

**Submission
No 52**

INQUIRY INTO ELDER ABUSE IN NEW SOUTH WALES

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***Inquiry into
elder abuse in
New South Wales***

NSW PARLIAMENT LEGISLATIVE COUNCIL

GENERAL PURPOSE STANDING COMMITTEE No.2

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1. Terms of Reference

That the General Purpose Standing Committee No. 2 inquire into and report on matters relating to elder abuse in New South Wales including:

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

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

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

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

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

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

7. The effectiveness of NSW laws, policies, services and strategies, including the 2014 Interagency Policy Preventing and Responding to Abuse of Older People, in safeguarding older persons from abuse

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

9. The consideration of new proposals or initiatives which may enhance existing strategies for safeguarding older persons who may be vulnerable to abuse, and

10. Any other related matter.

2. Identifying elder abuse

Introduction

Elder abuse refers to the mistreatment of any older persons by a trusted carer which results in harm or loss to that person.¹ The World Health Organisation has adopted a definition which describes elder abuse as “a single or repeated act or lack of appropriate action occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person”.² This mistreatment can be in the form of a positive act or omission. Given the width of this construction, elder abuse can occur in various forms. The WHO lists physical, emotional or psychological, sexual, and financial abuse, as well as neglect, as the primary forms of elder abuse.³ Each of these forms is discussed below with general examples provided where appropriate.

Physical abuse

Physical abuse refers to physical acts used against older persons that results in bodily injury and/or physical pain. Conduct that typically falls within the umbrella of physical abuse are acts which would constitute an assault or battery under the law. Such conduct includes punching, slapping and the unreasonable use of physical restraints. Conduct of this nature is also typically considered to be a form of domestic violence, often being perpetrated by children, grandchildren or other live-in carers.⁴ Those most at risk of physical elder abuse

¹ *Oxford Learner’s Dictionaries*, <http://www.oxfordlearnersdictionaries.com/definition/english/elder-abuse>

² World Health Organisation, *Elder abuse*, <http://www.who.int/ageing/projects/elder_abuse/en>.

³ *Ibid.*

⁴ Lisa Mayoh, ‘1,000 sickening complaints of abuse against the elderly logged in NSW’, *Daily Telegraph*, 16 February 2014 <<http://www.dailytelegraph.com.au/news/nsw/sickening-complaints-of-abuse-against-the-elderly-logged-in-nsw/story-fni0cx12-1226828149823>>.

are unmarried or widowed individuals, however complaints reported include instances where elder couples have been abused by children still living in the family home.⁵

Whilst more noticeable than other forms of elder abuse, physical abuse can still be difficult to identify. This is because many of the indicators of physical abuse are attributable to other causes. For example, a bruise or cut can be explained by an accidental fall or bumping into an inanimate object. In addition, a single indicator does not typically provide conclusive proof that physical abuse has occurred. One would need to identify a reoccurring pattern of indicators before reliably being able to investigate the commission of abuse.

Common physical indicators of physical abuse include:

- Uncommon cuts, bruises, burns
- an injury which has not been given medical care or has been given poor or inappropriate medical care
- an injury that is inconsistent with the explanation given for its cause
- frequent hospital visits
- a history of similar injuries⁶

Common behavioural indicators of physical abuse include:

- Unexplained injuries or unwillingness to discuss cause of injury
- Contradictory statements regarding cause of injury
- unexplained delay between time of injury suffered and seeking medical care⁷

⁵ Ibid.

⁶ Advocare, *Signs and symptoms of elder abuse and neglect in care* <<http://www.advocare.org.au/help-with-aged-care-complaints/signs-and-symptoms-of-eld>>.

⁷ Ibid.

Sexual abuse

Sexual abuse refers to any non-consensual sexual conduct. This includes conduct typically captured under sexual assault and indecent assault type legislation such as an act of indecency or rape. Notably, it includes any sexual conduct against a person who lacks the requisite mental capacity to consent to such conduct.

The most vulnerable to sexual elder abuse are older women. The majority of identified victims are women, however older men have been sexually abused in both domestic and institutional settings. Vulnerability is exacerbated in situations where an older person lack possesses physical or cognitive disabilities and lacks social support typically provided by family and friends. It is important to recognise that sexual abuse occurs in almost all care settings including aged care facilities, hospitals and victims' homes.⁸

Common physical indicators of sexual abuse include:

- genital or anal pain
- difficulty walking or sitting
- contraction of sexually transmitted infections

Common behavioural indicators of sexual abuse include:

- General frustration by older person
- Antagonism toward particular carer in aged-care facility

Emotional or psychological abuse

⁸ Julia May, 'Shocking numbers of elderly women being abused in aged care homes', *The Age*, 7 July 2014 <<http://www.theage.com.au/victoria/shocking-numbers-of-elderly-women-being-abused-in-aged-care-homes-20140706-3bg9w.html>>.

Emotional or psychological abuse refers to the use of verbal or nonverbal acts to inflict mental pain, anguish or distress on an older person. Cultural differences make psychological abuse a difficult form of abuse to identify and remedy.⁹ Those who lack social support are particularly vulnerable to emotional and psychological abuse.

Common physical indicators of emotional and psychological abuse include:

- signs of stress such as elevated blood pressure or nervous ticks

Common behavioural indicators of emotional and psychological abuse include:

- behaviour typically associated with depression
- behaviour typically associated with dementia
- fear of perpetrator

Neglect

Neglect refers to the refusal or failure by those with carer responsibilities to provide food, shelter, health care and protection for a vulnerable older person. It should be noted that self-neglect can occur, whereby the older person does not maintain a carer and therefore the neglect occurs due to the person refusing care.

Perpetrators can be any type of carer, be it a family member or friend who has assumed carer responsibilities, or aged-care facility employees. It is important to recognise that neglect, unlike, say, physical or sexual abuse, often occurs unintentionally due to carers lacking the necessary skills, time, resources or energy to provide the requisite level of care.

⁹ National Committee for the Prevention of Elder Abuse, *The Role of Culture in Elder Abuse*, <<http://www.preventelderabuse.org/issues/culture.html>>.

Common physical indicators of neglect include:

- poor personal hygiene
- improperly clothed given the weather conditions
- dehydration
- untreated injuries which should be treated

Common behavioural indicators of neglect include:

- signs of medication mismanagement such not having necessary medication or not sticking to medication timetable
- regressive or self-destructive behaviour
- signs of emotional distress such as depression or confusion

Exploitation / Financial abuse

Financial abuse is the illegal taking, misuse, or concealment of funds, property, or assets of a vulnerable older person. This can happen through various mechanisms including signature forgery, coercing an older person into changing their will in one's favour, appropriating assets without consent, and coercing an older person into providing power of attorney.

Perpetrators come in many forms, including children who feel entitled to receive through kinship, long term friends who may or may not have developed a de facto relationship with the older person, and long term carers who develop a relationship of confidence with the older person. Older persons are also commonly victims of fraudulent business practices. Vulnerability is increased if the older person lives alone, lacks close contact with family members or friends, or suffers from physical or mental disabilities.

Common indicators of financial abuse of elder persons include:

- notices of unpaid bills where such bills should be paid

- irregular withdrawals from bank accounts or transfers between accounts
- bank statements no longer being delivered to the older person
- new and sudden 'friends' in the older person's life
- the care of the older person not being commensurate with the size of his/her estate
- property transfers which the older person cannot remember or justify

3. Role of professionals and citizens in preventing abuse

Health and medical professionals

Health and medical professionals are often the first to identify signs of abuse in victims. This is usually because they possess requisite training and experience in such matters. Their observations are often vital to substantiating the fact that abuse has occurred, and at what stage the abuse was being committed. Health and medical professionals are in a unique position in addressing the needs of elder abuse victims because they are able to:

- identify abuse most accurately and with the least number of indicators
- evaluate the plausibility of explanations given for potential indicators of abuse
- provide expert evidence should the need arise
- treat injuries or health problems occasioned by abuse
- access the necessary medical procedures used to conclusively determine whether abuse has occurred.

To these ends, the trust and confidence that patients have for their health care providers is vitally important. It is also important that a greater focus be placed on elder abuse within medical circles. For example, continuing medical education should focus on in greater detail the causes, implications and screening methods of elder abuse and abuse of vulnerable persons at large. Similarly, clinics, hospitals and health maintenance organisations should be encouraged to develop or adopt universal protocols for screening and responding to abuse.

Health and medical researchers

Researchers in the field of health and medicine play an important role in identifying new and relevant information regarding abuse. Social studies focusing on reported abuse cases can be undertaken to detect the causes and indicators of abuse, the relevant risk factors, the effectiveness of intervention programs and abuse reporting mechanisms. In addition, they are able to provide such information in the context of a court case, legislative hearings, and parliamentary inquiries.

On a day-to-day basis, it is recommended that researchers work directly with service providers to identify critical informational needs that will guide their practice. This approach has been taken in the United States with reputable success, with the National Center on Elder Abuse (NCEA), the National Committee for the Prevention of Elder Abuse (NCPEA) and the National Association of Adult Protective Service Administrators (NAAPSA) compiling a 'research agenda' of topics with the aim of advancing the field of abuse prevention. This agenda included:

- The nature and scope of elder abuse
- causes and consequences
- investigation and assessment
- self-neglect
- interventions
- cultural issues
- effectiveness/outcomes
- criminal justice/law enforcement
- program management
- financial implications

- policy.¹⁰

Each of these categories is then expanded into a list of questions to be investigated by researchers. By making such inquiries, other professionals such as health and medical professionals, law enforcement professionals and protective service workers will, over time, become better equipped to prevent and respond to elder abuse.

Protective service workers

In the field of abuse and neglect, protective service workers are actively involved in victim care. In their capacity as service workers, they are entrusted to assess a person's level of immediate danger and future risk and to act (possibly immediately) to any such dangers.

Furthermore, they are responsible for:

- collecting and collating evidence of abuse for substantiation purposes
- assessing the victim's need for services to reduce their vulnerability and future risk of abuse
- arranging necessary medical, legal, financial, or social services for the victim
- providing testimony of the victim's situation in legal proceedings.

Protective service workers already undertake numerous integral roles in preventing and responding to elder abuse. It is submitted that they maintain their current roles, with an added emphasis on encouraging their relevant agencies to participate in community initiatives to raise awareness, identify unmet service needs, advocate for new and improved policy and services, and improve interagency communication and coordination.

¹⁰ National Committee for the Prevention of Elder Abuse, *Research Agenda on Abuse of Older Persons and Disabled Adults*, <http://www.preventelderabuse.org/professionals/r_agenda.html#agendas>.

Law enforcement officers

As it stands, law enforcement officers in NSW possess extremely broad powers generally. In addition, a plethora of social studies have demonstrated that an emphasis on general deterrence does not reduce the rate of crime. As such, it is submitted that the state of NSW should not provide more powers to police or increase the maximum sentence for abuse related offences. This approach would be ineffective and in many aspects largely redundant.

It is submitted that, as opposed to the above, law enforcement officials be trained and required to participate on multidisciplinary teams or other community forums that address the issue of elder abuse. In addition, basic police training programs should be amended to include elder abuse and the special needs of elderly or disabled persons.

Media

The media has the privilege of being able to single-handedly shape public perception about a situation, familiarise the public with available resources, educate policy makers about the problem and the need for effective services and policy, and encourage victims to come forward for help.

While NSW government could not simply have all media change the way in which they report the news, in theory the media could be a powerful tool in combating elder abuse in NSW. It could:

- provide coverage of new developments in the field including new policy, research findings, and services
- publish stories that highlight the extent and complexity of the problem
- help the public understand the role of community agencies, the benefits and resources they offer, and the challenges they face in addressing the problem

- convey the message to victims that they are not alone, that nobody deserves to be abused, and that help is available
- inform victims and others about how to access services.

Private citizens

Private citizens play a fundamental role in bringing together abuse victims and the aforementioned professionals. Without the reports made by individuals who come across instances of abuse, abuse would largely go undetected. In addition, citizens can help raise awareness of the prevalence of elder abuse, advocate for needed policy and reform, and volunteer to provide critical assistance to vulnerable persons and the agencies that serve them.

To this end, improve mechanisms by which individuals can report abuse would go a long way in ameliorating the issue. The introduction of the NSW Elder Abuse Helpline and Resource Unit is a perfect example of this approach.