



Australian  
Human Rights  
Commission

## **Aged Rights Advocacy Service World Elder Abuse Awareness Day Conference**

**Dr Kay Patterson AO, Age Discrimination Commissioner**

**Keynote address: Elder Abuse is Everybody's Business**

Friday, 15 June 2018

(Check against delivery)

Thank you Keith Conlon and congratulations Louise Herft for all the work you and your committee have done to organise this conference on United Nations Elder Abuse Awareness Day.

Thank you Uncle Frank for your welcome to country and I acknowledge the Kaurma people and their elders past and present.

At the outset, I would like to say to those of you who are working to prevent elder abuse - you should take credit for the great work you have done and are doing.

Elder abuse is everybody's business. I am here wearing several hats – as a psychologist, an academic, a former Cabinet Minister and now as Age Discrimination Commissioner. As the Age Discrimination Commissioner – the hat I'm wearing for this event – elder abuse is a serious human rights issue.

Over 50 years ago, when I was studying child development, one of my lecturers was severely criticised by her colleagues for showing us a US 16mm black and white film of children who had been abused. They told us that she was an alarmist and that those sorts of things happened in the US, but not in Australia.

We have since seen how wrong they were. Elder abuse is now at the stage in public awareness and political consciousness that child abuse was at many years ago, and family violence was until relatively recently, and it is essential that we all act, together, now, to prevent it, halt its

spread, and build into our community and relationships robust protective features.

Most of you will be quite familiar with the concept of elder abuse. But I know that there will be those among you who come relatively new to the area. Financial abuse is the most common form of abuse.<sup>1</sup> Other forms include physical, sexual and psychological abuse, and neglect. Women are 2 ½ times more likely to be victims than men.<sup>2</sup> Perpetrators are often close family members – 70 per cent are children of the victim and more sons than daughters are perpetrators (60:40).<sup>3</sup>

### **Elder abuse and family violence**

Elder abuse is often likened to other types of family violence. There are some features common across elder abuse, family violence and sexual assault. They are hidden and underreported. They are often stigmatised and the source of shame and embarrassment to victims.

But there are significant differences, which must inform responses to elder abuse for example: A victim of partner-to-partner abuse may, but not always, be able to move on and even form another relationship. An older person may blame themselves – “What did I do that has caused my son/daughter to behave in this way?”

National Ageing Research Institute (NARI) conducted a small qualitative study<sup>4</sup> which found victims want recompense and help for the perpetrator. The study had 28 women participants between the ages of

62-89 who had been abused. Participants reported a range of complex emotions, including self-blame, shame, sadness, fear and ambivalence. Many wanted to be free from abuse and gain recompense for financial losses. But they also expressed concern for the perpetrator, who may have psycho-social problems arising from, for example, gambling, substance addiction, or mental illness. Where this was the case, participants also wanted to ensure that their family member received appropriate therapeutic responses and other kinds of support.

This research highlights the complexity of elder abuse, and the need for a range of options and interventions at all stages, including mediation and counselling, because of the value placed by the older person on restoring relationships and re-setting it along healthier lines.

A parallel can be drawn with marriage breakdown where there are children: parents need to have some kind of civil relationship with each other to support healthy co-parenting. The 'clean break' principle, which used to underpin family law, has been discarded as recognition increased that, where safe to do so, children who do best have meaningful relationships with their parents, post marriage breakdown. Thus, involvement in legal proceedings can cause actual harm, known as juridogenic harm, and undermine relationships between parents post-separation.

Similarly, while criminal justice response to elder abuse is sometimes necessary, court action will often be at odds with what the older person

actually wants: to stop the abuse, to make good losses, to reset the relationships and ensure that the perpetrator is supported to address contributing psychosocial issues.

## **Risk Factors**

There are a number of risk factors for elder abuse, not limited to:

- Isolation
- Changing family structures, which can break down traditional structures of providing family care for older family members
- Perhaps financial pressures on children, including rising housing costs, leading to so-called 'inheritance impatience'
- Even a desire for 'payback' by adult children where there has been perceived or actual mistreatment by parents when the kids were younger
- Ageist attitudes to older people also play a part, as does the disempowerment of people as they age: These attitudes permeate all sectors: individuals, the commercial sector, media, service providers and policy makers.

## **Prevalence**

There is a lack of reliable prevalence data on elder abuse. The Australian Institute of Family Studies (AIFS)<sup>5</sup> reports that it is likely that

between 2 per cent and 10 per cent of older Australians experience elder abuse in any given year. The prevalence of neglect is possibly higher. Incidence and risk will become more critical as the population ages. With superannuation and increasing house prices, we are reaching the point where an increasing number of older Australians have access to substantial wealth which they can come under pressure to relinquish or share with family members. Cost of entry to housing for younger family members can also add to this pressure.

The demand for elder abuse services is increasing. A report by Advocare shows calls to elder abuse hotlines across Australia have doubled within 1 year.<sup>6</sup> The Federal Government has committed to funding a prevalence study being undertaken by AIFS - they have been working on a definition of elder abuse, a scoping study and the prevalence study is next.

### **Drivers of current activity**

There has been a sudden acceleration of interest in Elder Abuse. Significant catalysts in the past years driving this have included accelerated public awareness of, and political commitment to, address family violence, leading to:

- Reference to the Australian Law Reform Commission (ALRC), by then Attorney-General George Brandis QC, to examine protections of the rights of older Australians

- Measures to address elder abuse being, for the first time, a national election commitment in the 2016 Federal election
- Some distressing accounts indicating elder abuse have emerged from the Financial Services Royal Commission.

There is now a very good level of interest from all Australian governments, and the community.

Following the 2016 election, funding was made available in the 2017-2018 Budget.

The Australian Law Reform Commission report, *Elder Abuse – A National Legal Response* (ALRC Report 131), was delivered in May 2017. It contained 43 recommendations, informed by 117 national stakeholder meetings and more than 450 submissions. That level of engagement is extremely heartening for those of us working to maintain momentum in this area of policy.<sup>7</sup>

Attorney-General the Hon Christian Porter MP announced, in February this year, that all Australian Attorneys-General had agreed to develop a National Plan to address elder abuse and committed to funding a central Knowledge Hub.<sup>8</sup>

Last Friday, in Perth, the Council of Attorneys-General, noted work underway to develop the National Plan on Elder Abuse.<sup>9</sup> Participants agreed to identify possible options for harmonisation of enduring powers of attorney, in particular financial powers.

This kind of cross-jurisdictional commitment is also encouraging, and energising.

Some State and Territory Governments are developing their own, multi-faceted responses, such as:

- training and education programs
- making more information available
- funding existing services
- establishing new services such as helplines, and
- developing strategies specifically to address elder abuse.

I am determined that the ALRC recommendations will not gather dust on government bookshelves but will be acted on. Governments' responses to date give me cautious optimism.

To that end, I am strongly encouraging governments, service providers, advocacy groups and others with an interest in this area to work together.

There is no one solution to preventing and addressing elder abuse.

There is no one size fits all solution. We heard numerous views expressed at the 5<sup>th</sup> Elder Abuse Conference<sup>10</sup> in February, offering alternative perspectives on the conceptual framework for ongoing work to address elder abuse.



I welcome diverse views, and vigorous debate. But I stress there is no place or time here for personal or professional jealousy, or competition or jurisdictional turf wars.

Older Australians rightly, expect us to work together, not spend limited time, resources and political capital fighting each other. That's a remarkably efficient way to squander community and political support.

The fundamental premise of addressing elder abuse is not law-centred, or medically-centred, or social science-centred. It is centred on the needs and wishes of older people themselves. And those individual needs and wishes will inform the framework of response.

### **Autonomy and protection—the moral tension underpinning responses to elder abuse**

Older people, like everyone else, have the right to self-determination.

Stereotypes and lazy assumptions must not be allowed to diminish older people's rights to exercise their autonomy and have their choices respected. This is a basic human right and it is non-negotiable.

We talk often about protection, but a recent World Health Organisation study in eight countries found that older people themselves emphasised the importance of 'rights, choice, dignity and respect'.<sup>11</sup> If we don't listen, we will almost certainly end up with a failed system. It is vital to balance the often well-meaning urge to protect with the responsibility to preserve independence, dignity and privacy.

Measures designed to protect older people from abuse must not over-reach or disempower or patronise the older person who has the capacity to exercise the right to self-determination. In practice, it can be a tricky balance for service providers and carers.

Ultimately, though, the autonomy of an older person with capacity must be paramount, however pressing the protective urge feels. Accordingly, responses which empower older people in conflict situations offer a real alternative when they can preserve self-determination while addressing risk or abuse.

### **More than law – beyond a legal response to elder abuse**

The multidimensional nature of elder abuse, and the expectations of individuals affected by elder abuse, require multi-disciplinary responses.

We need more collaborations and partnerships to make the most of everyone's expertise and plug the gaps in services and supports.

Innovations include:

- Health justice partnerships in hospitals, community health centres and other locations
- Provision to health care and legal professionals of training in elder abuse and other legal issues
- Mediation trials as a complement to legal responses and court actions; e.g. Relationships Australia (more than 20 service

locations across Australia), FMC Mediation and Counselling in Victoria

- Elder abuse helplines – a much-needed service – I would very much like to see a national helpline like 1800RESPECT
- Community education
- Community policing
- Elder abuse collaborations, such as the Eastern Elder Abuse network in Melbourne – now being rolled out in 9 other localities in Victoria by the Victorian Government
- Partnerships between Primary Health Networks and others working in the field in Queensland
- Growing academic research in this field

Older people trust doctors and may not trust lawyers (or even know how to find and speak to a lawyer). Doctors, and other health professionals, can have conversations about powers of attorney and the like. You can ask if they have them and, if not, advise they go and see a lawyer to get it done.

Often, they may not be aware of their rights – which can be related to not naming behaviour as abuse or violence or not realising they can revoke their power of attorney.

Emergency departments can pick up cuts and bruises and may be the only time a patient has left their house for quite a while (so the only

chance to see them and pick up on physical abuse), but GPs have more opportunities to talk to patients, and may have a longstanding relationship with them.

Of course, you do need to talk to them alone. Nurses or aged care workers may have the closest contact. It's not about asking doctors and other health care professionals to screen for elder abuse, but of just keeping it on your radar.

Do we make the appropriate connections, outside our immediate professional circles, to fuel debate in our research, to gather interest and excite others' interest and commitment? What are we doing to share, across the community, the knowledge we have about older Australians, and its policy implications?

## **Budget 2018-2019**

The 2018-2019 Budget included a package called *More Choices for a Longer Life – protecting older Australians*.<sup>12</sup> The package is a (very belated) recognition that demography necessitates a deliberate, strategic approach to support participation of older Australians in all facets of life, and to protect vulnerable older Australians from abuse and exploitations.

There are three groups of measures relating specifically to elder abuse:

### *1. New measure – trials of specialist support services*

Trials of specialist support services, funded by \$22 million over five years, including:

- Specialist units within legal services
- Health justice partnerships, and
- Family counselling and mediation services.

## *2. New measure – Powers of Attorney Register*

Establishment of an online National Register of Enduring Powers of Attorney. This is contingent upon in-principle agreement by States and Territories on reforms to streamline regulation in this area. Work to secure agreement is underway, with the Commonwealth engaging through the Australian Guardianship and Administration Council.

I am very keen to push for uniform powers of attorney and enduring guardian documents – and for raising awareness and education about what they are and how they should be used.

During my recent trip to Albury-Wodonga, I was talking to a group about the situation where there's a mum on the NSW side of the river and a daughter on the Victorian side, and the two sides have different rules.

In a recent ABC interview, I said that it shouldn't be beyond the wit of the Attorneys-General to make this happen.<sup>13</sup>

I am aware that previous attempts to achieve this have been stymied, and I acknowledge that it is difficult. I'm hopeful that this time will be different, however, because of the unprecedented engagement, by all Governments, with issues affecting older people.

### *3. From previous announcements –*

#### *Knowledge Hub*

I have thought it would make a lot of sense to set up a National Secretariat/Clearing House to better coordinate work in this area and drive best practice – and now the Federal Government has committed to developing a Knowledge Hub.<sup>14</sup> This will help to reduce wasteful fragmentation and duplication of effort and enhance the quality of services that can be provided.

#### *Research Agenda*

The development of a rigorous and robust research agenda, including conduct of a prevalence study is vital to inform effective policy and programme responses.

#### *National Action Plan*

A National Action Plan for the Prevention of Elder Abuse is a key initiative. In my view, it will be successful if it:

- Facilitates cultural change and the extinguishment of ageist attitudes
- Reliably measures outcomes of the service trials mentioned previously
- Provides stable ongoing funding for services which prove their value, and
- Most importantly, improves outcomes for older people in all areas of vulnerability – their health and well-being, social connection and

relationships within and beyond the family, economic participation, life course planning, financial stability

Clearly these benchmarks are only achievable – and measurable – over a period well exceeding the forward estimates and a single election cycle! Accordingly, we must all advocate for long-term commitments by government and services. I note that the National Action Plan for the Prevention of Violence against Women and their Children span 12 years, with sub phases of three years.

### **What I am doing**

I continue to meet relevant stakeholders to understand the issues, raise awareness, find out what everyone's doing.

My conversations have identified the need for very specific, targeted messaging and training for frontline services/providers.

- Those who deliver care in the home must be better trained and trained to observe signs of abuse and take action.
- GPs, community nurses, pharmacies and allied health care providers are at the coal face and also need further information and support.
- Our police forces deal with these cases in their worst forms and we must take their advice on how to intervene.
- Bank officers and financial planners can often be the first to spot financial abuse and need training to enable them to respond.

- Other community interfaces – e.g. Post Office, hairdressers, local shops and cafes, churches, clubs, gyms and other social groups – anywhere people linger for a chat

I am continuing my discussions with representatives of banks and financial institutions, as well as doctors and health bodies, to talk about what they can do to identify and respond to elder abuse.

I have met with Anna Bligh Chairman of the Australian Bankers Association – I was pleased to see the ABA come out with COTA and National Seniors on the need to harmonise PoA legislation across Australia.

Yesterday I participated in the launch of an implementation booklet produced by the CBA 'Safe and Savvy'.

I am exploring opportunities to contribute articles to raise awareness about elder abuse in industry and health professional magazines/journals.

On 29 May, I spoke at the launch of the Report on *Addressing the Abuse of Older People in Australia: A Community Response*.<sup>15</sup> This landmark report was the culmination of six months consultation and discussion with key community advocates, consumers, leaders and service providers throughout Australia. It also reflected feedback provided at the February Elder Abuse Conference.

This Report is widely endorsed by what I think might be an unprecedented number of stakeholders. It includes:



- Informant views of the current situation in Australia in relation to elder abuse
- Feedback on the ALRC Report, and
- Advice on the development of the National Plan.

A lot of good work is being done by many, many people, and there are some wonderful innovations in train, but often there is a lack of awareness of what others are doing and thus barriers to sharing promising practices and lessons learned, along with service fragmentation, inefficient overlaps, and a lack of co-ordination.

I hope we can take opportunities during the Conference to share ideas about how we can reduce duplication of information and resources.

I think that we should seize this opportunity to argue, specifically, for:

- Cultural change – call out ageist attitudes wherever they're expressed – it's everybody's business, and there needs to be a sense of 'see something, say something'
- Long-term commitments – three or four years isn't adequate to effect cultural change, run and properly evaluate trials, and roll out successful services

We have a once in a generation opportunity for reform to set the scene for the next 20-40 years. Politics is a matter of timing, as are social policy and law reform, and political engagement can be fleeting. We cannot risk missing this window.

## **Raising community awareness and understanding**

It is important for any communication to be well-targeted. We need to consider particular target groups like people from CALD backgrounds, Indigenous Australians, remote and rural communities.

Consider displaying relevant posters or pamphlets – some community centres, medical practices and other health care sites display family violence information materials; elder abuse materials could be added.

Many government and community groups are producing some great materials. CLCs may also have helpful guides. Example: the Eastern Community Legal Centre in Melbourne has a video and useful links specifically to help GPs respond to elder abuse.

We need to ensure the issue of elder abuse is raised in appropriate courses – in particular health science, legal, financial planning and other relevant courses.

I am very keen to see much more emphasis on ensuring that people make Power of Attorney (PoA) decisions know their rights and those being asked to act as a PoA know their responsibilities. In addition there needs to be much more education for those in the aged care sector – we should not be hearing things like “you can’t visit her – her PoA says she can’t have visitors”.

A problem as complex as elder abuse, as long invisible as this, needs as many sets of eyes as possible to see it, as many sets of ears as possible

to hear it, as many voices as possible to advocate against it, and as many pairs of hands as possible to fix it.

So, share your passion, knowledge, experience and insights.

Among yourselves – tell people what you're doing. Start here, at the Conference. Talk to each other about your work – share ideas and then go out and tell as many people as you can when you return to your communities.

With my former Cabinet Minister hat on, I would encourage you to speak to local members and backbenchers about the issue and continue the work you have been doing in providing services and raising awareness about elder abuse. Identify people with health/justice interests in the Senate, House of Reps, State/Territory Parliaments, and local Members. I once asked a Director of a medical science institute why, when I was a backbencher, I was seldom invited to visit a medical research institute. He replied that “We didn't know you were going to be the Health Minister”. My retort was nor did I, but had I been appointed to another Cabinet ministry, it would have been useful for the Health Minister to have an informed colleague sitting around the Cabinet table.

So, don't forget that today's backbenchers can be tomorrow's Minister in an influential portfolio or that backbenchers can exert real influence over party policy; it's always good to have an informed voice who can advocate for you in party meetings.

The ground is more fertile where there is existing interest in health or justice topics (e.g. if the member sits, or has sat, on a social policy, law/justice, health or community affairs committee).

One of the most important things you can do, as a researcher, a practitioner, or an interested community member, is to engage with backbenchers. They have time and you can develop some very useful and, with your assistance, 'informed and enlightened', contacts.

It's also very useful to get cross-portfolio support and input, e.g. through joint meetings and briefings with Ministers or meeting with senior staff from their Departments, meeting with opposition members and cross-benchers. And don't forget the Senators for your state or territory, either.

When you do get time with a politician, focus on:

- Outlining successes and providing examples
- Showing a cost/benefit analysis: benefits to individuals, but also e.g. short-term investment in an advice service can prevent long-term (and more expensive!) costs to the Budget in legal/law enforcement, health and welfare costs.

To conclude, the overarching message I have for this Conference is to use this time, space and platform to commit to and continue to build collaborative effort.

Older, vulnerable Australians deserve our utmost collaborative, efficient and dedicated efforts to respect their human rights, support their

empowerment and safeguard their safety. They deserve that action and advocacy now.

Political interest and commitment to action can be fleeting. We cannot waste this moment of engagement by all Australian Governments in turf wars or sectoral rivalry. This task is bigger than any one of us, or any sector, and our objectives will only be achieved by generous, selfless collaboration.

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- <sup>1</sup> National Ageing Research Institute, *Profile of elder abuse in Victoria: analysis of data about people seeking help from Seniors Rights Victoria*, Summary Report June 2015. At [https://seniorsrights.org.au/wp-content/uploads/2014/03/Summary-Report\\_Profile-of-Elder-Abuse-in-Victoria\\_Final.pdf](https://seniorsrights.org.au/wp-content/uploads/2014/03/Summary-Report_Profile-of-Elder-Abuse-in-Victoria_Final.pdf) (viewed 15 June 2018).
- <sup>2</sup> National Ageing Research Institute, *Profile of elder abuse in Victoria: analysis of data about people seeking help from Seniors Rights Victoria*, Summary Report June 2015. At [https://seniorsrights.org.au/wp-content/uploads/2014/03/Summary-Report\\_Profile-of-Elder-Abuse-in-Victoria\\_Final.pdf](https://seniorsrights.org.au/wp-content/uploads/2014/03/Summary-Report_Profile-of-Elder-Abuse-in-Victoria_Final.pdf) (viewed 15 June 2018).
- <sup>3</sup> National Ageing Research Institute, *Profile of elder abuse in Victoria: analysis of data about people seeking help from Seniors Rights Victoria*, Summary Report June 2015. At [https://seniorsrights.org.au/wp-content/uploads/2014/03/Summary-Report\\_Profile-of-Elder-Abuse-in-Victoria\\_Final.pdf](https://seniorsrights.org.au/wp-content/uploads/2014/03/Summary-Report_Profile-of-Elder-Abuse-in-Victoria_Final.pdf) (viewed 15 June 2018).
- <sup>4</sup> National Ageing Research Institute, *The Older Person's Experience: Outcomes of Interventions into Elder Abuse*, 2016. At <https://seniorsrights.org.au/wp-content/uploads/2016/06/SRV-NARI-Outcomes-Report-2016-FINAL-Web-6-June-2016.pdf> (viewed 15 June 2018).
- <sup>5</sup> Australian Institute of Family Studies, *Elder Abuse: Understanding issues, frameworks and responses*, 2016. At <https://aifs.gov.au/publications/elder-abuse> (viewed 15 June 2018).
- <sup>6</sup> Advocare, *National Elder Abuse Annual Report, 2014-15*. At [http://www.advocare.org.au/uploaded/files/client\\_added/NEA%20Annual%20Report%202014-2015.pdf](http://www.advocare.org.au/uploaded/files/client_added/NEA%20Annual%20Report%202014-2015.pdf) (viewed 15 June 2018)
- <sup>7</sup> Australian Law Reform Commission, *Access all ages: older workers and Commonwealth Laws*, Report 120, 2013. At <https://www.alrc.gov.au/publications/access-all-ages-report120> (viewed 15 June 2018).
- <sup>8</sup> Attorney-General Media Release, National Plan to address Elder Abuse, 20 February 2018. At <https://www.ag.gov.au/About/CommitteesandCouncils/Council-of-Attorneys-General/Documents/Council-of-Attorneys-General-communique-June-2018.pdf> (viewed 13 June 2018).
- <sup>9</sup> Council of Attorneys-General, Communique 8 June 2018. At <https://www.ag.gov.au/About/CommitteesandCouncils/Council-of-Attorneys-General/Documents/Council-of-Attorneys-General-communique-June-2018.pdf> (viewed 15 June 2018).
- <sup>10</sup> Together Making Change, 5<sup>th</sup> National Elder Abuse Conference, 19-20 February 2018. At <http://togethertakingchange.org.au/> (viewed 15 June 2018).
- <sup>11</sup> World Health Organization, *A global response to elder abuse and neglect*. Geneva, Switzerland: WHO, 2008. At [http://www.who.int/ageing/publications/ELDER\\_DocAugust08.pdf](http://www.who.int/ageing/publications/ELDER_DocAugust08.pdf) (viewed 15 June 2018).
- <sup>12</sup> Budget 2018-19, *More Choices for a Longer Life*. At <https://www.budget.gov.au/2018-19/content/factsheets/1-more-choices.html> (viewed 12 June 2018).
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- <sup>14</sup> Council of Attorneys-General, Communique 8 June 2018. At <https://www.ag.gov.au/About/CommitteesandCouncils/Council-of-Attorneys-General/Documents/Council-of-Attorneys-General-communique-June-2018.pdf> (viewed 15 June 2018).
- <sup>15</sup> Seniors Rights Service, *Abuse of older people: A community response, Final report*, 2018. At [http://seniorsrightsservice.org.au/wp-content/uploads/2018/05/COMMUNITY-RESPONSE\\_Web.pdf](http://seniorsrightsservice.org.au/wp-content/uploads/2018/05/COMMUNITY-RESPONSE_Web.pdf) (viewed 18 June 2018).