

INQUIRY INTO INQUIRY INTO ELDER ABUSE IN NEW SOUTH WALES

Organisation: Protecting Seniors Wealth

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14th November, 2015

The Hon. Greg Donnelly, MLC
The Chair
General Purpose Standing Committee No. 2
Legislative Committee, Parliament House
Macquarie Street
Sydney NSW 2000

Dear Mr. Greg Donnelly and Committee Members,

Re: Submission for Inquiry into elder abuse in New South Wales

As the Founder and CEO of Protecting Seniors Wealth, I would like to make a submission to this Inquiry, please find enclosed. I would also like to appear in person.

From our investigations during the last two years, we now know this issue is not only complicated but much more widespread than we realize.

We can contribute with information, plus we have a platform already in place, with an educational focus about this issue. In addition, we have numerous tools, including a Guide, consulting services, and will offer training workshops. All designed to effectively help with awareness and prevention of this issue that is devastating so many elders.

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I would like to take this opportunity to commend you on calling for an Inquiry. This is not only a huge problem now, but with an ageing population, this is set to become a major problem, and seniors are a prime target. We recommend that a multifaceted campaign is urgently needed, to effectively help protect our senior citizens from ongoing abuse.

Look forward to hearing from you, and hope you accept my offer to speak at the inquiry.

Thank you.

Yours sincerely,

Anne McGowan

CEO

Protecting Seniors Wealth

Encl.



SUBMISSION

Prepared by: Anne McGowan

Protecting Seniors Wealth

November, 2015

INQUIRY INTO ELDER ABUSE

Elder abuse is far more widespread than most people are aware of, especially financial abuse, which is increasing at a rapid pace. Often financial abuse leads to other forms of abuse – coercion, verbal and physical abuse, and the perpetrators prey on elder seniors emotionally by either badgering them constantly, or threatening, swindling and manipulating them.

There appears to be a new unwanted trend emerging, and it's of epidemic proportions. The perpetrators are driven by entitlement and greed, and literally threaten the safety, security and dignity of our ageing senior citizens.

*Our lives begin to end the day we become silent
about things that matter. – Martin Luther King*

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Situation Summary

Key facts concerning the current environment elders are now facing:

- About 70% of the wealth is held by seniors, this makes them a prime target.
- There's a sense of entitlement and greed by the perpetrators.
- It's usually not reported due to embarrassment, fear, shame, and because the main perpetrators of financial abuse are family. Others are neighbours, people posing as financial advisors or care givers, or other unscrupulous people.
- It's a 'dirty business' all round – elders are subjected to lies, threats, ongoing verbal abuse, constant badgering, and violence, to give money or sign over assets.
- The elders may already have their legal affairs 'in order', yet often they're being ordered to sign new legal documents, when they're less able to stand up for their rights.
- Sadly, they are left humiliated, too upset to speak, with their dignity shattered.
- About 60% of elder abuse is financial abuse, and often this leads to other forms of mindless ruthless abuse, in order to access their money and home. Taking this into consideration, as well as the other points above, indicates the figure is much higher. Of course all forms of abuse need to be addressed. However, it's worth noting, if we can effectively deal with financial abuse, we can prevent the biggest percentage of elder abuse, because it's all about accessing 'the money' while the elders are still alive.

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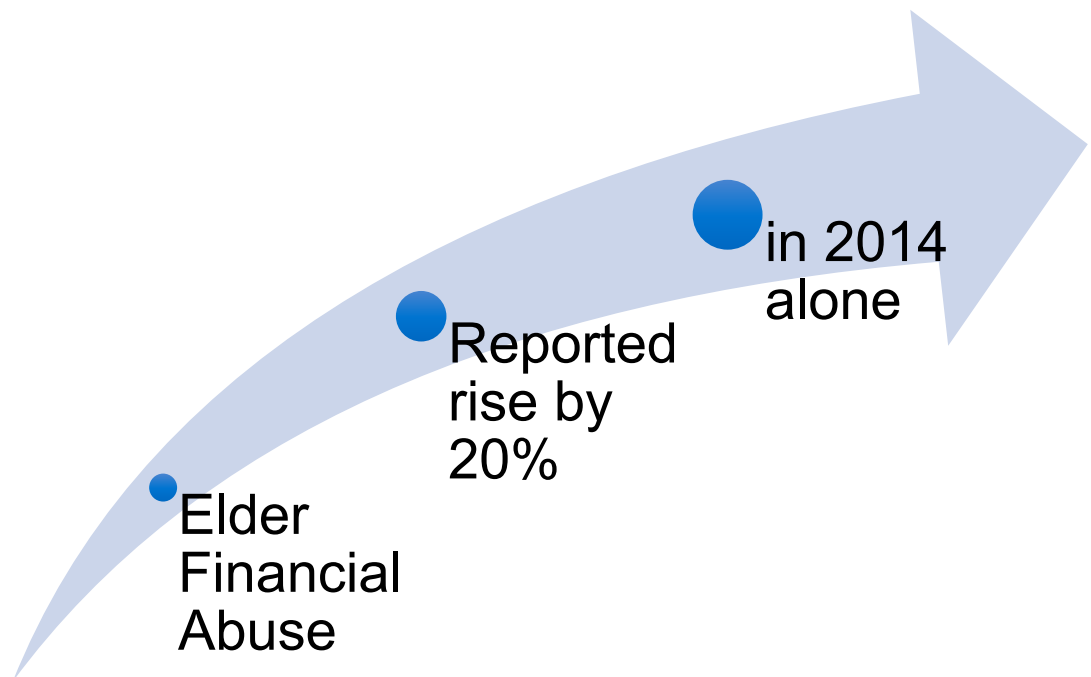
Supporting Key Media Coverage

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1. The Prevalence

In looking at the area of financial abuse, and the other forms of abuse that are involved with financial abuse, it is far more prevalent than reported figures, due to **a reluctance by elder seniors to report it**. The reason for this, it most often involves family members. Other financial perpetrators are often people they know, such as; neighbours, financial advisors, care givers, and ‘new friends’. Consequently, the elders are shocked, embarrassed, fearful, ashamed, and too devastated or humiliated to speak of it, let alone speak up about it!

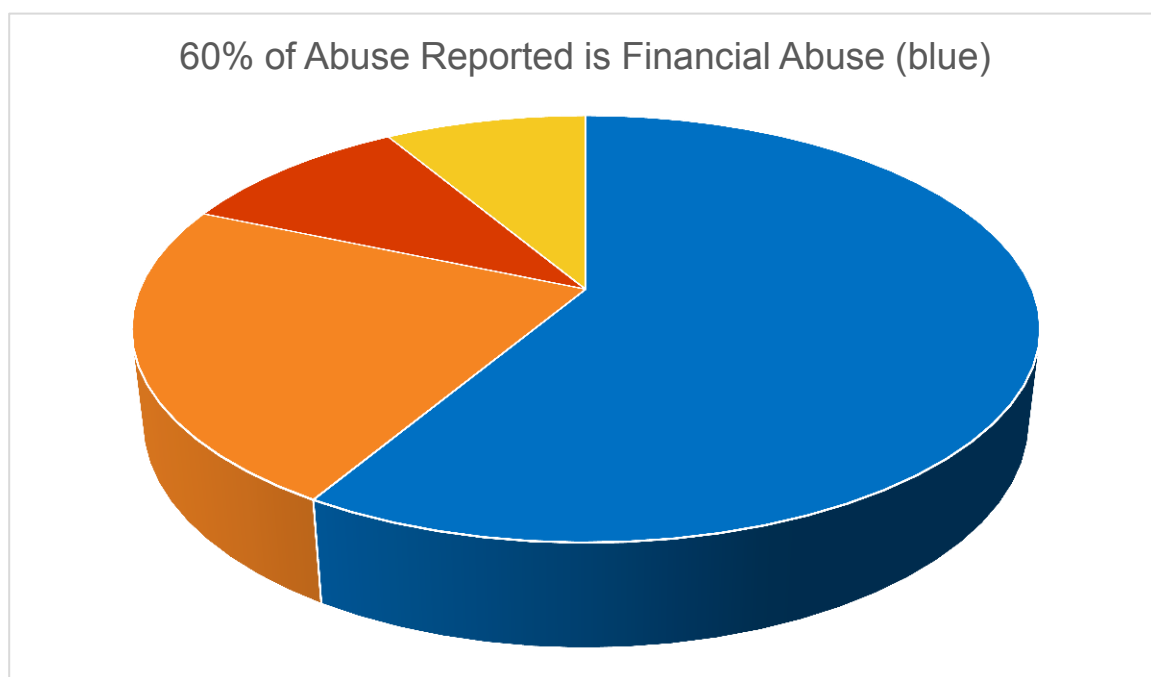
Frontline management and employees working in banks, real estate offices, legal firms and financial advisors see the occurrence of financial abuse and other forms of abuse, and the devastation that follows, of an elder person and their assets, all too often. If you speak with them, you will hear comments like “oh, this happens all the time”, or “it’s happening all over the place”.



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2. Most Common Forms of Abuse

- Financial abuse is the most common form of abuse, according to recent press, consisting of about 60%.
- This percentage is most likely much higher, as financial abuse involves or can lead to other forms of abuse, in order for the perpetrators to access their money or assets. And sadly, this form of abuse is largely not reported, due to embarrassment, shame or fear of the perpetrators.
- The types of abuse vary and can range from coercion, verbal abuse, physical abuse, psychological abuse, manipulation, to swindling and more.



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3. The Types of Services Sought

- **Fast Access to Awareness Information** - When wealth abuse occurs, the elders and the loved ones genuinely helping them, do not usually see it coming – they are not prepared. Essentially, they need to ‘become informed’ promptly, and be guided, as prevention is far more preferable if possible.
- **Entity to ‘Step in’ Promptly** - When wealth abuse occurs often action needs to be taken immediately, due to assets about to be sold or considerable money being stolen, and most importantly, an elder being abused. There needs to be an entity that can help people legally do this. Stopping the wealth abusers before too much damage is done is far easier, and less upsetting for the elders, and for all concerned.
- **Frontline Trained Professionals** - There needs to be training on the issue offered to employees on the front lines – in the financial institutions, real estate agents, legal firms, financial advisors and nursing homes. Then they can help people effectively because they’ll have the knowledge to do so, and the motivation due to understanding more fully how the complexities of financial abuse take place.
- **Training** - People need to know how to navigate through or around an abuse situation. Therefore, training is imperative for business and government and seniors’ organisations.
- **Education program** – For seniors and people in certain sectors who help seniors and elder seniors with their money and their affairs. The programs should provide background information, plus empower and motivate people to know exactly how to handle a range of different situations. Trainings for government departments, including the police department and senior organisations will be crucial. An awareness campaign for the general public is imperative to help with prevention.

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4. The Adequacy of the NSW Police Force

Due to the often complicated nature of financial abuse situations, plus the other forms of abuse that occur as a result, and that it all too often involves family, the seniors or elder seniors are too upset to speak up. Understandably, the elders have difficulty speaking loudly enough, or they are simply too ill or too weak, and too heartbroken to stand up to the perpetrators.

To give an example: If Police are called to a house where someone has reported a financial abuse situation, it deserves to be investigated fully. People do not report such an incident unless they have good reason. Without specific training in this area the police are ill equipped – it's overlooked. They don't wait for an elder to answer when they ask them a key question, or they don't ask them at all. Elder people in these types of situations need time to answer and to feel safe in doing so. More training would result in police knowing how to look into allegations fully. Perpetrators are devious, police need to be better informed and able to recognise, plus to effectively deal with, a financial abuse situation.

The Police can be unsure, perpetrators are usually skilled at deception and lie very well to cover up what they are actually doing – they're trying to, or may have already, accessed the elder's money or home for their own personal gain.

The Police Force not only need more training to recognise the perpetrators, as they're skilled at deceiving or misleading others, and often even threaten the elders not to speak of it, they also need to be informed that this is a growing issue of real concern, with a 20% increase in 2014 alone reported. They need to know more – 'why' and 'how' it occurs, and 'who' the perpetrators are, in order to recognise the signs and know they can dig deeper for key information.

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5. Identified Constraints to Report Abuse

Often seniors or elders are reluctant to report the abuse or even tell someone they know or trust who could help them. This reluctance is often due to the fact that one or more of their own family members are the perpetrators, and they either want to protect them from legal action, or they're just too ashamed.

In addition, the perpetrators may have threatened them, plus the elder's health may be suffering due to the ongoing abuse, and they may not be able to speak up due to illness, or they're frightened, fearful, lacking in confidence as a result of the harassment, and their self esteem may be eroded. They're devastated!

The reason for being devastated and painfully hurt, is people generally are not aware of the extent of this form of abuse, that also leads to other forms of abuse, in order for the perpetrators to succeed. The elders usually don't see it coming, they're ill prepared, shocked and literally in a state of shock sometimes. So too usually are the people who may have been genuinely caring for them.

In some cases, someone in a position of trust may have abused them. They could be a person or people they rely on to assist manage their daily affairs, and therefore they feel reluctant to say anything. Often becoming withdrawn and giving up as it's all too much to deal with. This is one of 'the signs' to look for.

Some abusers move into the elder's home, often uninvited, yet telling everyone they were invited, and are supposed to be there to look after the elders. Instead, they abuse them financially and otherwise, either over a period of time, or sometimes more sinister acts occur after they have arranged for the elders to sign legal documents. The elders do not freely or happily consent to any of this.

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6. Identify Strength Based Initiatives

- a) A **Register**, set up to record Powers of Attorney, would significantly assist with prevention, abuse of POA's is a very common form of financial abuse.
- b) A **Register**, established to record Wills, would be of equal importance, as it's also a common way to abuse senior elders to change their Wills, leaving the person/s who are the perpetrators, a bigger share or all of their assets.
- c) **Training Programs** for organisations involved with helping seniors with their money – financial institutions, investment advisors, lawyers, real estate agents, and nursing homes. Training programs for government departments or senior organisations who assist or support seniors and elder seniors, including the court system and police departments.
- d) The **Education Theme** in the training programs should point out the complexities, explain 'why' and 'what' occurs in abuse situations. Especially with financial abuse as this can often be complicated. The difficulty for most people faced with these situations, is a lack of education on the issue. They do not comprehend just how devious abusers can be and what occurs in the process of abuse. Once they know, when they're informed, it is much easier to take action and be motivated to do so.
- e) **Awareness Campaign** for members of the public, including those who assist elder seniors with their affairs, for them to know what the pitfalls are, why it occurs, how common it actually is, and importantly, to know exactly what to do, as action often needs to be taken promptly in order to prevent financial abuse or any abuse for that matter.

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7. The Effectiveness of the Laws

The law in place concerning financial abuse is Undue Influence, and it appears to be a well structured law. However, the problem appears to lie with how to prove the abuse, the lack of education about the abuse, plus there are 'gray areas' in the system, and it's ineffective in many cases. Unfortunately, the abusers work out how to abuse the system and consequently the elders. Often the perpetrators have been planning how to access an elder's assets for some time, or they've done it before, and they do not care if they upset an elder person in the process. The elders are an easy target.

Taking legal action is often too difficult for an elder person to initiate and follow through with it. If there happens to be a loved one, or someone else in their lives, who actually does honestly assist the elder person experiencing a wealth abuse situation, they find it difficult to prove. There are many reasons for this, and it can be complicated, but simply stated, it's because of how devious the perpetrators have been to access the elder person and their assets.

A perpetrator may borrow, or take without permission, an elder person's debit card, and use it for their own personal expenses. They might forge that older person's signature and withdraw money from their bank account, or they might badger them for cash money or steal it from their house. The perpetrator might do all of the above as well as the next examples.

An abuser will use tactics such as coercion and manipulating in order to get an older person to change their Will or Power of Attorney, or both, by simply arranging for another lawyer, who does not know the older person, to draw up new documents. The abusers lie to this new lawyer and the senior person is

‘told to sign’ or ‘ordered to’ by the perpetrator. Essentially, bypassing the lawyer who may have been that elder person’s own lawyer for many years, because that elder’s own lawyer would most likely query whether financial abuse is occurring.

Some elders may be experiencing the onset of dementia when this occurs and do not understand what they are signing, let alone realise they are being set up to be financially abused. Afterwards, not understanding why they do not have as much money as they once thought they did.

Generally, the innocent ones, are busy going about their lives, looking after the elders or the elders managing to look after themselves with some support services, they’re not aware of what occurs in financial abuse situations, and they don’t see it coming, or they simply think it’s something that happens to others. Therefore, they are totally unprepared for the impact of wealth abuse, and literally don’t know what to do. They are that shocked by it all, they find it difficult to take any action at all. They are literally too dumbfounded and too upset emotionally to speak of it. Sometimes they’re too afraid or fearful of the perpetrators who may have threatened them.

Financial abuse destroys families, ultimately hurting elder people. It also devastates those close to the elders, not only is it extremely upsetting for them too, finding out that the elders, near and dear to them, have been or are being abused – it’s devastating for them also. Then the final insult is a loss of inheritance the elders plan to leave them. It’s not so much about the money being taken, it’s more about the fact that elders had planned to leave it to them, as a gift, from them when they’re no longer here with us. Losing it is just as upsetting for the elders, and the loved ones they plan to leave it to.

The legal system can be ineffective for a majority of cases, as often elders and their loved ones, who are also abused, are ill equipped to handle this, and to take action through the courts can take too long. For some the costs are too prohibitive for this course of action, and the Guardian Tribunal, while very effective for some, is limited in what they can do for many others. The system as it stands does not offer an expedient way to step in, or help people step in, and prevent the abuse. It would greatly help if there was a more expedient way to a Hearing. All the while the abuse is occurring, the elders are at risk.

In order to get a Hearing, a doctor's letter is required, it needs to refer to the elder's capacity to make decisions. It can be difficult to obtain because often the Doctor's do not have background information or the training in this area of abuse, and they put it down to a family dispute. And a Doctor's letter saying it's a family dispute will not result in a Hearing. The elder, as a result, is left in the abusive situation, and the people trying to step in are left without options.

Someone who is honest and sincere in their efforts to try and step in could spend months trying to get a hearing to stop the abuse, and all the while the elder's health could be deteriorating and often dramatically does, with some even passing before their time, while people are trying to find a way to step in and help them. Months can pass with all efforts incapable of producing any results.

Often by the time someone is an elder, there's normally a loved one helping them with their affairs. When financial abuse occurs or begins to occur, a common quote heard from many is that "the law doesn't protect elders". They are faced with three options. The first, to go through the Court system can take too long, the costs can be prohibitive for some, and it may be difficult to prove the abuse. The second option, is apply to the Guardianship Tribunal, what they can do is limited. The third and common option is that nothing can be done.

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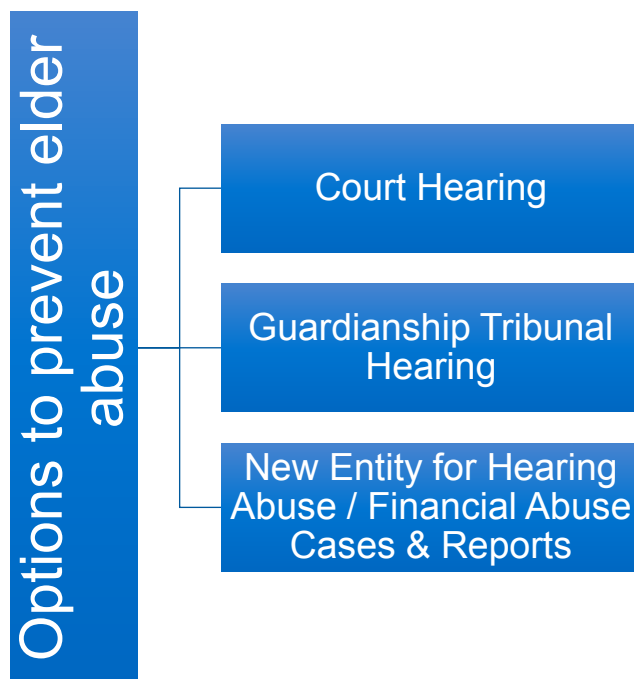
8. Possible Developments of Long Term Systems

- a) **Raising Awareness** of this issue in the **court systems** and in **tribunals** will lead to more thorough investigations in hearings. Again education and training will be key as sometimes they need to take more time to look harder at all the circumstances involved.
- b) **Education and Training** – for the **police department** will contribute to police officers having a better understanding of what they're dealing with. In addition, even being able to call qualified people who have done extensive training and know what 'signs' to look for and how to deal with it would assist.
- c) **Doctors More Informed** - There are some doctors, for example, who have done considerable work in this area and are very effective at recognising the abuse and providing a crucial letter so that a hearing can be called to investigate. More Doctors should be better informed also.
- d) **Training Workshops** - for business such as financial institutions – banks, building societies, financial advisors, nursing homes and government departments who assist elders. Providing this much needed and necessary training for organisations involved with helping senior people with their affairs and finances is imperative to help with prevention.
- e) **Media Campaigns** that not only inform **seniors** and those **assisting** to care for elders of what is occurring, plus offer effective support systems, but importantly it should send a clear message to the perpetrators or those contemplating financial abuse or abuse of any kind, that it will not be tolerated.

- f) **A campaign ‘message’** should be direct and clear, and inform the perpetrators, or possible abusers in the future, in no uncertain terms, that they will be breaking the law and that it’s ‘not okay’ to do this to elders. A message that effectively communicates this will not be tolerated any longer, prevention and enforcement is being ‘stepped up’ all-round, and that they will be prosecuted to the full extend of the law. An example, money and assets returned to the older person in court proceedings.
- g) **More Protection** - Sadly, this unwanted trend is a ‘dirty business’ and it appears the perpetrators think they have a right to access the elder’s money or home, or they’ll just ‘try it on’ anyway because the person is too ill or too frail or too scared to say anything. They often know there’s a good chance they’ll get away with it, so they do it anyway, and they do not care about crushing the feelings or rights of an elder person. The elders don’t like it, and the system needs to be tightened up overall. Effectively addressing a number of areas is essential in order to protect them.
- h) **The Education Materials** need to point out that abusers or perpetrators can come in many forms. They tell lies, they’re devious and can be abusive, they could even be well dressed and play the victim role well, or blame it on an innocent person. However, they are cunning manipulators, and should not be trusted. They certainly should not be in a position of trust for elders.
- i) **A Better System** - A system in future that prevents senior elder people from being coerced or badgered to sign new Wills or Power of Attorneys simply so that the perpetrators can access their assets before they pass is paramount. Registers for both areas will help prevent this. Most seniors have their Wills and Power of Attorneys drawn up well before they lose any capacity. If they are lodged on a Register, coercion to sign legal documents later would be difficult. To help stop the abusers trying to sell the elder’s home, and you

commonly hear real estate agents say “it happens all the time”, a new unit for elder abuse and elder financial abuse, would be the best solution. A separate entity, that could help people promptly – one that has specific training to recognise ‘the signs’ and deal with it effectively and efficiently.

- j) **New Entity to Hear Abuse and Financial Abuse cases or reports.** The addition of a new entity to the existing structure could fill a huge gap, and ultimately provide a better system to protect our elders. Trying to utilise the existing system simply does not work for too many, because the legal system or the legal structure falls short of the mark. An important question to ask is, “could the introduction of an additional entity work much more effectively for hearing abuse and financial abuse cases or reports?” The increase in rates of reported cases, calls to helplines, and media coverage overall, certainly indicates there’s a need. Statistics indicated a rise of 20% in 2014 alone, and keeping in mind financial abuse is mostly not reported, there certainly is a need to justify the introduction of a new entity, one with specialised training.



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9. Consideration of New Proposals or Initiatives

Established Platform – Protecting Seniors Wealth has a strong platform already in place and we could help to facilitate many of the tasks required. With additional funding we could expand our already successful range of services.

Consultancy Services – Can also be provided by us (Anne McGowan) to help form the campaign, and the overall effectiveness of the campaign. Extensive knowledge in this area of financial abuse, public relations, mass communication, adult teaching and course coordination, brings a range of skills to contribute.

Informed, Proactive & Results Oriented - We propose that we are in a position to greatly assist to help take prompt and informed action to deal with this increasing issue, that many would find overwhelming, to say the least. Financial abuse is widespread and occurs across all social economic groups.

Guide & Training Workshops - We already have effective tools in place such as our website, a Guide, in depth knowledge and a figurehead or spokesperson, contacts, training workshop programs, and we have plans for more.

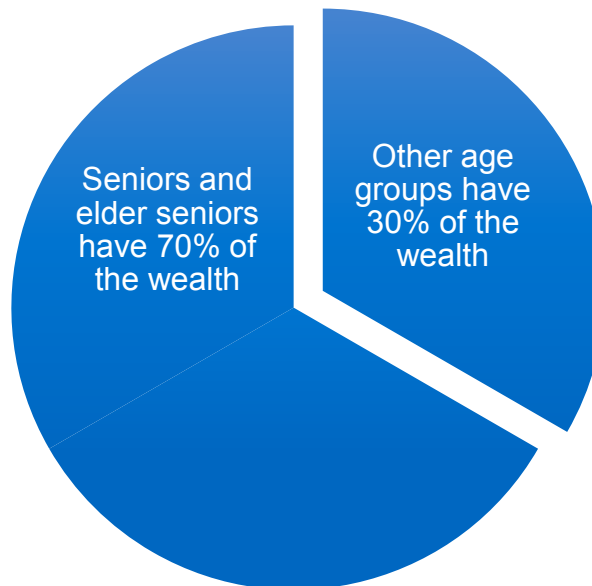
Senior's Campaign – An awareness campaign encouraging seniors to draw up their legal documents, while they're in a good state of mind, and by registering them with the new Register, it could help to avoid financial abuse in the future.

Campaign Theme - A campaign that communicates the system overall is changing, that seniors and elder seniors should be valued and held in high regard, and abuse will not be tolerated. Subtly pointing out that with changes to the system overall, they will be more protected as seniors and elder seniors in our society, living comfortably in a safe and secure environment with dignity.

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10. Other Related Matters

Seniors hold about 70% of the wealth. This makes them a prime target. And with an ageing population, the enormity of this issue not only is a major problem now, but will rapidly increase and escalate if something is not done promptly. We suggest coordinating a number of approaches, all effectively coordinated as one campaign.



The effects of financial abuse, and abuse of any kind, are far reaching. The people who actually do care greatly and sincerely for the elder loved ones in their lives are devastated, mainly because the elders are abused, and the final insult is they lose their inheritance – it's basically been stolen. This is another matter the elders are upset about. Most have already planned to leave an inheritance to their loved ones, in the way they specify, and they're very proud to be able to do that. Then they become distraught, when they realise that they can not do this due to the financial abuse.

Most people would agree that this is an absolute disgrace, the fact that elder abuse is happening to the extent it is. It goes against the seniors' rights as outlined by the Australian Human Rights Commission, The Law, and everything decent people stand for in our society.

Seniors do not like what is happening and need someone to be their voice. We receive very good feedback about our Guide, both from seniors and people helping them, and they gratefully thank us constantly and encourage us to proceed. The actual title is Protecting Seniors' Wealth Guide, and the author is Anne McGowan. Our Consulting Lawyer for the Guide is James Kelly LL.B., a Sydney lawyer who specialises in Elder Law. James is a partner and head of the Seniors, Estates, and Residential Conveyancing team of the legal firm. He was appointed to the role of Notary Public by the Supreme Court of New South Wales in 2009. He is involved with several seniors' groups and advisory committees, and regularly addresses seniors' groups on legal issues.

In recent months, thousands of people have landed on our website, looking for information. There are campaigns out there to save the animals, the environment, help the refugees, and children. Yet there appears to be no where near the effort, or rather constructive action being taken or directed, to actually protecting our senior citizens. The people who worked hard all their lives, who contributed to where our country is today. They raised their families, had good values, paid their taxes, all to be able to enjoy their later years. Yet the system and society is falling short of the mark and failing them in this area.

Funding will need to be allocated.

Reporting on the effectiveness of the overall campaign should be done on a monthly basis to ensure effective implementation, progress and accountability.

Responsibility for the successful implementation of all parts of the overall campaign will need to be overseen by someone appointed to essentially gauge the effectiveness, monitor the whole campaign and report on progress. We can assist with this, that is Anne McGowan and Protecting Seniors Wealth, can work alongside you to ensure results, in a consulting capacity.

A spokesperson should be appointed. One who can appear on television interviews or comment. We can assist and do this, and we can also work with someone appointed in your office to help with providing background information and media liaison.

Media campaigns should be prepared and the media informed on a regular basis. If handled proactively with a results oriented approach, they will view this favorably, as long as progress is obvious as we proceed. In other words, it needs to work – action taken needs to be effectively handled and in a swift and firm fashion. The television media in particular like this type of story, as anyone would, and would be happy to report. However, it must be actioned, clearly with ongoing obvious results, not just spoken about.

Right now elders are being abused financially. They are at risk of being hurt and losing their life savings, their means to support their way of life, and their dignity. If constructive action is not taken now, more elders will be abused. Once an overall strategy is successfully implemented, other states can use it as a model.

For additional information contact:

Anne McGowan

Protecting Seniors Wealth

Website www.protectingseniorswealth.com.au