

**Submission
No 44**

**INQUIRY INTO INQUIRY INTO ELDER ABUSE IN NEW
SOUTH WALES**

Organisation: Women's Legal Services NSW

Date received: 16/11/2015



15 November 2015

The Director
General Purpose Standing Committee No. 2
Parliament House

By email: gpscno2@parliament.nsw.gov.au

Dear Director,

Inquiry into Elder Abuse

1. Thank you for the opportunity to respond to this Inquiry.
2. WLS NSW is a community legal centre that aims to achieve access to justice and a just legal system for women in NSW. We seek to promote women's human rights, redress inequalities experienced by women and to foster legal and social change through strategic legal services, community development, community legal education and law and policy reform work. We prioritise women who are disadvantaged by their cultural, social and economic circumstances. We provide specialist legal services relating to domestic and family violence, sexual assault, family law, discrimination, victims support, care and protection, human rights and access to justice.
3. WLS NSW, along with many other organisations, has been overwhelmed during 2015 with calls for submissions to many Inquiries. While the community and institutional focus on domestic and family violence this year has been very welcome, it has also put additional pressures on already stretched community organisation such as ours. We say this only to indicate that although our submission to this Inquiry is brief this does not reflect the seriousness with which we take this issue.
4. The right to live free from violence and exploitation is a basic human right and should be universally of concern to all of us. Gender discrimination is acknowledged to be the root cause of violence against women¹ and for older women, the gender discrimination across the lifespan has a cumulative effect resulting in a high lifetime rate of violence experienced.² The intersections of age with class, race, Aboriginal or

¹ Most recently acknowledged in ANROWS, Vic Health, 2015, *Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia*.

² Brownell, P Neglect, abuse and violence against older women: Definitions and research frameworks (Review Article). Fordham University NY. 2014.



Torres Strait Islander status, disability, culturally and linguistically diverse background, chronic illness, identifying as GLBTI compound to exacerbate the experience of violence in older women.

5. We welcome the Australian Government's commitment at their recent United Nations Universal Periodic Review (UPR) appearance in Geneva to better promote and protect the rights of older persons, including through a dedicated section about the rights of older persons in all relevant human rights treaty and UPR reports as well as inclusion in United Nations Resolutions and Special Rapporteur procedures.³ It is important that this includes intersectional issues as raised above.

ToR 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 New South Wales

6. We understand that the United Nations and the Australian Bureau of Statistics identify women over 45 years as 'older'. WLS supports this broader age spectrum since it recognises issues such as the impact of long-term gender bias; acknowledges a lower life expectancy of more disadvantaged women such as Indigenous women; acknowledges that there is a high risk of unemployment if a woman loses a job when she is over 45 years; and the impact of the lower than average superannuation accumulation funds for women.
7. We further understand that the data on the extent of violence against older women is sparse and unreliable and acknowledge that the over 45 years age spectrum could be too broad where definitions of 'age' and 'older' are shifting. However older women along the spectrum suffer from discrimination and marginalisation through specific forms of gender biased ageism.
8. When interrogating the WLS NSW data over 2 years from 1 July 2013 – 30 June 2015 on age and domestic violence history we find that 548 out of 2400 clients who contacted our service for advice were over the age of 45 years, and 60% of all clients report a history of domestic violence.
9. We took a closer look at our data for women over 65 years who contacted our service over the 2 year period 2013 – 2015 and found that out of a total of 78 clients, 46 (59%) gave histories of elder abuse. Of these, 67% reported abuse perpetrated by a male intimate partner. In 16% of these matters, the parties were separated under the one roof, indicating barriers to leaving such as risk of homelessness, financial dependency, physical dependency for care. Four of these (8%) were instances where the abuse was perpetrated by a child, step child or child's partner.
10. Some of the experiences of older women aged 65 – 80+ years old who contacted us during 2013-2015 were:

An older woman separated from her partner of 38 years and reported that he had

³ Universal Periodic Review Working Group 23rd Session, Universal Periodic Review of Australia Opening Statement by Australia, 9 November 2015 at 4 accessed on 12 November 2015 at: <http://www.ag.gov.au/RightsAndProtections/HumanRights/United-Nations-Human-Rights-Reporting/Documents/UPR-2015-Opening-Statement.pdf>

been using her pension and giving her an allowance from it; and that he had retained possession of her personal papers such as her birth certificate and citizenship certificate.

An older woman reported physical and emotional abuse by her partner of over 40 years. He was systematically sabotaging the house in an effort to harass out client to get her to leave the family home by removing all house remote controls; disabling the garage door; changing the locks to the house; turning off the hot water.

An older woman reported that she separated from her husband of 15 years after finding that he had 'fleeced' her of all her financial assets including the family home.

An older woman who reported that her son had taken a large number of things from her home including jewellery.

An older woman reported abuse by a nurse who pinched her while changing the bed linen; gave her a sponge bath with cold water; left her on a pan for 1.5 hours.

An older woman with a hearing impairment and a mental illness reported experiencing serious domestic violence by her partner including sexual assaults; being held captive by him; being badly beaten by him and left unconscious.

An older woman reported a 50 year marriage and a separation under the one roof. Her husband was a war veteran who had post-traumatic stress disorder and she had experienced her husband being unpredictable, verbally abusive and controlling.

An older woman, married for 53 years but separated under the one roof. For over 15 years she had reported DV to the police, including an incident where her husband had thrown our client's walker on the floor. The house was in joint names and she wanted to sell but he doesn't.

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

11. See above.

ToR 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

12. WLS NSW provides initial legal advice to all older women who call our service and in some cases representation for older women who have experienced domestic and family violence, including sexual assault. Due to our limited resources we have limited capacity to represent in a case. We are more likely to be able to advocate with the police for an ADVO or assist with a private application for an ADVO; and assist with applications for Victims Support. We usually refer to specialist services such as the Seniors Rights Service or the Financial Rights Legal Service if they provided relevant specialist services where question of guardianship, residential care

arrangements or financial rights with financial institutions arise.

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

13. WLS NSW believes that NSW Police have sufficient powers to respond to allegations of elder abuse within its meaning in the *Crimes (Domestic and Personal Violence) Act*. Currently, the Crimes (Domestic and Personal Violence) Act has a broad definition of 'domestic relationship' and we submit that it is important to retain this in any impending re-drafting of this legislation.
14. It is our experience however, that Police need further workforce development around an understanding of the nature and dynamics of domestic and family violence in all matters, including for older women. Further, specialist officers would assist the effectiveness of response to the abuse experienced by older women.
15. Policy development and new practice measures generally (and for example Safer Pathways in NSW) tend to focus on women and their children and marginalise violence against older women. For example, the DV risk assessment tool now used by all NSW Police to assess serious threat (DVSAT) does not identify particular risks relevant to women with disabilities, older women, Indigenous or CALD women.

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

16. In our experience there is likely to be a lack of access to services where the perpetrator of violence (partner, ex-partner, child, nurse) is also the carer and the one who generally assists, for example, with transport and the making of appointments.
17. Difficulties accessing affordable, safe housing is a significant impediment to protecting older women from abuse. WLS NSW supports organisations such as Women's Electoral Lobby (WEL) and others in calling on the NSW government to strengthen social housing and to add to stock to provide diverse options for women needing secure long term and permanent accommodation following intimate partner violence and older single women at risk of homelessness. WLS NSW also calls on the NSW government to implement Recommendation 7 of the NSW Parliament Select Committee into Social, Public and Affordable Housing (September 2014).
18. WLS NSW acknowledges the expertise of and supports the submissions made by the Seniors Rights Service to this Inquiry.

If you would like to discuss any aspect of this submission, please contact me on

Yours faithfully,
Women's Legal Services NSW

Janet Loughman
Principal Solicitor