

INQUIRY INTO INQUIRY INTO ELDER ABUSE IN NEW SOUTH WALES

Name: Name suppressed

Date received: 5/02/2016

Partially Confidential

31 January 2016

Mr Greg Donnelly
Chair, General Purpose Standing Committee No 2
NSW Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Mr Donnelly

Inquiry into Elder Abuse

I am submitting some comments in response to the Inquiry's terms of reference.

I am approaching retirement. I have had the experience of caring for elderly parents (both now deceased), and of acting as an executor of a deceased estate. Recently, I have informally assisted an older friend in relocating to an aged care facility following her husband's death. My friend has no offspring and only a few distant relatives who do not live anywhere near her. So, I believe have some experience and sensitivity toward the problems that senior citizens face today.

It is my understanding that the financial abuse of the elderly is very high, and that the majority of offenders are the victim's relatives. However, very few offenders seem to be prosecuted. For me the strong impression is that this constitutes an apparent failure of current social policy, and a weakness in the organs of state government to actively pursue offenders.

As far as I can understand the matter, the apparent rationale for not pursuing offenders seems to be rooted in a peculiar view of civil liberty: abuse is construed as some kind of private family affair, and that the state must not interfere. If one consistently follows that logic then the state should not be involved in curbing domestic violence and child abuse.

What astonishes me is the emergence of a double-standard relative to law enforcement and justice. On one hand, if an individual or commercial business defrauds the public, or if someone steals property from a stranger, the offenders are arrested, prosecuted, and punished. Justice is seen to be done on behalf of the victim and of society at large.

On the other hand, if a family member fraudulently disposes of property, and self-enriches by taking assets belonging to their elderly next-of-kin, the offenders are rarely pursued and punished. This is where the double-standard emerges. If you steal from a stranger you will be punished but if you steal from your elderly next-of-kin you stand a good chance of never

being prosecuted for the same crime. Either everyone is subject to the exact same penalties regarding fraud and theft, or no-one should be pursued for such offences.

It is as if the financial abuse of the elderly is a form of “white collar crime” that is being tolerated. Meanwhile the public is given the impression that society is safer now that bikie gangs and people suspected of terrorism are under tight scrutiny. There are many more offenders who are abusing the elderly in NSW than there are persons who are accused of terrorism and that have been arrested and prosecuted since the Lindt cafe siege.

There seems to be a great reluctance to create a social policy that has sufficient depth and vision, and practical initiatives to maintain a healthy and safe society for the elderly. Instead, the “solution” to the social isolation of senior citizens is to apply social pressure to conform to the dictates of using digital technology. This pressure is apparent in centralising government services

The naive view is that if senior citizens simply make more use of the Internet and mobile phones they will feel safer and secure and will have direct access to government agencies to report cases of abuse. The sponsoring of the Tech Savvy Seniors programme may convey the impression that the government is helping senior citizens overcome social isolation through learning how to use a Smartphone, laptop or tablet. While there is nothing inherently wrong in offering such a programme, there are some colossal oversights on the part of those bureaucrats who imagine that this technology is a genie-out-of-the bottle solution to all problems.

The first weakness with this view as a solution to elder abuse is that it assumes people will be able to report problems if they just learn how to use digital gadgets. Most senior citizens who experience abuse are living in domestic settings, and already use a landline telephone. If vulnerable people already have access to a telephone, then it is absurd to believe that owning another phone – a Smartphone – is empowering the elderly to report abuse. Nor is there any evidence to show that the rate of financial abuse among senior citizens is going down because of the Tech Savvy programme.

The second weakness is that as one grows older eyesight, hearing and motor skills do decline. The Smartphone is designed for use by people aged below 30 years. For senior citizens a Smartphone is not a user-friendly device: The screens are small, the text-font is hard to read, and touch-screens are notoriously difficult to navigate. Many of the same problems surround the use of tablet-devices, and the fonts used on web-sites can be problematic.

The third weakness is that centralising the Public Service departments, relocating most of them to Parramatta, and relying on a call-centre approach to service is not at all user-friendly for the elderly. Call-centres are notorious and frustrating because of phone-queues, and for the frequent break-down in the technology.

It is of concern to me that bureaucrats and policy-makers who are touting technology as the solution to elder abuse are too young to understand the lived experiences of senior citizens.

The cost of financial abuse to NSW is probably in the hundreds of millions of dollars every year with:

- A. Stolen assets that are never recovered.
 - B. The transfer of elderly people from being financially self-sufficient into reliance on the welfare system.
 - C. The impact of neglect, financial, and physical abuse on the health of the elderly which adds to costs in NSW hospitals and aged care facilities.
 - D. The reduction of assets that may be potentially shared by beneficiaries to a deceased estate.
 - E. The long-term negative impact on society that bears the burdens caused by the actions of greedy unethical abusers.
-

I believe that some innovations could make a big difference to the elderly and to the community generally. As the current government is now "debt-free" and is flushed with a substantial surplus, there is no legitimate obstacle to spending funds and improving front-line services with more Public sector employees.

1. The government should create a Commissioner for Older People's Issues similar to that independent office called The Older Peoples Commissioner for Wales. The Welsh office has the power to review laws that affect the elderly, oppose age-based discrimination, promotes the rights of the elderly, and encourages the best practice in treating the elderly. The Welsh commissioner plays an active role in touring the country to speak to community organisations, and to listen directly to the problems reported by the elderly. It has the power to challenge departments that have serious lapses in their service and treatment of the elderly.
2. The government should work on changing public attitudes toward offenders. Abuse should never be tolerated. Abusers deserve to have the full weight of criminal law brought to bear on them. Abusers should be made to pay back to their victims what they have stolen.
3. The government should encourage an equivalent to neighbourhood watch programmes in partnership with Police that aims at protecting the elderly from harassment.
4. There should be a system of enforced restraining orders like AVOs that prohibit abusers from having further contact with the relative that they have victimised. Abusers treat their victims as non-persons by denying them respect and dignity. Since abusers treat others as non-persons they are basically inviting society to respond in like manner, and exclude them from being treated as good citizens.
5. There should be legal measures to prevent convicted abusers from ever inheriting anything from their victim's last will and testament. This penalty already applies if a beneficiary to a Will murders the person who made the will. There is already a social standard that insists a person who commits crime must not be allowed to get away with being self-enriched by committing a crime. If penalties were widely known and enforced it would make people think twice before committing serious white collar

crimes against their family. In other words, if an abuser believes they are entitled to take their relative's assets before they have died, then let it be known that offenders who steal will not only have to compensate their victims but they will never inherit a thing from their relative.

6. Executors have to report to the Supreme Court when the administration of a deceased estate is complete, and they must account for the collection of assets, payment of debts, and the distribution to beneficiaries. The government could set up a similar system of reporting under oath in an affidavit of transactions to the Supreme Court once a Power of Attorney ceases to operate at the death of the person who made the Power of Attorney. Any irregularities in transactions could be referred by the court to the Police for investigation.
7. There should be a compulsory training programme for appointees under a Power of Attorney. Anyone who wishes to drive a vehicle must apply for a learner's permit, fulfil a stipulated number of driver-training hours that is logged, and then pass a written and practical test. The same sort of system could be devised so as to ensure that everyone who is an appointee via a Power of Attorney is on the same page and cannot claim "ignorance" as to the misuse of the document.
8. There also needs to be a Public Advocate office created. It is strange that this issue was recommended to the State Government in early 2010 and nothing has eventuated. The Public Advocate needs to be created with the powers to investigate cases on behalf of senior citizens.
9. The NSW Trustee and Guardian's Power of Attorney and Executor services should be given greater public prominence as a highly attractive alternative to choosing a relative. The service is attractive because it is government guaranteed and impartial. However, for that to remain a viable option, there needs to be a substantial commitment from the government to the organisation's funding, and in maintaining the Trustee's work-force at levels that keep pace with the rising rate of the ageing population.
10. Public policy also needs to be directed at "outing" abusers of the elderly as citizens who are untrustworthy and undeserving of any sympathy.

I have had a varied career with accounts experience in the book and travel industries, and in an NGO charity that serves the poor and elderly. I have through my career acquired hands-on experience in using computers, and in using a mobile phone. However, I am not convinced that these devices are the answer to a problem that is rooted in human greed. In order for the abuse of senior citizens to be reduced, there has to be a hands-on government intervention in prosecuting offenders and compensating victims.

I am a client of the NSW Trustee and Guardian. I have no offspring and I will be relying on NSW Trustee and Guardian as I grow older. I am concerned that the current restructure of it

is not in the best interests of the client despite the rhetoric in the minister's press releases. The closure of suburban and rural branches is in my opinion a great mistake in policy, planning and service.

I raised concerns in writing at the IPART Review of the NSW Trustee and Guardian. I was concerned at the bias and slanted use of information to create a hostile and negative picture of NSW Trustee and Guardian. I am not persuaded by the tactic now common in public administration where a narrative is invented with pre-determined outcomes, and a subsequent culture is created that is not based in proper evidence. I am not convinced that things will become "efficient" by adopting the recommendations of the 2014 IPART Review into the fees of NSW Trustee and Guardian.

I must hasten to add that as an existing client I am not inclined to update my Will, or give instructions to draft any other estate planning documents via a website. Nor would I make those kinds of confidential documents by talking to an unqualified member of staff at the counter of Service Centres NSW or use a touch-screen device located in those service centres relative to drafting estate planning documents.

If, as someone who is already aged over 55, I am according to the government potentially at risk of being exposed to elder abuse in coming decades, then I want to be able to deal face-to-face with the same case-officer at NSW Trustee and Guardian. I do not wish to be moved from pillar-to-post in handling my affairs by a small cluster of individuals who are working under unrealistic bureaucratic pressures, who do not know me, and who are obliged to answer hundreds of telephone calls and handle enormous case-files in what is equivalent to an Olympic games athletics relay race.

The need for face-to-face contact with a properly qualified and experienced officer is essential for estate planning. It is inappropriate to expect members of the public to have confidential matters handled via Service Centres NSW where customers are dealt with as if they were in a queue at a McDonald's restaurant. One would not be treated like that in a private trustee company or in a solicitor's office. The intention to redirect NSW Trustee and Guardian clients to Service Centres NSW lowers the standards to that of a fast-food outlet. It is not consistent with the standards and methods of the private sector in dealing with the same legal matters that are handled by NSW Trustee and Guardian.

Yours faithfully,