

**Submission
No 41**

INQUIRY INTO INQUIRY INTO ELDER ABUSE IN NEW SOUTH WALES

Organisation: Combined Pensioners & Superannuants Association of NSW Inc
(CPSA)

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Inquiry into elder abuse in New South Wales

Combined Pensioners & Superannuants Association 2015

Combined Pensioners & Superannuants Association of NSW Inc (CPSA)

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CPSA is a non-profit, non-party-political membership association founded in 1931 which serves pensioners of all ages, superannuants and low-income retirees. CPSA has 123 branches and affiliated organisations with a combined membership of over 32,000 people living throughout NSW. CPSA's aim is to improve the standard of living and well-being of its members and constituents.

CPSA congratulates the General Purpose Standing Committee No. 2 for setting up this inquiry into abuse of older people in NSW.

1. The prevalence of abuse (including, but not limited to, financial abuse, physical abuse, sexual abuse, psychological abuse and neglect) experienced by persons aged 50 years or older in NSW.

There is very limited data on the extent of abuse of older people in the community. The World Health Organisation estimates that between 1% and 10% of older people in developed countries have been the victim of abuse.¹ A widely used estimate is that up to 50,000 older people in NSW have been the victim of some form of abuse. However, the data is so poor on abuse of older people that it is difficult to say with any certainty what its incidence and prevalence is. This underscores the need for better data collection on abuse of older people.

The call data for the Elder Abuse Helpline does not reveal very much about the extent of abuse in the community. For example, the publicly available data about calls to the Helpline only details the number of calls and the type of abuse mentioned in the call. There is no detail on whether the abuse has been substantiated or not, what occurred after the call was made or whether the abuse had been addressed and the older person was no longer being harmed.

During 2013/2014, the majority of callers to the Helpline was family members (38%) followed by service providers (32%). Older people made up 17% of the callers and 'concerned others' comprised 13%. In terms of the types of abuse raised in the calls, the majority was psychological (34%) followed by financial (31%) and neglect (15%). It is unclear from the published data if these percentages apply to the total number of calls, so one cannot say definitively how many callers raised these issues.

2. The most common form of abuse experienced by older persons and the most common relationships or settings in which abuse occurs.

Again, because of limited data, it is difficult to provide a clear picture of who is committing abuse and in which settings. However, available data suggests that most abuse is committed by children of the victim. An analysis of calls to Seniors Rights Victoria found that 90% of abuse was committed by someone related to the victim or in a de facto relationship with the victim. Two thirds of the abuse was committed by the victim's child.² Available data suggests that older women are more likely to be the victim of abuse.³

¹ World Health Organisation (2015) Elder Abuse: What is elder abuse?' http://www.who.int/ageing/projects/elder_abuse/en/

² Seniors Rights Victoria (2015) 'Submission to the Royal Commission into Family Violence' June, p.6

³ Westwood Spice (2015) 'Evaluation of the NSW Ageing Strategy' p.75, Seniors Rights Victoria, ibid.

CPSA proposes that the NSW Government fund a study into the prevalence of abuse of older people, who is committing it, and the types of abuse committed. This would help government and other agencies formulate appropriate responses to abuse of older people.

In addition, there should be better collation of data about abuse. Data from the Elder Abuse Helpline, NSW Police, and other agencies which receive reports of abuse of older people should be collated so that there can be a clearer picture of the extent of the problem. Reports of abuse should be compiled by a single agency and reported on each year. For this to occur, agencies would need to record abuse of older people uniformly. For example, NSW Police may have to change its recording practices so that a case of fraud against an older person by a family member was recorded as abuse against an older person, rather than simply fraud.

Recommendation: The NSW Government fund a study into the abuse of older people, including incidence, prevalence, who is committing the abuse and what type of abuse is being committed.

Recommendation: Reports of abuse of older people should be collated. Agencies receiving reports of abuse should share their de-identified data.

3. The types of government and/or community support services sought by, or on behalf of, victims of elder abuse and the nature of service received from those agencies and organisations.

The Elder Abuse Helpline has been a very welcome first point of contact for victims of abuse or anyone concerned that abuse is occurring. It provides callers with a safe and non-confrontational avenue to raise concerns about abuse. CPSA would like to see the Helpline expanded so that it collects and publishes better data on its calls.

At the moment, the Helpline is a one-way street, where callers initiate contact. The Helpline does not, as far as CPSA knows, intervene in suspected cases of abuse of an older person. CPSA understands that the Helpline does not systematically record callers' contact details because it is an information and referral service only. CPSA appreciates the rationale behind this system, but believes that there is need for a more coordinated service to provide tailored assistance to victims. This assistance would include support from social workers, police, counsellors, health professionals and any other service provider deemed necessary.

CPSA considers a model such as the Adult Protection Unit model proposed by the South Australian Public Guardian a good option for improving responses to abuse of older

people.⁴ This unit would have responsibility for investigating and intervening in cases of abuse, coordinate responses to abuse and receive referrals. It would also be responsible for data collection and analysis.

Key to this model would be a stepped approach to intervention and responses to cases of abuse. At the moment, responses to abuse are generally limited to involving the police, and/or the NSW Trustee and Guardian. NSW Police does have a range of options they can implement to stop abuse from occurring, such as issuing an AVO or charging the abuser with committing a crime. Matters brought before the Trustee and Guardian can result in the older person being placed under management by the Trustee and Guardian. This generally occurs when there are family disputes about the older person's finances or it is suspected that the older person is being financially abused. CPSA considers this approach to be a blunt instrument in many cases. While management of a person's affairs is sometimes required, it often leads to the older person's wishes not being acted on. For example, if their health declines, they may end up in a residential aged care facility rather than remain in their home with home support.

CPSA believes that there should be less invasive alternative approaches for older people who are experiencing abuse that does not pose immediate and serious risk. For example, in certain cases family mediation may be a more appropriate response than involvement of the Trustee and Guardian. Where carer stress is leading to abuse of an older person, support services and counselling may be needed for the carer. In short, responses should be tailored to the abuse and what is best for the older person. CPSA sees an Adult Protection Unit an appropriate body to be coordinating such responses.

Recommendation: The NSW Government should consider establishing a special unit such as the proposed Adult Protection Unit in South Australia to assist older people who are victims of abuse. This unit would include social workers, police, counsellors, health professionals and other service providers deemed necessary.

4. The adequacy of the powers of the NSW Police Force to respond to allegations of elder abuse.

There needs to be a clear definition of abuse against older people in the *Crimes Act 1900*. This would help police pursue cases of abuse, act as a deterrent to committing abuse and likely increase the number of successful prosecutions. Although various forms of abuse are already crimes under the Crimes Act (sexual and physical abuse, for example), neglect and psychological abuse are not clearly specified in the Act. Equally, misuse of powers of attorney is not explicitly made a crime under the Crimes Act,

⁴ Office of the Public Advocate & University of South Australia (2011) 'Closing the Gaps: Enhancing South Australia's Response to the Abuse of Vulnerable Older People' October, Report for the Office of Ageing and Disability Services

although fraud, of course, is. Therefore, police have limited powers to pursue cases of abuse against older people if the abuse does not constitute a crime under the Act.

Many experts in the field feel that the Crimes Act should include clear definitions of the types of abuse committed against older people. CPSA supports this view because it could achieve better protection for victims and hopefully deter people from committing abuse.

CPSA believes that there should be greater support provided by the NSW Police Force in addressing the abuse of older people. There is a need for a better understanding of abuse of older people within the police force; although there are many in the police force who do understand the issue and know how to approach it, there are many who do not. If someone contacts the police to report abuse, they should not be turned away or discouraged from pursuing the matter because the police officer taking the call does not recognise the seriousness of the issue.

CPSA welcomes the introduction of Vulnerable Community Support Officers (VCSO) who provide support to vulnerable members of the community. This is a good initiative not only because it offers a reach-out service to older people, but it also raises awareness in the police force and in the community about abuse of older people. It is important that members of the NSW Police force recognise abuse of older people and know how to deal with it. CPSA believes that all Local Area Commands should have a VCSO to support older and vulnerable members of the community and build trust between older people and NSW Police which should encourage reporting of abuse.

Recommendation: Amend the *Crimes Act 1900* to include a clear definition of abuse of older people.

Recommendation: Install Vulnerable Community Support Officers in all Local Area Commands with specialised training in dealing with abuse of older people.

5. Identifying any constraints to elder abuse being reported and best practice strategies to address such constraints.

Many victims of abuse feel a sense of shame and embarrassment, particularly if the abuse was committed by a family member or partner. Older people are reluctant to speak out about abuse and are prone to not wanting to 'rock the boat'. This hinders reporting of abuse. There is also the problem of isolation and no one but the victim knowing about the abuse. Where an older person is isolated and has a poor support network, the chances of the abuse occurring are heightened, and the chances of abuse being reported are slim.

A public education program about abuse of older people should be implemented. This program should be similar to public education programs designed to combat family violence. A public education program would combat the invisibility of abuse of older people. It would promote awareness in the community about the issue and hopefully encourage people – both victims and witnesses – to seek help.

CPSA is reluctant to recommend that there be mandatory reporting of abuse. Currently the Commonwealth *Aged Care Act 1997* requires all physical and sexual assault of a residential aged care resident that is committed by someone without a cognitive impairment to be reported to both the police and the Department of Health. CPSA supports this requirement (albeit that we consider that all abuse should be reported). However, where someone may be experiencing abuse in their home, CPSA believes it is important to respect their wishes if they do not wish to report the abuse. Residents of aged care facilities are, by definition, vulnerable, which underscores the need for mandatory reporting of physical and sexual assault. However, older people in the community should retain their right to not report abuse. Where abuse is reported, however, a response should be mandatory, with the consent of the older person (unless there is serious risk presented to the older person).

Recommendation: NSW Government launch a public education program about abuse of older people to raise awareness of the issue and what older people and the broader community can do to address abuse.

6. Identifying any strength based initiatives which empower older persons to better protect themselves from risks of abuse as they age.

There should be a focus on helping older people organise their financial affairs, including making and updating their will, organising a power of attorney if or for when they need one, and putting in place a plan for a guardian or enduring guardian. Most older Australians have a will (93% of Australians aged 70 and over according to one study)⁵, but fewer have organised a power of attorney should ever they need one. A 2014 survey of CPSA members aged 65 and over found that only 47% had arranged for a power of attorney should they need one.

Powers of attorney can help reduce the risk of financial abuse of older people. However, older people should be made aware of the risk that their attorney could abuse their position and that it is important to appoint someone they trust. It is perhaps necessary to have an independent third party sign off on major financial transactions under powers of attorney, particularly where the attorney is to benefit.

⁵ Tilse, C., Wilson, J., White, B., Rosenman, L. & Feeney, R. (2015) 'Having the Last Word? Will making and contestation in Australia' The University of Queensland, p.8

CPSA believes that all powers of attorney should be registered so that there is a record of the agreement. At the moment, powers of attorney need only be registered if the attorney is to deal with property. Registration must be with the Land and Property Information division of the Department of Lands (LPI).⁶

Registration of powers of attorney would at least ensure that the agreement was on record and potentially make it easier for authorities to follow up if necessary.

Reducing social isolation would help reduce the risk of abuse. The NSW Government should invest in programs such as the Red Cross's Telecross and TeleCHAT programs which check up on older people who are socially isolated. This would at least provide a point of contact with for the older person with their community, which they may not otherwise have had. It also provides them with an opportunity to talk about abuse they may be experiencing.

Recommendation: The NSW Government should continue programs to assist older people to have their financial affairs in order, such as the Getting it in Black and White program.

Recommendation: Investigate having an independent third party sign off on major financial transactions made by an attorney, particularly when the attorney stands to benefit.

Recommendation: Make registration of all powers of attorney mandatory.

Recommendation: The NSW Government should invest in programs that reduce social isolation like the Telecross and TeleCHAT programs operated by the Red Cross.

8. The possible development of long-term systems and proactive measures to respond to the increasing numbers of older persons, including consideration of cultural diversity among older persons, so as to prevent abuse.

A working with vulnerable people check could help prevent abuse of older people by care workers, volunteers and others supporting older people in their home. Currently the Commonwealth *Aged Care Act 1997* requires all people working with aged care recipients to undergo a police check. However, a working with vulnerable people check would be more comprehensive. The Act requires workers and volunteers to undergo a Working with Vulnerable People check if they are working with an 'adult who is

⁶ Land and Property Information (2012) 'About the ACT Working with Vulnerable People Scheme'
http://www.lpi.nsw.gov.au/about_lpi/faqs/land_title/whats_a_power_of_attorney

experiencing disadvantage and accesses a regulated activity or service related to the disadvantage.”⁷ In the NSW context, this could apply to people working or volunteering in aged care facilities, hospitals, disability services and homelessness services.

Recommendation: A Working with Vulnerable People check should be required for people working with older people in care settings and in older people’s homes.

⁷ ACT Government (2015) ‘About the ACT Working with Vulnerable People Scheme’ p. 6