

INQUIRY INTO INQUIRY INTO ELDER ABUSE IN NEW SOUTH WALES

Organisation: Australian College of Nursing

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The Director
General Purpose Standing Committee No 2
Parliament House
Macquarie Street
SYDNEY NSW 2000

To the Director

Re: Submission to the Inquiry into Elder Abuse

Australian College of Nursing (ACN) welcomes the opportunity to provide a submission to the Inquiry into Elder Abuse.

Nurses constitute one group of health professionals who are likely to have extensive and prolonged contact with older people. The often close and continued interaction between the older person and nurse puts nurses into a position where they can identify potential elder abuse and undertake steps to prevent it and/or detect actual abuse and intervene to stop the abuse.

Along with a review of the relevant literature, ACN consulted with its members about the issues concerning elder abuse in New South Wales (NSW). This process elicited valuable evidence to inform our submission and our recommendations to the NSW Government.

Please do not hesitate to contact me for further discussion about ACN's submission.

Yours sincerely

Adjunct Professor Kylie Ward FACN
Chief Executive Officer

Jnd December 2015



ACN

***ACN submission to the General Purpose
Standing Committee No. 2 Inquiry into
Elder Abuse in NSW***

ACN submission to the General Purpose Standing Committee No. 2 Inquiry into Elder Abuse in NSW

Introductory Comments

In this submission the Australian College of Nursing (ACN) proposes policy strategies that may improve the prevention and detection of elder abuse as well as enhance the support for victims of this abuse. ACN's feedback is based on information we received from many of our members who are either experts on issues of ageing or have experience of working in health and aged care in NSW. Further, ACN searched the research literature on elder abuse. ACN recommends following actions to the NSW Government for the effective prevention and detection of and action on elder abuse:

- Development of a comprehensive statewide regulatory framework for preventing, detecting and responding to elder abuse. Such a framework would facilitate more cohesive and stronger protections for older people in NSW than the *NSW interagency policy: Preventing and responding to abuse of older people*. Child protection legislation may provide a useful blueprint for the development of such a regulatory framework.
- Development of a comprehensive statewide regulatory framework for preventing, detecting and responding to elder abuse should aspire to harmonise with relevant regulations of other jurisdictions where these are considered to offer effective protection.
- Creation of a single authority dedicated to the prevention, investigation of and intervention in elder abuse. This authority should be well publicized and offer people concerned about or affected by elder abuse a clear, one stop portal to get in touch with relevant services.
- Expansion of mandated reporting of suspected and actual elder abuse by aged care workers, health professionals and community workers beyond the residential aged care sector. Mandatory reporting would improve the detection of and response to elder abuse.
- Expansion beyond the residential aged care setting the undertaking of mandated training of aged care workers, health professionals and community workers about the prevention and detection of and response to elder abuse. This training should take into account the multicultural nature of Australian society.
- The NSW government should support the development of a coordinated national approach to addressing elder abuse to streamline current protections and address service gaps.
- ACN believes that an all of community approach should be taken to elder abuse and that this approach should include statewide or national campaigns.
- The NSW Government may advocate with the Federal Government through appropriate bodies for the development of an international Convention on the Rights of Older People. Similarly to the United Nations Convention on the Rights of Children, this convention would frame for governments, their institutions and NGOs the key conditions to be met to ensure peoples' healthy ageing. In ACN's view such an international convention may contribute to the prevention of elder abuse, for example through articulating fundamental rights such as older peoples' right to secure housing.

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

Research into the prevalence of all types of elder abuse in the community setting in Australia suggest an average rate of 4.6 per cent.¹ However, other research findings suggest that elder abuse remains a largely hidden phenomenon in Australia.²³⁴ ACN members suspect a high level of underreporting of elder abuse. In members' perception the prevalence of abuse of older people in NSW is considered to be higher than the reported rates. ACN believes that legislated mandatory reporting of suspected elder abuse in NSW for community workers, aged care workers and health care professionals would improve the reliability of data. The development of such mandatory reporting legislation may use as a blueprint the legislation mandating the reporting of suspected child abuse.

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

Most common forms of abuse experienced by older people

Anecdotal feedback from ACN members experienced in working with older people suggests that a broad range of abuse is perpetrated in health and formal and informal care settings in NSW. The range of abuse ACN members describe is similar to the range reported on the NSW Elder Abuse Helpline and Resource unit website.⁵ Forms of abuse reported included a wide variety of psychological, physical, sexual and financial abuse.

Individuals who live with a transgender identity can be subject to forms of abuse specific to their transgendered status. For example, ACN was advised of a form of elder abuse which may occur when transgendered older peoples' preferred gender is not acknowledged on their death and burial. In this form of abuse transgendered individuals are buried under the gender they abandoned when they undertook gender change to take on their preferred gender.

Neglect was a strong theme in the ACN member feedback on elder abuse within NSW care settings. Two specific groups of older people were identified by ACN members as most likely to suffer abuse in the form of neglect: those with a declining mental capacity and those living isolated lives in the community. A special form of neglect constitutes the ready, apathetic and repeated withholding of care based on the older person's right to refuse care without making any effort to encourage the older person to accept the care. Some examples cited by members identify neglect occurring because staff or carers readily utilise their care recipient's right to refuse care to withhold this without making any effort to persuade the older person that accepting the care is important and to his or her benefit. For example, a care recipient may refuse support with activities of daily living including meals or reject incontinence care.

¹Clare, M, Black Blundell, B, Clare, J 2011, Examination into extent of elder abuse in Western Australia. A qualitative and quantitative investigation of existing data. University of Western Australia.

Kurrle, S & Naughtin, G 2008, 'An overview of elder abuse and neglect in Australia', *Journal of Elder Abuse and Neglect*, vol. 20, no. 2, pp. 108-125.

² Cairns J & Vreugdenhil A 2013, 'Working at the frontline in cases of elder abuse: It keeps me awake at night', *Australasian Journal on Ageing*, vol. 33, no. 2, pp. 59-62.

³ Lacey, W 2014, 'Neglectful to the Point of Cruelty? Elder Abuse and the Rights of Older Persons in Australia' *Sydney Law Review*, vol. 36, no. 1, pp. 99-130.

⁴ Weirs, D & Chittick, M 2006, 'Case Study, Elder Abuse – a hidden form of familial violence', *ACCNS Journal for Community Nurses*, vol. 11, no. 1, pp. 9-10.

⁵ NSW Government 2014, NSW elder abuse helpline & resources unit, <http://www.elderabusehelpline.com.au>. Accessed: 25 November 2015

Other examples of abuse members expressed concern about is overt abuse such as the use of excessive force or physical restraint in the delivery of care. Evidence suggests the prevalence of physical restraint to be reasonably high, ranging from 12-49%.⁶ ACN supports the alternatives to restraint listed in the 2012 *Behaviour management a guide to good practice: managing behavior and psychological symptoms*.⁷ In particular ACN points to the importance of a person-centred approach to care, older people with behavioural and psychological symptoms being familiar with the staff caring for them, and that staff are available in appropriate numbers and with the right skill mix.

Most common relationships or settings

Perpetrators of elder abuse include a wider range of relationships with the victim including family members, health care workers and other care recipients and may occur in a person's home, residential aged care or hospital facilities. Members also suggested that neglect by carers may be more likely in situations of social isolation. While carers employed through health or community services may potentially be perpetrators of neglect, the regulatory framework within which these organisations function do also offer some protection for older people who are living isolated lives in their private homes. Without contact with service agencies, isolated peoples' situation of abuse is likely to remain unknown. The introduction of mandatory reporting of elder abuse by community and aged care workers and health professionals may result in important protection for older people living by themselves in their private residences.

ACN members' experiences identified the older person's private home as the likely setting for financial abuse by family members, informal and/or formal carers. Members also identified financial abuse as one of the most common forms of abuse. Research in relation to other jurisdictions confirms this observation⁸. ACN members reported some financial abuse to be indirect such as inappropriately accepting items an older person gives away. Other situations described by members involve more overt financial abuse such as carers or staff using the care recipient's funds to purchase items, withdrawing the care recipient's money for themselves when shopping with or on behalf of an older person.

Members also suggested that in all care settings a lack of care staff with appropriate experience and/or training may result care of such low quality that it results in neglect or abuse. Care staff of all levels of training may require additional supervision and or support to meet the requirements of the older people in their care. For example registered nurses may be insufficiently inexperienced to effectively supervise the provision of care delivered by assistants in nursing in the sector. Or care workers with little or no training and working under conditions of insufficient supervision can deliver care that results in unintended elder abuse. These care workers may find themselves ill-equipped to provide the complex care many older people with co-morbidities and/or cognitive impairment require. Neglect through the provision of inadequate or inappropriate care to vulnerable older people, particularly those who are unable advocate for themselves, can result in poor and potentially catastrophic outcomes and represent a concerning form of elder abuse. ACN suggests that the deployment of appropriately trained and supported care staff in all care settings would prevent this form of

⁶ Alzheimer's Australia, 2014, 'The use of restraints and psychotropic medications in people with dementia'. A report for Alzheimer's Australia Paper 38 March 2014.

⁷ Burns, K, Jayasinha, R, Tsang, R, Brodaty, H, 2012, 'Behaviour management a guide to good practice: managing behavior and psychological symptoms' DRC and DBMAS Commonwealth, Canberra. http://dementiaresearch.com.au/images/dcrc/output-files/328-2012_dbmas_bpsd_guidelines_guide.pdf. Accessed 30 November 2015.

⁸ Cairns & Vreugdenhil, op. cit., p. 59

elder abuse. Research is required to identify the right mix of staff expertise to prevent care losing quality to such a degree that it turns to neglect and/or other forms of abuse.

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

ACN members indicated that health professionals and aged care workers across the health and aged care sectors need better support services to deal with situations involving elder abuse. Members' feedback suggested that current services are not providing the level of support needed to guide health professionals' and care and workers' responses to the wide and complex variety of elder abuse they encounter. Further, many cases of abuse are assessed by police as not requiring police involvement. ACN is of the view that a single authority dedicated to the prevention, investigation of and intervention in elder abuse is required. Such an authority should be well publicized and offer people who are concerned about elder abuse a clear, one stop portal where to get in touch with relevant services.

Most importantly, elder abuse services should support victims of elder abuse. Such services should appropriately support the decision making of older people in safe environments away from the perpetrators of the abuse. They should also empower older people to develop self-management and safe-living strategies and to make choices by explaining to victims the options on offer.

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

Our members considered the collaboration between NSW Police and the Elder Abuse Helpline/Resource unit to be effective, resulting in increased access to elder abuse supports and mobilization of resources to address the situation. However, the majority of feedback garnered from the ACN membership broadly supports the view that the NSW Police Force demonstrate limited capacity to respond to allegations of elder abuse. In members' experiences the powers of the NSW Police Force are difficult to apply in situations where accounts of events are contradictory or where a person's mental capacity to report abuse can be difficult to prove. It was commonly understood by members that police engagement was unlikely if very strong evidence such as physical injury is absent. Members' experiences led them to the perception that elder abuse is not a priority within the NSW Police Force. Members also perceive police to currently lack the time and expertise to appropriately and adequately respond to allegations of elder abuse.

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

A number of issues constrain the reporting of elder abuse. Limited community awareness of the issue, some older people living in social isolation and a lack of training for health professionals and care and community workers all contribute to cases of elder abuse going unreported.

Limited community awareness of elder abuse

An Australian study indicates that a community lack of understanding of how to recognize elder abuse is likely to contribute to its underreporting.⁹ ACN members' comments support this finding. Members further observed that the physical and mental fragility of the affected population, older peoples' reluctance to report for fear of repercussions and a general lack a knowledge about available support services are other key reasons for the suspected underreporting of elder abuse in NSW. The literature on elder abuse confirms ACN members' perceptions about the reasons for the underreporting of elder abuse¹⁰. Further, in the services sectors and in the general community uncertainty about what constitutes abuse and how to report it constitute further constraints to elder abuse being more readily reported and appropriately addressed.¹¹

Social isolation

The lack of social visibility and isolation of older people also presents constraints to elder abuse detection and reporting.¹² Disconnection from the community can mean a person is also disconnected from social, health and aged care services and other forms of monitoring of their wellbeing, such as through neighbours, friends or family. This social isolation can increase the risk of abuse, neglect and exploitation for some vulnerable older people.

Need for professional support and training across health and aged care settings

Researchers point to increased professional awareness and skills development within the health workforce when considering how to address barriers to reporting and delivering effective responses in formal care settings.

In residential aged care settings, ACN members raised that staff inadequately trained in recognizing and reporting elder abuse and low level English language skills as creating barriers to reporting abuse. These concerns support the need for mandated minimum training requirements for elder abuse prevention, detection and response for all aged care and community workers and health professionals. ACN recommends that such minimum requirements be thoroughly examined as part of a broader impetus to improve community and industry understanding of the prevalence and nature of elder abuse.

A further strategy to address reporting constraints would be that service management strengthens its support and engagement for staff who detect and report elder abuse. Reporting staff should not be left to carry the responsibility for reporting and addressing abuse unsupported. Clear processes and good supports are likely to encourage staff to respond to and elevate concerns about elder abuse.¹³ These research findings align with commentary from ACN members who report that, despite their duty of care, some health care workers, including social workers, are reluctant to get involved in cases of elder abuse for the above reasons. Improved training and managerial supports are required across health and aged care settings to ensure staff have the confidence and support to full-fill

⁹ Joubert, L & Posenelli, S 2009 'Responding to a "window of opportunity" the detection and management of aged abuse in an acute and subacute health care setting', *Social Work in Health Care*, vol. 48, no. 7, pp. 702-714.

¹⁰ Ibid; Sandmoe, A, Kirkevold, M, & Ballantyne, A 2011 'Challenges in handling elder abuse in community care: An exploration study among nurses and care coordinators', *Journal of Clinical Nursing*, vol. 20, no. 23-24, pp. 3351-3363.

¹¹ Joubert & Posenelli, op. cit.

¹² Lacey, op. cit.

¹³ Joubert & Posenelli, op. cit.; Sandmoe, Kirkevold & Ballantyne, op. cit.

their duty of care. The introduction of mandated reporting of elder abuse by aged care workers and health professionals is likely to trigger the development of clear avenues for the reporting of elder abuse and management processes that support reporting staff.

Registered nurse leadership in residential aged care

ACN supports the requirement under s104 of the Public Health Act 2010 to have a registered nurse (RN) on duty at all times in a nursing home. ACN further believes that this requirement may contribute to the prevention of elder abuse and improve the rate of reporting in this setting. The availability of a RN at all times provides in-house expertise in nursing homes to facilitate and manage the health and well-being needs of care recipients. This is of particular importance when considering residents who suffer dementia and whose behavioural management requires expertise. The inexpert management of residents with dementia would expose these residents to the danger of abuse. Legislation requiring nursing homes to have a RN on duty in the nursing home at all times and a RN appointed as a director of nursing of the nursing home, is a key protection measure in NSW for frail aged people living in residential aged care facilities. The removal of these two legislated requirements has the potential to put nursing home residents' health and welfare at risk should facilities opt to reduce formal leadership by directors of nursing and the number of RNs' who deliver and oversee the care provided to residents.

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

Elder care advocacy services should be broadly available and easily accessible. Elder advocacy services should include the delivery of easily available courses for older people. These courses should educate people on the measures they can put into place to protect themselves from abuse, how to detect abuse and what action to take to stop the abuse.

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

Feedback from ACN members who work with older people indicates that they were unaware of the *2014 Interagency Policy Preventing and Responding to Abuse of Older People (the Interagency Policy)*. In fact, one of our members provided following feedback "I have worked in aged care since 1989 and the last 4 years for the Department of Health & Ageing and I have never heard of this policy!" However, TARS The Aged Care Rights Services, was recognized as providing effective assistance to people in NSW, but community awareness of its existence is considered to be low.

ACN members identified problems with the effectiveness of NSW laws, policy, services and strategies relating to elder abuse as in their view the level of service access by victims of elder abuse remains very low, particularly among socially isolated groups. Members suggested that the reason for this is that people do not know where to seek assistance and/or fear the consequences to accessing support services. In members experience cases of elder abuse are often not detected until a victim presents to an emergency department.

Feedback from ACN members indicated general frustration and some level of confusion caused by the limited availability of services that provide elder abuse interventions in NSW including with the police, allied health services, Legal Aid, and the Public Guardian. The broad perception is that police powers are inadequate particularly in relation to financial abuse and that the processes of the Public Guardian are problematically slow.

Members report access to service supports to be variable across regions including access to community social workers and aged care advocates. ACN members stated that the key service agencies and health and aged care workers access the NSW Public Guardian and social worker services to report elder abuse. Members stated that often a range of services needs to be accessed to ensure older people are counseled and supported as their claims are processed. It has been noted that social working services are significantly lacking in some areas and are not always available to support older people with their applications to the NSW Public Guardian.

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

ACN proposes that the measures listed below may constitute an effective response to elder abuse at a time when the percentage of older people in the population increases:

- Development of a comprehensive statewide regulatory framework for preventing, detecting and responding to elder abuse. Such a framework would facilitate more cohesive and stronger protections for older people in NSW than the *NSW interagency policy: Preventing and responding to abuse of older people*. Child protection legislation may provide a useful blueprint for the development of such a regulatory framework.
- Development of a comprehensive statewide regulatory framework for preventing, detecting and responding to elder abuse should aspire to harmonise with relevant regulations of other jurisdictions where these are considered to offer effective protection.
- Creation of a single authority dedicated to the prevention, investigation of and intervention in elder abuse. This authority should be well publicized and offer people concerned about or affected by elder abuse a clear, one stop portal to get in touch with relevant services.
- Expansion of mandated reporting of suspected and actual elder abuse by aged care workers, health professionals and community workers beyond the residential aged care sector. Mandatory reporting would improve the detection of and response to elder abuse.
- Expansion beyond the residential aged care setting the undertaking of mandated training of aged care workers, health professionals and community workers about the prevention and detection of and response to elder abuse. This training should take into account the multicultural nature of Australian society.
- The NSW government should support the development of a coordinated national approach to addressing elder abuse to streamline current protections and address service gaps.
- ACN believes that an all of community approach should be taken to elder abuse and that this approach should include statewide or national campaigns.
- The NSW Government may advocate with the Federal Government through appropriate bodies for the development of an international Convention on the Rights of Older People. Similarly to the United Nations Convention on the Rights of Children, this convention would frame for governments, their institutions and NGOs the key conditions to be met to ensure peoples' healthy ageing. In ACN's view such an international convention may contribute to the prevention of elder abuse, for example through articulating fundamental rights such as older peoples' right to secure housing.

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

ACN's members made following proposals for the enhancement of existing strategies for safeguarding older persons who may be vulnerable to abuse:

- A greater emphasis on elder abuse screening on contact with health and community services alongside the development of a NSW elder abuse screening and response tools for use by frontline workers across the health, social care and aged care sectors.
- Regionally based elder abuse police taskforces with requisite skills be made available in NSW to fully investigate and prosecute elder abuse concerns.
- Elder Abuse Prevention Networks are informal and formal networks of health and social professionals who use these networks to share expertise, and exchange ideas on service improvement and development. Modeled on the existing Mental Health Professionals' Network the existing networks should be expanded to increase the skills and knowledge of health, aged care workers and community workers from all sectors. An option may be to host these networks under the umbrella of the Primary Health Networks.
- The establishment of peer support groups to provide social support and connections for people who have been or may be experiencing abuse. One role of such community group would be the rapid identification of abuse and activation of services. For example, Action on Elder Abuse (AEA) in the United Kingdom states that it provides a community service by forming *"local groups of older people who are concerned about elder abuse and who want to practically assist in challenging and addressing this important issue within their areas. This is a very practical way in which you can challenge elder abuse in your community and do something meaningful to help victims of abuse to recover and survive the effects of their experiences. Volunteers can help as 'buddies' to older victims, help with driving or administration or fundraising."*¹⁴
- Community outreach programs for isolated older people and their carers that promote social inclusion may be effective in the prevention and detection of and intervention in elder abuse.
- Enhanced service integration with Australian Government Aged Care Assessment Teams (ACAT) to specifically improve elder abuse prevention, detection and response. ACATs have a broad reach undertaking assessments of older people in a wide range of settings. As advocates and supports for older people, there may be untapped potential for collaboration between NSW health and community services and ACAT services to develop integrated strategies for elder abuse screening and response.

¹⁴ Action on Elder Abuse 2015,

<http://www.elderabuse.org.uk>. Accessed: 27 November 2015