chronic illness and pain and drug and alcohol abuse. Specific examples of these complex dynamics include:

- feelings of helplessness and disempowerment;
- mistrust of outsiders by people who have been abused all their lives;
- the internalised shame and stigma of being abused;
- intergenerational family issues such as tolerated behaviours and perceived rights by younger people regarding the “sharing” of extended family assets;

- intergenerational abuse – the situation of former child abusers now being abused by their adult children.

As identified in the recent ALRC Report, at-risk groups include:

- older women;
- older people socially isolated and/or dependent on others;
- older carers experiencing abuse from the people they care for;
- older people experiencing significant disability and/or cognitive impairment;
- older people experiencing poor physical and/or mental health;
- older people living in rural and remote areas;
- older people experiencing poverty, low income or low socio-economic status;
- older people living in an Aboriginal and Torres Strait Islander (A&TSI) community;
- older people living in a culturally and linguistically diverse (CALD) community; and
- older lesbian, gay, bisexual, transgender and intersex (LGBTI) people.

Informants for these at-risk groups advised the National Plan must target specific priority strategies in relation to each of these cohorts. Empowerment, better protections and being culturally and linguistically relevant were key themes reported.

In relation to older women, it was advised that much could be learnt and should be borrowed from the family violence sector, as national-priority elder abuse strategies are being planned.

For the older person with a significant disability, cognitive impairment or those who are socially isolated and/or dependent on others (for example, aged care recipients), it was advised that stronger reporting and safeguarding protections need to be in place in relation to the health and service agencies that interact with them.

For older people living in rural and remote communities and those experiencing poor physical health, poor mental health and with low income or socio-economic status, these cohorts also require stronger reporting and safeguarding

protections, particularly in relation to police services and the primary health/acute hospital system.

For people living in rural and remote areas, it was also suggested that existing well-regarded community-based organisations may be able to assist in ameliorating abuse – an example given was the Country Women’s Association (CWA).

In relation to older people from the specific communities identified in the above list, it was advised that community-specific strategies are needed and that such strategies should only be developed (ideally co-designed) after extensive and genuine consultation with each of these communities. (Brief outlines about understanding the abuse of older people in CALD and A&TSI communities were included as Appendices 4 and 5 in the February 2018 Discussion Paper prepared for the one-day Elder Abuse Strategy Forum.) Reference should be made to the national diversity framework and community-specific action plans, as strategies in those plans can inform the development of priority actions in the Elder Abuse National Plan.

Another cohort reported as at-risk are migrants. When things go wrong, such as experiencing abuse, it is reported that migrants are often not eligible for the support services they need (for example language-specific or culturally specific services).

It was also commented that the insidious power of “culture” can result in powerful negative “sub-cultures” within a population. There are families in Australia where men with limited verbal and interpersonal skill sets resolve differences with their fists or threats of violence. In such a sub-culture, an older person may be being abused, know they are being abused but either fear negative consequences of reporting or are not prepared to report because of a powerful sub-cultural value that prevents them from reporting on a family member. For these older people, specialist “outreach” workers and peer support (including mentoring camps) may be needed, given that, for some in these populations, government agencies are not perceived as trusted.

There was widespread agreement that it is very important that any National Plan, although written by “middle-class” people, reporting to “middle-class” politicians, have strategies that will truly address elder abuse for more than just the “middle-class” populations.

Furthermore, as reported earlier, the term “elder abuse” is problematic in many cultures and better terminology is needed for a number of communities.

It was also reported that communications and publications flowing from the National Plan should include the use of appropriate community-specific messages and mediums.

3. FEEDBACK ON RECENT ALRC REPORT

The overwhelming majority of informants look favourably on the recent ALRC report titled Elder Abuse – A National Legal Response (ALRC Report 131) and the role that report is playing in raising the profile of abuse of older people. However, as no report is perfect, informants also identified areas of disappointment in its content.

The following is a summary of perceptions provided by informants about the recent ALRC Report.

3.1 TOP-LEVEL FEEDBACK

- The report has served as a very useful catalyst in further drawing attention to the abhorrent and widespread nature of abuse of older people.
- There is widespread support for the two fundamental principles of autonomy and safeguarding, but it is considered there are several other key principles in addition.
- The report, understandably so, addresses legal matters and accordingly does not address some key non-legal response and intervention strategies.

3.2 MOST VALUABLE PART/S OF THE REPORT

- The national focus it has helped engender – it has elevated elder abuse as a national issue.
- Its support for a cross jurisdictional, cross-sector, multi-disciplinary, multi-pathways approach to addressing elder abuse.
- Its call for a national plan.
- Its call for specific actions (for example, its recommendation for every state and territory to enact safeguarding legislation; and powers of investigation for the Public Advocate and improving enduring appointments).

3.3 LIMITATIONS OF THE REPORT

- An emphasis on law and regulatory reform without similar support being provided to the necessarily concomitant importance of other strategies such as a national awareness campaign; prevention activities (such as community awareness raising); and early intervention strategies (such as training staff in those agencies that typically are likely to first encounter and refer suspected incidents of elder abuse – like GP surgeries, banks, aged-care assessment teams for

example). Whilst significant improvements in non-legal service delivery cannot occur without legal reform, a holistic approach is needed with legal intervention the last resort. We need to be careful not to find legal solutions to issues that are not legal in nature.

- Some of the proposals may appear to have face validity and be relatively easy for governments to implement, but these actions may not produce actual outcomes for older people and may indeed produce additional barriers instead. It appears there was insufficient cross-sector dialogue in order to ensure all proposed interventions will actually achieve positive results without adding more burden on older people. For example, the proposal to have two witnesses, instead of one, for enduring attorney documents is an extra barrier for an older person. This requirement will probably not prevent a fraudster from signing one witness signature with their right hand and the other with their left and so this well-intentioned strategy may only achieve results for the cognitively impaired fraudster. In aged care, sector representatives indicated some of the proposals relating to the sector lacked evidentiary support or were not feasible given current funding limitations.
- Lack of identified priorities in a funding-limited world.
- Lack of definition of the term “serious”.
- Insufficient comment on the importance of laws being accessible and understandable to frontline workers like Certificate II level workers and police constables.
- Safeguarding laws need to have a standard that doesn’t need to rely on a finding of violence – we need to look at family violence laws as the model.
- Insufficient support for a forfeiture rule whereby a perpetrator will forfeit a gift from a will if they cause the death of the person by abusing them. That is, the perpetrator can be disinherited. Consequences should also include criminal charges.
- The lengthiness of the report itself.

3.4 GAPS IN THE REPORT

- Little outline or summary of the good work various agencies, sectors and governments are doing across Australia including cross-sector partnerships.
- No suggested common definition of elder abuse.

- A range of potential prevention strategies are missing from the report.
- The report could have said more about the importance of supporting advocacy services.
- Insufficient said on social security issues.
- Insufficient comment about overcoming the current gaps between agencies where people either fall “between the cracks” or where referral protocols are either missing or vague.
- Insufficient support for training of service staff, including training of aged-care residential staff in the subtleties associated with identifying elder abuse, including well-meaning actions that might constitute elder abuse.
- Failure to recommend remedies for aged-care residents who had been harmed or injured.
- Missed opportunity to recommend a national co-operative legislative solution.
- Didn’t address systemic reform opportunities.
- Lack of comment about clarifying when enduring Powers of Attorney should be activated.
- No specific recommendations regarding the disability sector.

3.5 FEEDBACK ON SPECIFIC RECOMMENDATIONS

The following is feedback on the ALRC Report recommendations.

SECTION 3. A NATIONAL PLAN TO COMBAT ELDER ABUSE

Recommendation 3-1 *The Australian Government, in co-operation with state and territory governments, should develop a National Plan to combat elder abuse.*

The plan should:

- establish a national policy framework;*
- outline strategies and actions by government and the community;*
- set priorities for the implementation of agreed actions; and*
- provide for further research and evaluation.*

There is overwhelming support for a fully resourced

National Plan supported by all governments and whilst the four “shoulds” listed above were supported, all were seen as secondary purposes, or as a “means to an end” rather than end goals themselves. The end goals of the plan should be positive and measurable outcomes for older people.

The main ‘should’ reported during this community dialogue is the plan should have the older person as the conceptual centre rather than any other framework. The plan primarily needs to be successful for older people – not for governments, bureaucrats or any other agency or authority. That is, the plan needs to be able to achieve real outcomes for older people experiencing abuse, not just have strategies or measures that may be easy for bureaucrats to administer and for governments to “tick off” their list of things to do.

Accordingly, to achieve the prime purpose of eradicating abuse of older people in Australia, the National Plan should contain actions that:

- promote the autonomy and agency of older people and significantly reduce ageism (as ageism underpins and fuels abuse);
- enable all Australians to know what elder abuse is and that it is not acceptable;
- enable all Australians to know both how to report abuse and how to initiate support for themselves or a loved one;
- provide the financial and human resources for both “support” and “safeguarding” agencies to be able to do their job effectively, including preventative, educational and prosecutory interventions with abusers.

All other “shoulds” were seen as secondary, “means to an end” goals, including the much wanted national consistency, a national policy framework and the building of an evidence base.

Recommendation 3-2 *The National Plan to combat elder abuse should be led by a steering committee under the imprimatur of the Law, Crime and Community Safety Council of the Council of Australian Governments.*

There is overwhelming support for the plan to be owned and fully supported by all governments in Australia.

Recommendation 3-3 *The National Plan to combat elder abuse should identify goals, including:*

(a) promoting the autonomy and agency of older people;

(b) addressing ageism and promoting community understanding of elder abuse;

(c) achieving national consistency;

(d) safeguarding at-risk adults and improving responses; and

(e) building the evidence base.

These were not seen as the necessary “pillars” of a national plan to address the abuse of older persons in Australia (refer our comments about the “purpose” of a national plan above) but more so as a potentially workable framework for the first plan.

Recommendation 3-4 *The National Plan should take into account the different experiences and needs of older persons with respect to:*

(a) gender;

(b) sexual orientation;

(c) disability; and

(d) cultural and linguistic diversity.

The plan should also take into account the experiences and needs of:

(a) older Aboriginal and Torres Strait Islander people; and

(b) older people living in rural and remote communities.

Feedback supported this recommendation but noted that a key target group mentioned in the ALRC Report has been left out of the above list. These are older people with limited education and those experiencing socio-economic hardship. It was reported there is a very large cohort of people in this target group who are being abused by a family member or trusted friend. Sadly, they may believe the abusive relationship is normal and that it has to be endured. They may feel they are not in a position to take action to right the wrong (for example, they may believe they cannot report the abuser to authorities because the abuser is a family member).

Recommendation 3-5 *There should be a national prevalence study of elder abuse to build the evidence base to inform policy responses.*

There is support for this recommendation, so long as it does not preclude action to safeguard now those older persons experiencing abuse.

SECTION 4. AGED CARE

Recommendations 4-1 to 4-6. *Aged-care legislation should provide for a new serious-incident response scheme for aged care etc.*

Community groups and advocates support these recommendations but they are aware that aged-care service providers, including the not-for-profit services, are sounding warning bells about the negative consequences that may occur if this recommendation is implemented without attention being paid to potential unintended consequences.

Community advocates also do not want the National Plan to unduly focus on aged care. Based on their day-to-day practice and experience they consider the vast majority of elder abuse occurs against those older persons not living in an aged care facility.

Recommendation 4-7 *The Department of Health (Cth) should commission an independent evaluation of research on optimal staffing models and levels in aged care. The results of this evaluation should be made public and used to assess the adequacy of staffing in residential aged care against legislative standards.*

Community advocates and unions associated with aged care support this recommendation. While aged-care industry peaks do not necessarily support this recommendation, they do maintain aged-care service providers currently receive significantly less funding for salaries than similar care-provider sectors, such as the acute health system.

Recommendation 4-8 *Unregistered aged-care workers who provide direct care should be subject to the planned National Code of Conduct for Health Care*

Community advocates and some unions associated with aged care support this recommendation.

Recommendation 4-9 *There should be a national employment screening process for Commonwealth-regulated aged care. The screening process should determine whether a clearance should be granted to a person to work in aged care, based on an assessment of:*

- (a) *a person's criminal history;*
- (b) *relevant incidents under the recommended serious incident response scheme; and*
- (c) *relevant disciplinary proceedings or complaints.*

Community groups and advocates support this recommendation but they are aware that aged-care service providers, including not-for-profit services, are sounding warning bells about the negative consequences that may occur if this recommendation is implemented without attention being paid to potential unintended consequences.

Recommendation 4-10 *Aged care legislation should regulate the use of restrictive practices in residential aged care. Any restrictive practice should be the least restrictive and used only:*

- (a) *as a last resort, after alternative strategies have been considered, to prevent serious physical harm;*
- (b) *to the extent necessary and proportionate to the risk of harm;*
- (c) *with the approval of a person authorised by statute to make this decision;*
- (d) *as prescribed by a person's behaviour support plan; and*
- (e) *when subject to regular review.*

Community groups and advocates support this recommendation but they are aware that aged-care service providers, including not-for-profit services, are sounding warning bells about the negative consequences that may occur if this recommendation is implemented without attention being paid to potential unintended consequences. For example, aged-care service providers argue they are the "meat in the sandwich", having to balance the appropriate use of restrictive practices versus ensuring both safety for the resident, other residents, visitors and a safe workplace for their frontline staff and volunteers who are often neither highly paid nor highly educated.

Recommendation 4-11 *The Australian Government should consider further safeguards in relation to the use of restrictive practices in residential aged care, including:*

- (a) *establishing an independent Senior Practitioner for aged care, to provide expert leadership on and oversight of the use of restrictive practices;*
- (b) *requiring aged-care providers to record and report the use of restrictive practices in residential aged care; and*
- (c) *consistently regulating the use of restrictive practices in aged care and the National Disability Insurance Scheme.*

Community groups and advocates support this recommendation but they are aware that aged-care service providers, including not-for-profit services, are sounding warning bells about the negative consequences that may

occur if this recommendation is implemented without attention being paid to potential unintended consequences.

Recommendation 4-12 *The Australian Government should further consider Recommendation 6-2 of ALRC Report No 124 Equality, Capacity and Disability in Commonwealth Laws, that aged-care laws and legal frameworks should be amended consistently with the National Decision-Making Principles set out in that report.*

This recommendation was not discussed.

Recommendation 4-13 *Aged-care legislation should provide that agreements entered into between an approved provider and a care recipient cannot require that the care recipient has appointed a decision-maker for lifestyle, personal or financial matters.*

Community groups and advocates support this recommendation but they are aware that aged-care service providers, including not-for-profit services, are sounding warning bells about the negative consequences that may occur if this recommendation is implemented without attention being paid to potential unintended consequences.

Recommendation 4-14 *The Department of Health (Cth) should develop national guidelines for the community visitors scheme. The guidelines should include policies and procedures for visitors to follow if they have concerns about abuse or neglect of care recipients.*

Community groups and advocates support this recommendation.

SECTION 5. ENDURING APPOINTMENTS

Recommendation 5-1 *Safeguards against the misuse of an enduring document in state and territory legislation should:*

- (a) *recognise the ability of the principal to create enduring documents that give full powers, powers that are limited or restricted, and powers that are subject to conditions or circumstances;*
- (b) *require the appointed decision maker to support and represent the will, preferences and rights of the principal;*
- (c) *enhance witnessing requirements;*
- (d) *restrict conflict transactions;*
- (e) *restrict who may be an attorney;*
- (f) *set out in simple terms the types of decisions that are outside the power of a person acting under an enduring document; and*
- (g) *mandate basic requirements for record keeping.*

On the surface, this recommendation is supported but concerns were raised about whether these initiatives will make it more difficult for an older person to develop an enduring document – and whether these requirements will really prevent an unconscionable person from becoming an attorney.

Recommendation 5-2 *State and territory civil and administrative tribunals should have:*

- (a) *jurisdiction in relation to any cause of action, or claim for equitable relief, that is available against a substitute decision maker in the Supreme Court for abuse, or misuse of power, or failure to perform their duties; and*
- (b) *the power to order any remedy available to the Supreme Court.*

The intention of this recommendation seems supported by the community sector but the sector does not understand what might be any unintended consequences of this recommendation.

Recommendation 5-3 *A national online register of enduring documents, and court and tribunal appointments of guardians and financial administrators, should be established after:*

- (a) *agreement on nationally consistent laws governing:*
 - (i) *enduring powers of attorney (including financial, medical and personal);*
 - (ii) *enduring guardianship; and*
 - (iii) *other personally appointed substitute decision makers; and*
- (b) *the development of a national model enduring document.*

In principle, this strategy seems sensible but the fear from the community sector is that such a register will not be fully funded (or the user will pay), or not kept up to date and, accordingly, become a bureaucratic impost on older people and the agencies charged with safeguarding them.

SECTION 6. FAMILY AGREEMENTS

Recommendation 6-1 *State and territory tribunals should have jurisdiction to resolve family disputes involving residential property under an “assets for care” arrangement.*

The community legal sector supports this recommendation. However, advocates for older people do not want these initiatives to create an additional impost.

Recommendation 6-2 *The Social Security Act 1991 (Cth) should be amended to require that a “granny flat interest” is expressed in writing for the purposes of calculating entitlement to the Age Pension.*

This recommendation was not discussed.

SECTION 7. SUPERANNUATION

Recommendation 7-1 *The structure and drafting of the provisions relating to death benefit nominations in ss 58 and 59 of the Superannuation Industry (Supervision) Act 1993 (Cth) and reg 6.17A of the Superannuation Industry (Supervision) Regulations 1994 (Cth) should be reviewed. The review should consider:*

- (a) *witnessing requirements for making, amending and revoking nominations;*
- (b) *the authority of a person who holds an enduring power of attorney in relation to the making, alteration and revocation of a nomination;*
- (c) *whether a procedure for the approval of a nomination on behalf of a member should be introduced; and*
- (d) *the extent to which other aspects of wills law may be relevant.*

We received very little feedback on this recommendation. However, advocates for older people do not want these initiatives to create additional impost on older people.

Recommendation 7-2 *The Superannuation Industry (Supervision) Act 1993 (Cth) should be amended to include “replaceable rules” for self-managed superannuation funds which provide a mechanism for an enduring attorney to become a trustee/director where this was provided for in the enduring document and notwithstanding the terms of the trust deed and constitution of the corporate trustee or the actions of the other trustees/directors.*

We received no feedback on this recommendation.

Recommendation 7-3 *The relevant operating standards for self-managed superannuation funds in cl 4.09 of the Superannuation Industry (Supervision) Regulations 1994 (Cth), should be amended to add an additional standard that would require the trustee to consider the suitability of the investment plan where an individual trustee or director of the corporate trustee becomes ‘under a legal disability’.*

We received very little feedback on this recommendation.

Recommendation 7-4 *Section 104A of the Superannuation Industry (Supervision) Act 1993 (Cth) and the accompanying Australian Taxation Office Trustee Declaration form should be amended to require an individual to notify the Australian Taxation Office when they become a trustee (or director of a company which acts as trustee) of a self-managed superannuation fund as a consequence of being an attorney under an enduring document.*

We received very little feedback on this recommendation.

It is important to recognise that in relation to all of these recommendations (7.1-7.4), advocates of older people do not want to establish a system that puts further barriers in the way of older people accessing assistance and/or support.

SECTION 8. WILLS

Recommendation 8-1 *The Law Council of Australia, together with state and territory law societies, should develop national best practice guidelines for legal practitioners in relation to the preparation and execution of wills and other advance planning documents to ensure they provide thorough coverage of matters such as:*

- (a) *elder abuse in probate matters;*
- (b) *common risk factors associated with undue influence;*
- (c) *the importance of taking detailed instructions from the person alone;*
- (d) *the need to keep detailed file notes and make inquiries regarding previous wills and advance planning documents; and*
- (e) *the importance of ensuring that the person has “testamentary capacity”— understanding the nature of the document and knowing and approving of its contents, particularly in circumstances where an unrelated person benefits.*

We received no feedback on this recommendation, except that advocates for older people do not want these initiatives to create additional impost on older people.

SECTION 9. BANKING

Recommendation 9-1 *The Code of Banking Practice should provide that banks will take reasonable steps to prevent the financial abuse of vulnerable customers, in accordance with the industry guideline, Protecting Vulnerable Customers from Potential Financial Abuse. The guideline should set out examples of such reasonable steps, including in relation to:*

- (a) *training staff to detect and appropriately respond to abuse;*
- (b) *using software and other means to identify suspicious transactions;*
- (c) *reporting abuse to the relevant authorities, when appropriate;*
- (d) *guaranteeing mortgages and other loans; and*
- (e) *measures to check that 'Authority to Operate' forms are not obtained fraudulently and that customers understand the risks of these arrangements.*

Advocates for older people support this recommendation.

Banking sector representatives indicate their preparedness to be actively involved in preventing financial abuse of older people, but two current key hurdles for them are the absence of a national register (Recommendation 5-3) and that little appropriate action can occur when they do report suspected elder abuse to authorities. The banking sector indicated there was limited benefit in enhancing their advanced transaction analysis software to further detect suspicious "elder abuse" transactions when existing "obvious" cases of financial abuse reported by banks were not effectively acted on by authorities.

SECTION 10. GUARDIANSHIP AND FINANCIAL ADMINISTRATION

Recommendation 10-1 *Newly-appointed private guardians and private financial administrators should be required to sign an undertaking with respect to their responsibilities and obligations.*

Advocates for older people support this recommendation.

Recommendation 10-2 *The Australian Guardianship and Administration Council should develop best practice guidelines on how state and territory tribunals can support a person who is the subject of an application for guardianship or financial administration to participate in the determination process as far as possible.*

Advocates for older people support this recommendation.

SECTION 12. SOCIAL SECURITY

Recommendation 12-1 *The Department of Human Services (Cth) should develop an elder abuse strategy.*

Advocates for older people support this recommendation.

Recommendation 12-2 *Payments to nominees should be held separately from the nominee's own funds in a dedicated account nominated and maintained by the nominee.*

Advocates for older people support this recommendation.

Recommendation 12-3 *Centrelink staff should speak directly with persons of Age Pension age who are entering into arrangements with others that concern social security payments.*

Advocates for older people support the intention of this recommendation but are very cautious about Centrelink being able to competently manage this process without additional staff training or a culturally appropriate older person's advocate being present.

SECTION 14. SAFEGUARDING ADULTS AT RISK

Recommendation 14-1 *Adult safeguarding laws should be enacted in each state and territory. These laws should give adult safeguarding agencies the role of safeguarding and supporting "at-risk adults".*

Advocates for older people support the outcome intended by this recommendation but are unsure as to whether it may be better to have an overarching set of Commonwealth laws. The legal profession seems divided on whether to improve existing laws or to create new elder abuse specific laws.

Recommendation 14-2 *Adult safeguarding agencies should have a statutory duty to make inquiries where they have reasonable grounds to suspect that a person is an "at-risk adult". The first step of an inquiry should be to contact the at-risk adult.*

Advocates for older people support this recommendation but say inquiries must be done in a way appropriate to the person in question and must not unwittingly increase the vulnerability or risk of abuse to the suspected "at-risk" adult.

Recommendation 14-3 *Adult safeguarding laws should define "at-risk adults" to mean people aged 18 years and over who:*

- (a) *have care and support needs;*
- (b) *are being abused or neglected, or are at risk of abuse or neglect; and*
- (c) *are unable to protect themselves from abuse or neglect because of their care and support needs.*

There was support for this recommendation, but further nuancing of the definition was suggested.

Recommendation 14-4 *Adult safeguarding laws should provide that the consent of an at-risk adult must be secured before safeguarding agencies investigate, or take any other action, in relation to the abuse or neglect of the adult. However, consent should not be required:*

- (a) *in serious cases of physical abuse, sexual abuse, or neglect; or*
- (b) *if the safeguarding agency cannot contact the adult, despite extensive efforts to do so; or*
- (c) *if the adult lacks the legal capacity to give consent, in the circumstances.*

Advocates for older people support this recommendation but are concerned any such investigation or action must be done appropriately and sensitively and must not unwittingly increase the vulnerability or risk of abuse to the suspected “at-risk” adult.

Recommendation 14-5 *Adult safeguarding laws should provide that, where a safeguarding agency has reasonable grounds to conclude that a person is an at-risk adult, the agency may take the following actions, with the adult’s consent:*

- (a) *coordinate legal, medical and other services for the adult;*
- (b) *meet with relevant government agencies and other bodies and professionals to prepare a plan to stop the abuse and support the adult;*
- (c) *report the abuse to the police;*
- (d) *apply for a court order in relation to the person thought to be committing the abuse (for example, a violence intervention order); or*
- (e) *decide to take no further action.*

Advocates for older people support this recommendation but are concerned any such action must be undertaken with sensitivity and must not unwittingly increase the vulnerability or risk of abuse to the suspected “at-risk adult.”

Recommendation 14-6 *Adult safeguarding laws should provide adult safeguarding agencies with necessary coercive information-gathering powers, such as the power to require a person to answer questions and produce documents. Agencies should only be able to exercise such powers where they have reasonable grounds to suspect that there is “serious abuse” of an at-risk adult, and only to the extent that it is necessary to safeguard and support the at-risk adult.*

Advocates for older people support this recommendation.

Recommendation 14-7 *Adult safeguarding laws should provide that any person who, in good faith, reports abuse to an adult safeguarding agency should not, as a consequence of their report, be:*

- (a) *liable civilly, criminally or under an administrative process;*
- (b) *found to have departed from standards of professional conduct;*
- (c) *dismissed or threatened in the course of their employment; or*
- (d) *discriminated against with respect to employment or membership in a profession or trade union.*

There was widespread support for this recommendation.

Recommendation 14-8 *Adult safeguarding agencies should work with relevant professional bodies to develop protocols for when prescribed professionals, such as medical practitioners, should refer the abuse of at-risk adults to adult safeguarding agencies.*

There was widespread support for this recommendation.

4. FEEDBACK ON PURPOSE, PRINCIPLES & FRAMEWORK FOR NATIONAL PLAN

The following is a summary of information provided by informants.

There should be agreed principles that support the National Plan, high-level principles that underpin the response to the abuse of older people, as well as practical principles for the response/service system and when working directly with older people.

4.1 HIGH-LEVEL PRINCIPLES TO UNDERPIN THE NATIONAL PLAN

The main “should” reported during this community dialogue is that the plan should have the older person as the conceptual centre of the plan rather than having any other conceptual framework. The plan primarily needs to be successful for older people, not written primarily to benefit governments, bureaucrats or any other agency or authority. The plan needs to achieve real outcomes for older people experiencing abuse, not just have strategies or measures that may be easy for bureaucrats to administer and for governments to “tick off” as achieved.

Accordingly, the prime purpose of the National Plan should be to eradicate the abuse of older people in Australia by containing actions that:

- promote the autonomy and agency of older people and significantly reduce ageism (as ageism underpins and fuels abuse);
- enable all Australians to know what abuse of older people is and, that it is unacceptable;
- enable all Australians to know how to both report abuse and how to initiate support for themselves or a loved one;
- provide the human and financial resources required to “support” and “safeguarding” agencies to enable them to do their job effectively. This includes both preventative, educational and prosecutory interventions with abusers.

All other “shoulds” were seen as secondary, subsidiary “means to an end” goals, including the much wanted national consistency, a national policy framework and the building of an evidence base.

- The plan should be a plan for all Australians, not just for white, middle-class Australia.
- As a quality assurance check for at-risk groups, the developers of the National Plan should ensure the most important abuse-reduction strategies for at least the

following cohorts are included within the National Plan:

- older women;
 - older people socially isolated and/or dependent on others;
 - older carers experiencing abuse from the people they care for;
 - older people experiencing significant disability and/or cognitive impairment;
 - older people experiencing poor physical and/or mental health;
 - older people living in rural and remote areas;
 - older people experiencing poverty, low income or low socioeconomic status;
 - older people living in Aboriginal and Torres Strait Islander communities;
 - older people living in culturally and linguistically diverse (CALD) communities (including migrants);
 - older lesbian, gay, bisexual, transgender and intersex (LGBTI) people.
- The Federal Government should engage older people and all key stakeholders in the development of the National Plan, particularly representatives from the identified at-risk groups above. Such engagement would include ensuring the judiciary is involved in legislative reform. (Experience has shown that if the Family Violence Act is used for elder abuse purposes, these cases have been dismissed, as they often don't fit the criteria/definitions in the act.)
 - We should learn from the United Nations. The plan could use the proposed Convention on the Rights of Older Persons, the right to freedom from violence, abuse and neglect as a basis.
 - The plan must have bi-partisan support at commonwealth and state and territory levels.
 - The plan must have national priorities and strategies that are actually implementable by the states & territories and the commonwealth.
 - The National Plan needs to be fully funded. Experience in the family violence area indicates that a significant injection of funding will be required over the long term.
 - The National Plan should include evaluation, reflection and refinement with a formal review written in to the plan.
 - The Plan must be accessible, not just produced digitally, but available in various modes of communication and in all languages.

4.2 IMPORTANT PRINCIPLES TO UNDERPIN OUR UNDERSTANDING OF EA IN AUSTRALIA

A person has inherent rights to be free of abuse.

Accordingly, the conceptual framework should be rights-based, utilising relevant United Nations and other principles outlined in the recent ALRC report. It must include balancing autonomy and respect, dignity, and capacity in decision-making, including taking risks, with the principle of protecting older people from abuse.

Ageism must be reduced as it often fuels abuse. Tackling ageism contributes to tackling abuse.

Higher-level principles for a human rights framework within a National Plan were suggested as:

Prevention

- Prevention of violence, abuse and neglect of older persons in public and private settings by:
 - putting in place effective legislation and policies to ensure all forms of violence, abuse and neglect are identified, investigated and redressed;
 - allocating sufficient resources for effective implementation;
 - providing training for all care providers, including family and other informal care providers;
 - putting in place a system of appropriate needs assessment and monitoring in situations of care and support;
 - paying specific attention to the intersectional drivers of violence;
 - raising awareness of, and sensitising society to, the different forms of violence, abuse and neglect in older age and how to identify and prevent them.

Support services

- Older people have real, not theoretical, access to a range of support services for survivors of violence, abuse and neglect, including but not limited to:
 - a full range of medical, psychosocial, rehabilitative and legal services;
 - access to information about available support and services;
 - access to appropriate victims support and advocacy services;
 - access to effective remedies and redress.

Remedies and redress

Older people have access to assistance when making complaints, during the investigation and laying of criminal charges.

- The Governments should begin with an assumption that the individual is best placed to judge his or her own well-being and support self-determination of the survivor.
- Criminal justice responses, criminal offences and sentencing practices should reflect the aggravated nature of offences against older persons.
- Older age does not limit compensatory damages or access to survivor services.

Data and statistics

- Collection, disaggregation, analysis, utilisation and making public at regular intervals appropriate information and statistical data on all forms of violence, abuse and neglect. This should include prevalence and trends, risk factors, perpetrators, access to support services and data to gauge effectiveness of remedies and redress.
- Compliance of all information gathering and research with internationally accepted norms and ethical principles in the collection and use of statistics.

4.3 IMPORTANT PRINCIPLES TO UNDERPIN THE AUSTRALIAN RESPONSE & SERVICE SYSTEM

Important “system” principles should include:

- pathways for obtaining support and/or reporting suspected elder abuse being clear (i.e. well- advertised), simple and easy for an older person to access;
- eliminating abuse by being outcome-focused;
- involvement of all levels of government (including local government) in a nationally consistent way;
- a comprehensive plan of activities, including community awareness, education and prevention, intervention and follow-up support;
- adequate funding to achieve its objectives;
- recognition of the social determinants of health, well-being and abuse and to be “joined up”, multi-jurisdictional, multi-sectoral and multi-disciplinary in addressing elder abuse;
- recognition of diversity and engagement and co-design with diverse communities;

- that planning and review of the service system and pathways involve substantial community participation driven by older people.

4.4 IMPORTANT PRACTICAL “CLIENT INTERACTION LEVEL” PRINCIPLES

Practical operational principles should include:

- that people engaged to consult or work with an older person must focus on the views of the older person unless the client is experiencing significant cognitively impairment. Service providers should respect the wishes and the quality of life to which the older person aspires, while managing risk to the older person;
- that professionals dealing with an issue concerning an elderly client should communicate directly with the older person if that person has not been diagnosed as having an incapacity to communicate, including looking at the older person when speaking to them. The professional should not ignore the older person and primarily communicate with the relative/carer/service provider.

4.5 A CONCEPTUAL FRAMEWORK FOR THE NATIONAL PLAN

The National Plan must be:

- supported and driven by COAG (not just an activity of the federal government);
- developed using a rights-based and anti-ageism framework that empowers adults to take action (as well as having “promoting respect” as a key action area);
- ideally, evidence-based in its framework and rooted in the knowledge of the causes of elder abuse and the triggers for intervention;
- simple, clear, outcomes-focused, properly funded, and provide for clear deliverables. There was no support for an overly theoretical and comprehensive plan that enabled governments to “tick boxes” but not bring about the real change needed for older people experiencing abuse.

Seven different report structures/frameworks were suggested (these are not necessarily mutually exclusive):

- i. Use the ALRC Report framework of:
 - promoting the autonomy and agency of older people;

- addressing ageism and promoting community understanding of elder abuse;
- achieving national consistency;
- safeguarding at-risk adults and improving responses; and
- building the evidence base.

It was suggested there could be a sixth pillar of:

- delivering for “at-risk” older people.

ii. Use the human rights framework of:

- prevent;
- support;
- remedies and redress;
- data and statistics.

iii. Set national benchmark standards/objectives and, under this framework, enhance existing initiatives and “fill in the gaps” by funding new initiatives – short-term, medium-term and long-term initiatives.

iv. A tiered service continuum framework consisting of priorities and strategies within the focal areas of: universal messaging (e.g. anti-ageism); prevention (planning ahead initiatives); early intervention (based on risk factors), crisis intervention; and ongoing support and safeguarding services. In each of these focal areas, actions could be listed hierarchically as enhancements to existing services or new initiatives. Each action can be shown as being a short, medium or long-term action and as part of a seamless continuum of action.

v. A consumer experience/journey continuum framework. This is similar to the framework above except it focuses on the person seeking assistance (not the service system) and would propose nationally consistent intervention capabilities and services at the various “touchpoints” a person may have with the service system. Touchpoints would include being exposed to awareness campaigns; being informed of preventative actions; visiting a friend, doctor, bank, counsellor, lawyer, advocate or police officer in a suspected or actual event of abuse; and any follow-up support or safeguarding services accessed by the person. This approach would also inherently include a focus on changing attitudes and culture in service agencies potentially “touched” by such a consumer.

vi. “Cohorts for a national action” approach. In this framework, national action could be itemised to occur under the following five key cohorts for action:

The Australian community

- Ensuring everyone knows that disrespectful and/or abusive behaviours towards older people are unacceptable; what such behaviours are and how to report suspected cases of disrespect and abuse.

Older people who are:

- afraid to act and report abuse because of perceived negative consequences to their abuser/s;
- afraid to act and report abuse because of perceived negative consequences to themselves.

Professionals and service organisations:

- not noticing suspected elder abuse despite being in a position where it is reasonable to think they should notice abuse occurring;
- currently frustrated at the lack of action occurring when they report suspected incidents of abuse to older people.

Safeguarding agencies:

- frustrated by the current limitations of their eligibility requirements for intervention and/or their current lack of authority/powers to act on referrals of suspected elder abuse.

Governments & public service agencies:

- frustrated by the current piecemeal approach to this key issue.

vii. Mirror the Australian Family Violence framework.

The Australian family violence framework provides a framework for governments to form a series of action plans over a 12-year period. The plan identifies six outcomes for governments to deliver through action plans in order to ensure communities are safe and free from violence.

A framework of sector silos (e.g. initiatives allocated simply sector by sector) was opposed.

5. PRIORITIES & STRATEGIES FOR NATIONAL PLAN

5.1 GENERAL COMMENTS

General comments in this area included:

- utilising the learnings from the “definitions project” currently under way;
- noting the significant amount of work under way regarding elder abuse and the needs for collation of information to inform the National Plan. This could include the mapping of existing initiatives, innovations and recent changes across jurisdictions so lessons can be learnt without reinventing the wheel (for example Victoria’s funding to provide specific services and, changes to the disability sector and Guardianship Act changes in NSW).

5.2 PROMOTING THE AUTONOMY AND AGENCY OF OLDER PEOPLE

In this area comments included:

- that governments must ensure they always depict and report older people respectfully, as valuable, productive and mostly active members of society;
- that a national engagement, awareness and education program be conducted to encourage the media to report accurately about the value of older people.

5.3 ADDRESSING AGEISM AND PROMOTING COMMUNITY UNDERSTANDING OF ELDER ABUSE

Key objective

Enable all Australians to understand abuse of older people is unacceptable, and how to both report abuse and initiate support for themselves or a loved one.

Strategies suggested:

- Governments to review their existing policies and funding regimes to assess if they inadvertently contribute to systemic ageism and, if so, to change these as appropriate.
- Enabling older people to be more aware of the potential risks associated with elder abuse (through awareness raising activities for example).
- An ongoing national campaign of community awareness and education (with contemporary anti-ageism and anti-elder abuse communication messages).

- Ensuring the national communications strategy is not generic, and includes tailored, specific strategies for all identified at-risk groups.
- Conducting education and prevention strategies for potential abusers and providing alternative programs for abusers to move them off a perpetrator pathway.
- Conducting community education and prevention programs, as police can only do so much.
- Having a clear, simple and easy to access pathway for people inquiring about and/or reporting elder abuse (consider a national helpline phone number regardless of the differing structural arrangements behind the single number).
- In rural and remote areas, engaging existing well-regarded community-based groups to assist.
- Promoting financial literacy programs, as the risk of financial abuse may be significantly ameliorated if people understand their susceptibility.
- All government agencies that are potential “points of contact” with an older person experiencing abuse to have staff and systems in place to identify and report suspected cases.

5.4 ACHIEVING NATIONAL CONSISTENCY AND A WHOLE-OF-GOVERNMENT APPROACH

Key objective:

Ensuring that no matter where they are in Australia, all older people have access to the same quality processes, services and laws to ensure their safety and wellbeing. To this end, each level of government integrates its responses to elder abuse across all relevant policy and program areas and legislation.

Strategies suggested:

- A holistic, multi-sectoral, multi-service-continuum, multicultural, multi-disciplinary “joined up” approach to service responses. A strong legal framework must underpin a national strategy to tackle elder abuse, but this alone will not prevent abuse.
- A strong, connected service sector is essential in responding for the majority of older people being abused who may simply not access the criminal justice system.

- Harmonisation of laws and regulations across Australia and new laws where there are gaps, to better support older people experiencing abuse. Consider national legislation, making elder abuse and abuse of enduring documents a criminal offence and introducing mandatory reporting. This would include preparation of drafting principles for new laws that would go to COAG.
- More cross-jurisdiction and cross-sector co-ordination initiatives and partnerships to enhance knowledge across different sectors; reduce silo-based policy development and service delivery; and improve the consistency of arrangements across Australia and an integrated approach within jurisdictions (such as that achieved in the workplace health & safety area).
- Developing a framework of law that can be accessed nationally when early intervention and response strategies are not sufficient.
- Developing nationally consistent elder abuse standards that have teeth and are clear in relation to non-compliance.
- To enhance national consistency, workers and professionals be required to record the views of the older person and to abide by the person’s wishes wherever possible.

5.5 SAFEGUARDING AT-RISK ADULTS AND IMPROVING RESPONSES

Key objective:

Provide the financial and human resources for both “support” and “safeguarding” agencies to be able to do their job effectively, including safeguarding at-risk older people and the prosecution of abusers when other interventions are insufficient.

Strategies suggested:

- Having sufficient services to meet the needs of older people at risk of, or experiencing, abuse. Support should include police protection, counselling, legal advice, advocacy, dispute resolution and other social services such as emergency housing. This would include funding for real intervention with people (prevention, crisis and follow-up support), including preventative activities leading to anti-ageist attitudinal change in all people, including school children and young people.

- Specific new initiatives in the health care and hospital, aged care, banking and police sectors.
- A special focus on reducing elder abuse for people at risk or in vulnerable situations, including addressing the needs of special populations. This would include specific strategies for regional, rural, remote and special cohort needs, including carers who abused by the person they are caring for, people with disabilities and indigenous, multicultural, LGBTI and low socio-economic communities.
- Greater investment and better resources for upskilling staff in agencies likely to encounter suspected elder abuse, especially in the areas of identifying suspected instances of abuse, knowing how to report their suspicions of abuse and what to do next. This should include education strategies for all professionals working with older people experiencing abuse, to ensure they have a genuine understanding about the depth of impact of the experience of abuse. It is also necessary to provide more education opportunities to assist in their understanding of “enduring” documents, and their application in particular circumstances
- Ensuring a range of safeguards, including alternative remedies (not courts/police) are available to older people
- Funding of a safeguarding agency/agencies with real power to investigate and act on reports of suspected elder abuse, including prosecution where appropriate.
- Creating capacity in tribunals to deal with elder abuse issues.
- Better cross-departmental co-ordination initiatives.
- Expansion of vulnerable person checks for workers in the area.
- Ensuring a “forfeiture rule” whereby a perpetrator will forfeit a gift from a will, including disinheritance, if they cause the death of the person they have abused.
- Setting standards in relation to safeguarding laws which should not rely on a finding of violence. Looking to the family violence laws as the model.

5.6 BUILDING THE EVIDENCE BASE

Key objective:

Nationally consistent minimum data sets and regular national elder abuse impact studies.

Strategies suggested:

- Conducting regular elder abuse impact studies, recommended as one of the strategies in the National Plan.

Caution should be taken against conducting a narrow “point in time” prevalence study without including questions about the nature of abuse, including the behaviours, risk factors, impacts, harm and economic costs associated with abuse.

An elder abuse impact study should be designed to produce meaningful data that informs service providers and policy responses and enables a baseline for future evaluation of the national plan.

Specifically, it would be useful to explore whether there are patterns of behaviour that are problematic within different communities, especially CALD and LGBTI communities. The importance of distinguishing between family members and family carers was raised, as it is often a family member who is not a carer who is responsible for abuse. The question of whether carer stress is a risk factor for abuse should also be considered.

One question that could be unique to an Australian study is the relationship between attitudes to ageing (ageism) and abuse of the older person. While ageism is well understood as an enabling factor, to date there has been no substantial research investigating this question.

The research should be properly resourced and conducted at five yearly intervals to determine the effectiveness of the National Plan in meeting its objectives.

- Funded action research and data collection requirements to capture evidence that results in the development and maintenance of a minimum national data set and that will assist in planning where and how interventions should occur.
- There must be research on:
 - the impact of elder abuse on families and communities, including the economic impact;
 - what preventative strategies work and what don't;
 - what support interventions work and what don't.
- Consider developing a national clearing house of resources.



6. ISSUE AREAS FOR MORE CONSULTATION

Areas of differences shared to date by informants include:

RELATIONSHIP BETWEEN THE ABUSE OF OLDER PEOPLE AND FAMILY VIOLENCE

Most informants consider the two areas, although overlapping, should be seen as separate distinct areas of abuse (as abuse of older people sometimes occurs outside the family). Other proponents consider the abuse of older people should be treated as a subset of family violence because of the frequency of perpetrators being associated with the older person's "family" (or friends, relatives). Other informants report the need to actively integrate responses to abuse of the older person into family violence initiatives, while understanding both the similarities and differences in drivers and responses.

It is noted that family violence legislation differs between jurisdictions. For example, in Tasmania, the Family Violence Act defines family violence as between intimate partners, but in the Victorian Act, elder abuse by other family members is also defined as family violence.

CLARITY ABOUT ENHANCING SAFEGUARDING POWERS

Differences of view exist about which agencies should have what powers.

It is important to be clear about the gap we want to fill with the safeguarding response. We need safeguarding at all levels, but there also needs to be clear constraints on existing agencies which can investigate where older persons are not reporting or not willing to give evidence against a perpetrator. Perhaps the need could be met by better co-ordination and collaboration and better support services on the ground.

ENHANCING EXISTING LAWS OR CREATING NEW LAWS

Some people and agencies have the view that existing laws and regulations are adequate, while some community advocates and banking sector representatives can cite case studies of people "falling between the cracks" and continuing to experience (sometimes extreme levels of) elder abuse, despite referral to existing "safeguarding" agencies.

STATE & TERRITORY OR COMMONWEALTH LAWS

Should there be one set of commonwealth elder abuse laws or improvements to existing state and territory laws?

DEGREE OF INTERVENTION IN THE BANKING/FINANCE SECTORS

People outside the banking sector consider that banks and other financial institutions could do much more to help prevent financial abuse of older people. Banking sector representatives, however, while acknowledging banks could do more (such as enhancing the very powerful data analytical tools at their disposal), report that there is limited benefit in identifying many more cases of suspected financial abuse when the obvious cases they already identify and refer are not effectively acted upon by the various “safeguarding” agencies already existing in our community.

DEGREE OF FOCUS ON FORMAL AGED CARE SERVICES

Some see this largely Commonwealth Government funded sector as an easy target for government to focus on, ignoring other systemic, familial and financial elder abuse areas.

It is acknowledged, however, that this is a complex area, as there may be family-driven abuse happening with the passive collusion of the aged-care system. In addition, there may be abuse that is currently labelled as poor-quality care, lack of staffing or lack of staff training.

There are also differences of view about whether all workers providing support and care services in government-funded home care and residential aged-care services should be regulated.

Differences of view also exist on the need for mandated staffing ratios in aged care as a strategy for preventing elder abuse.

HOW BEST TO IMPROVE THE JUSTICE SERVICES INTERFACE, ESPECIALLY IN HEALTH, AGED CARE AND FINANCE SERVICES?

While there is a lot of support for these partnerships, differences of opinion exist as to the priority this should be given in a National Plan. Some informants consider there should be an audit of all services to identify barriers to accessing justice. In addition, there should be consideration of extending the vulnerable witnesses scheme to support older people with cognitive impairment. A further recommended initiative is increasing health justice partnerships across all jurisdictions into aged care and retirement villages.

7. NEXT STEPS

This report can be used by the community sector to advocate to government and other stakeholders when developing key policies and strategies in relation to elder abuse prevention and support.

Our aim is that the report will contribute to the Federal Government's proposed elder abuse National Plan. This report will be delivered to all nine attorneys-general.

For more information about this report, contact Russell Westacott at Seniors Rights Service by email: rwestacott@seniorsrightsservice.org.au or phone: 1800 424 079.

7.1 REFERENCES

The following are relevant reference materials referred to us by informants:

Elder Abuse A National Legal Response (ALRC 131), Australian Law Reform Commission, 14 June 2017.

Addressing Elder Abuse: Community Led Strategies For Change - A Discussion Paper by Les Stahl and Lee Thomas, February 2018

Elder Abuse Community Action Plan for Victoria, National Ageing Research Institute, Feb 2018.

Judicial Council on Cultural Diversity Report on access to justice by CALD Women seeking help with violence by Maria Dimopolous.

No Excuse for Elder Abuse pamphlet, Queensland Govt.

Reclaiming Respect and Dignity - Elder Abuse Prevention in Ethnic Communities, The Ethnic Communities Council of Victoria, March 2009.

South Australian Charter of Rights and Freedoms for Older People, SA Health.

Strategy to safeguard the Rights of Older South Australians 2014-2021, SA Health.

Submission to the Elder Abuse Inquiry, The Australian Bankers Association.

Symposium on Elder Abuse and Neglect Report and Recommendations, Equal Opportunity Tasmania, COTA Tasmania and University Tasmania, (still in drafting).

The World Health Organization definition of Elder Abuse.

Elder abuse: Understanding Issues, Frameworks and Responses. (2015) Rae Kaspiew, Rachel Carson and Helen Rhoades. Research Report No 35, A report to the Australian

Government Attorney-General's Department, Australian Institute of Family Studies.

Australian Longitudinal Study on Women's Health. (2014). 1921-26 cohort: Summary 1996-2013. Callaghan, NSW & Herston, Qld: University of Newcastle and the University of Queensland.

7.2 APPENDIX 1: FEBRUARY 2018 ELDER ABUSE STRATEGY FORUM

The strategy forum was held on 21st February 2018. It was a high-level meeting of 70 invited representatives from key organisations that respond to elder abuse in Australia.

A discussion paper prepared for the forum was reviewed. The agenda for the Strategy Forum was based primarily on the discussion paper (listed in References).

Broad consensus was sought from attendees on:

- the principles and conceptual framework that must underpin a National Plan on elder abuse; and
- the priorities and strategies for action to be communicated by the community sector to all governments and other key stakeholders.

Key issues and areas of current difference were noted.

Following the strategy forum, this report was compiled as a resource document for the community sector to use in elder abuse prevention and response advocacy with government and other stakeholders.

The report lays the foundations for community engagement on the development of the National Plan on Elder Abuse (which is the capstone recommendation of the ALRC Report) and ongoing engagement with governments.

7.3 APPENDIX 2: RECENT WORK ADDRESSING ELDER ABUSE

Over the last few years, there have been some positive developments addressing elder abuse. Some of the key pieces of work are summarised below, noting, however, that it is not a complete list of all activity under way.

Legislative Reviews

No Australian state or territory has introduced specific legislation to protect older people from abuse.

However, as the ALRC found, all jurisdictions address

conduct, which is described as “elder abuse” under offence provisions relating to personal violence and property offences. These include assault, sexual offences, kidnap and detention offences, fraud and theft offences. Some jurisdictions have offences for neglect, although these are rarely used in respect to older people. There are also comprehensive family violence frameworks in all jurisdictions that provide for quasi-criminal protective responses, which may be relevant for older people experiencing elder abuse in domestic settings.²

Recent relevant Australian Government reports

In June 2017, the ALRC handed its report regarding elder abuse to the Australian Government. The terms of reference for the inquiry included consideration of existing commonwealth laws and frameworks seeking to protect and safeguard older people from mistreatment or abuse by formal and informal carers, supporters, representatives and others.³ The inquiry encompassed superannuation, financial institutions, social security, living and care arrangements and health.⁴ While a federal inquiry, the ALRC also reported on the interaction with and between relevant laws in all jurisdictions.

The report includes 43 recommendations for law reform, the overall effect of which will be to safeguard older people from abuse and support their choices and wishes through:

- improved responses to elder abuse in residential aged care;
- enhanced employment screening for care workers;
- greater scrutiny regarding the use of restrictive practices in aged care;
- building trust and confidence in enduring documents as important advance care planning tools;
- protecting older people when “assets for care” arrangements go wrong;
- banks and financial institutions protecting vulnerable customers from abuse;
- better succession planning across the self-managed superannuation sector; and
- adult safeguarding regimes protecting and supporting at-risk adults.

In October 2017, the Minister for Aged Care, the Hon Ken Wyatt AM, MP also released the Review of National Aged Care Quality Regulatory Processes (the Review) and announced broad support for its directions. The minister also announced that the government would move as soon

2. Australian Law Reform Commission Report; Criminal Justice Responses, 13.5, p 364.

3. Australian Law Reform Commission Inquiry Terms of Reference.

4. Ibid.

as possible to replace announced re-accreditation audits with unannounced audits in residential aged-care services.

The review's remaining recommendations identify areas to strengthen the regulatory system and are currently being considered by government in the context of broader aged-care reform activity. The review was led by Ms Kate Carnell AO, in conjunction with Professor Ron Paterson ONZM.

State and territory reviews

A number of major state government inquiries and legislative reviews has considered elder abuse.

The reports of the Queensland Special Taskforce on Domestic and Family Violence in Queensland – Not Now, Not Ever – and the Victorian Royal Commission into Family Violence both considered abuse of older people.

In Queensland, there was a parliamentary inquiry into the adequacy of existing financial protections for older Queenslanders. It made 43 recommendations to protect older Queenslanders from serious financial mismanagement, exploitation or abuse.

In South Australia, a parliamentary inquiry undertaken by a Joint Committee on Matters Relating to Elder Abuse reported on 31 October 2017 and the Western Australia Legislative Council is currently undertaking an inquiry into elder abuse.

The New South Wales Legislative Council Portfolio Committee No. 2 – Health and Community Services (formerly known as the General Purpose Standing Committee No 2) was tasked with inquiring into and reporting on matters relating to elder abuse in NSW. The report considered:

- the prevalence of abuse experienced by persons aged 50 years or older including financial, physical, sexual and psychological mistreatment; the most common forms of abuse;
- types of government services sought and received by affected individuals from support agencies and organisations;
- the adequacy of NSW Police response to allegations of elder abuse;
- strength-based initiatives which protect older people from abuse; and
- new proposals to enhance safeguards for older people.

The report, completed in 2016, made a number of important recommendations, including:

- a comprehensive, co-ordinated and ambitious approach to elder abuse;
- government to make significant new investment in prevention;
- Family and Community Services and Ministry of Health to develop a comprehensive plan addressing the training needs of service providers;
- expansion of resources available to the NSW Elder Abuse Helpline and Resources Unit and include online training tools for service providers, frontline staff and government agencies;
- amendments to the Powers of Attorney Act to increase safeguards for older people;
- expansion of the jurisdiction of state tribunals to make compensation orders where attorneys abuse their position under a power of attorney. There is currently such jurisdiction in Victoria;
- expansion of the jurisdiction of state tribunals to make orders dealing with “asset for care” arrangements so that that these arrangements can be dissolved expeditiously in the interests of the older person;
- adoption of a banking practices to prevent the abuse of older people and to report abuse;
- NSW Law Society to include a Continuous Professional Development unit for legal practitioners to assess mental capacity regarding substitute decision making, wills and property transactions; and
- establishment of a Public Advocates Office to investigate complaints and allegations about abuse, neglect and exploitation of vulnerable adults.

In addition to these inquiries, there are a number of state-based reviews completed or currently underway of legislation relevant to safeguarding older people. The extent of this activity highlights the growing depth of reflection about elder abuse service delivery and legislative reform that exists in Australia.

Council of Attorneys-General

The Council of Attorneys-General has established a working group involving all jurisdictions to develop a national response to the ALRC report and consider measures to better coordinate and connect services to address elder abuse and support older people. The Working Group on Protecting the Rights of Older Australians includes

representatives from justice, health and community, ageing and seniors' portfolios across all Australian jurisdictions.

The Australian Government has stated its commitment to working with state and territory governments through the Council of Attorneys-General to consider the issues raised by the ALRC Report and in the many submissions made by individuals, advocates and community organisations.

Current international work on elder abuse

Elder abuse has long been a focus of international effort. For example, in 2002, the United Nations International Plan of Action and the Toronto Declaration on the Global Prevention of Elder Abuse were a call for action aimed at preventing elder abuse.

The United Nations General Assembly, in its resolution 66/127, designated 15 June as World Elder Abuse Awareness Day. It represents the one day in the year when the whole world voices its opposition to the abuse and suffering inflicted on some older people.

In May 2016, health ministers from across the world adopted the WHO Global Strategy and Action Plan on Ageing and Health at the World Health Assembly. The strategy provides guidance for coordinated action in countries and aligns with the Sustainable Development Goals.

Priority actions for elder abuse in the Strategy include:

- improving studies on the frequency of elder abuse, particularly in low and middle-income countries from South-East Asia, the Middle East and Africa, for which there is little data;
- collecting evidence and developing guidance on what works to effectively prevent and respond to elder abuse; and
- evaluating existing efforts, such as training for care givers and use of telephone helplines, and publishing these findings.



**Seniors Rights
Service**

Level 4, 418A Elizabeth St. Surry Hills NSW 2010
P (02) 9281 3600 P 1800 424 079 F (02) 9281 3672
info@seniorsrights.org.au

www.seniorsrights.org.au
Seniors Rights Service Incorporated ABN 98 052 960 862