

Inquiry into elder abuse – Supplementary question

By Sarah Breusch

Question-

1. Some have argued that care recipients who have received poor or inappropriate care should use legal avenues to seek redress for the poor care. What is your view on this?
  - a. Are there examples in other jurisdictions or countries that address this issue or provide a higher standard of accountability and/or oversight?

Answer-

I have assumed this question relates to a 'care recipient' being a person who is requiring some form of personal care, for example a person living in an aged care facility.

In my opinion it is a matter for the recipient of poor care to decide for themselves whether they wish to seek redress for any injuries or harm they may have suffered. Just as it is open to any person who is the victim of the negligence of another to seek compensation, so too it is open to a person who is a victim of poor care (through negligence), to seek damages for any loss or injuries they have suffered.

The actual decision as to whether or not to seek redress is a matter for the individual concerned. Obviously successful legal actions relating to poor care may have the result that standards of care improve, which would be of benefit for those who are care recipients.

In relation to other jurisdictions, I do not have a particular knowledge of higher levels of accountability or oversight of standards of care provided elsewhere. My only comment is that I am aware that the *Care Act 2014* in the United Kingdom is detailed legislation which deals with many aspects of how care is provided to those in need, and it does allow for statutory penalties for ill treatment or wilful neglect of people in need of care.

Enquiry into elder abuse – Question on notice

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Question- How public should a register of Powers of Attorney be?

Answer – It is my view that a register would need to be publicly available. The reason for this is that any person who is confronted by a person purporting to be acting as an attorney under a Power of Attorney document, would want the ability to confirm that the person is indeed acting as a legitimate attorney.

While it is obvious that banks and other financial institutions would want to be able to make such a check, other organisations and individuals that would probably wish to be able to check the authenticity of a Power of Attorney, could for example include an individual intending to purchase a car, under a private sale agreement, from a person who has an attorney appointed. Unless such a purchaser can access the register, then how can they know whether or not the attorney has legal authority to sell the car?

In saying this, I am also mindful of the potential risks of having significant information publicly available, which could perhaps assist those with criminal intent to commit identity theft. Perhaps some system of having to identify the reason why information is being sought from the register would partially address this.