

**Submission  
No 114**

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

**Name:** Name Suppressed  
**Date received:** 15/03/2016

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*Partially Confidential*

# Daughters SUBMISSION TO PARLIAMENTARY INQUIRY INTO ELDERLY ABUSE

Prepared by: Daughter – daughter of abuse victim - My mother

## Summary

My mother, deceased, January 2016, aged 81 years, was subject to both physical and psychological abuse by her husband, my father, during the whole of her married life (from 1955). This was obvious to me, her daughter, from a very early age. I first became aware of her husband's abuse when I was 5 years old. I remember his tirade against my mother when she discovered one of his extra-marital affairs. His abuse was particularly disturbing for my mother, and me, in the latter years of her life when advanced dementia robbed her of the capacity to defend herself or to understand important life-changing decisions. Her incapacity left her vulnerable to coercion. She was required to comply with decisions made by her husband that directly conflicted with her health care needs and her express wishes in matters where she had made clear and thoughtful decisions prior to dementia. She was required to present herself as though she had made these decisions herself and, in the main, this was successful for her husband. Most importantly to her, she was denied crucial health care and was made to sell her house (then in Tenants in Common) and move away from her family that she loved dearly. Before she moved she was denied access to her local family members. Her husband denied me any access at all to my mother, including by telephone, for 4 months and very limited access for 3 years.

Her life was shortened, her living conditions were a disgrace. Those people who did care about her were prevented from helping by her husband, a man with a severe genetic personality disorder, and a string of other people – a doctor, a solicitor, a real estate agent, a property conveyancer and the Land and Property Information NSW. Proof of mum's advanced dementia was given to all these people and yet they acted against her best interests to support the objectives of her husband. Nowhere could I turn to get help to stop the callous and dishonest behaviour by my father. My mother suffered. My father succeeded and he will continue to use fraudulent POA, EG and Will documents for his own benefit and, as before, he will likely not be stopped.

I turned for help for my mother's health issues with:-

- Aged Care Team. They assessed her as being high care but her husband refused to accept any services for her.
- Her doctor, a local general practitioner. Assistance was provided but her husband refused to supervise or administer the prescribed medications and moved her to another doctor of his choice.
- The new doctor oversaw a deterioration in my mother's health. Inadequate medications were provided and free (to my mother) podiatry was stopped by her husband after the first of five free visits even though ongoing podiatry treatment was essential. This doctor did not pursue the matter. Lack of care at this time was a major contributor to her early hospitalisation and death. This doctor claimed my mother was of sound mind some 9 months after a specialist geriatrician diagnosed her with severe dementia. This doctor insisted he was providing adequate care despite evidence to the contrary.
- Health Complaints Commission conducted a cursory investigation and concluded in favour of the treating doctor despite evidence to the contrary.
- The police. My mother was neglected. She was living in unsanitary conditions and not receiving the necessary medications. The police refused to check on her wellbeing. My

attempts to contact her were all blocked. Her mobile phones were destroyed. The landline would not be answered. The door would not be answered.

The local Police Domestic Violence Liaison Officer was on annual leave and did not have a relief. By the time he returned from leave Mum had moved house and area.

- TARS – The aged care rights service who advised me to go see a solicitor.
- Mid North Coast Community Legal Centre advised me to go see a solicitor.
- Elder abuse hotline said they did not have the jurisdiction to act or intervene.

My mother often said she wanted to spend the rest of her life in her/their own house, where she would be near her family members that she had the strongest connection with. Her husband, decided he wanted to sell the house (a few months before my mother's death). This was a sad situation for her and her family. To help her I turned for help to:-

- The local magistrate who knew the background. He offered some advice but had already armed my father with an invalid revocation of my Power of Attorney following a visit to his office by my mother, her husband and my brother. A convincing story must have been presented. My mother already was diagnosed as severely demented but said she had been told what to say prior to the meeting. This was a key document used by my father in the pursuit of his own interests.
- My father's solicitor – not interested in the facts and proceeded unimpeded by ethics.
- My father's real estate agent – not interested in the facts and proceeded unimpeded by ethics.
- My father's property conveyancer – not interested in the facts and proceeded unimpeded by ethics.

## **Background**

Mum was born in the UK in 1934. She married in 1955 and moved to Australia in 1970s with her immediate family - husband and 2 children.

Mum stated that the move to Australia was initiated by her husband and she said that this move was his way to avoid some of the consequences of his extra-marital affairs (including a child).

Mum came from a close-knit family, all of whom, were aware of her husband's serial infidelity and personality disorder. After moving to Australia his extra-marital affairs continued as did the verbal abuse and aggressive behaviour towards my mother.

I was mum's main support person during these times and we had a very close relationship during our lives together. In 1998 Mum signed a General Power of Attorney and Guardian and wanted me to undertake these responsibilities. I agreed. Mum also made a Will because her property title was "Tenants in Common". It was important to her to have her own Will because her only significant asset was her share of the house. She said repeatedly that she had paid for the whole of the house while her husband spent his income (and regularly the house payment money she gave him) on his own non-family lifestyle. The details of her Will state that her 50% share of her property will be left equally to my brother and me. The Will does not suggest that the property needed to be sold to satisfy this. The executors of this will are my brother and me. Throughout her life I always accompanied her to medical appointments while her husband and son always had more important things to do until the last 2 years of her life.

The main issue for me was that my mum was becoming increasingly ill and there was no concern for her health and wellbeing by her husband or her son. They were doing their best to prevent me having any contact with my mother and it was increasingly difficult for me to assess her health situation.

### **Chronology and Details of Abuse**

- 2011 Mum upgraded her attorney and guardian documents on the advice of the local magistrate. She again asked me to fulfil the roles required under new Enduring Power of Attorney and Enduring Guardian documents. These documents were lodged with Land and Property NSW should there be a need to act in future.
- 2011 Mum was pressured by husband into signing documents for a reverse mortgage on her property. She signed these documents so that her husband would stop the constant coercion by her husband. He told her that they would have more money. She did not understand what she was signing. She had no comprehension that she would no longer have full ownership of her house.
- 2011 Mum's husband continued to spend beyond his income. Some expenditure she did know about (expensive golf equipment, computer and camera equipment, expensive internet and phone connections) but she often said he is secretive about most of his expenditures and wondered where the money was going. She was treated with contempt if she asked questions.
- Late 2011- early 2012. Mum has many admissions into hospital with many urinary tract infections that should have improved with medication but did so only for short periods. It appeared that medications were not being administered as directed by her GP. This condition causes confusion and disorientation. This was obvious for months at a time. Her dementia is also becoming apparent but her husband refuses to take her for medical attention or diagnosis.
- March 2012. Mum withdraws \$6000 from her own private account (her life's savings) and moves it to another account to keep aside for her funeral. She does not want her husband to know of this account or have access to her money. Her husband has been intercepting her bank statements and regards her money as being his.
- July 2012. Father, brother and niece took mum to the bank to speak to the manager. Mum is pressured at the bank by her husband to tell him where her funeral money had been transferred to. Mum did not do this. She later told me she was embarrassed in front of her granddaughter. Her husband persisted and turned his attention to the bank manager for an answers about mum's private bank account, i.e. the new account with the \$6000. The manager acted according to the bank's privacy policy and would not release the money to him or give him further details. Brother and father then became abusive and threatened bank staff and made threats against me. Bank manager told them that all transactions were above board and nobody acted out of line. Bank staff asked them to leave their premises and then reported the incident to local police. Local police contacted me and offered their assistance if needed.
- August 2012. Father, brother and niece took mum to local court house and asked court registrar to witness revocation of my Power of Attorney from 2011 and to get her to make my brother her new POA. Mum then signed the revocation document but immediately after signing is regarded by the magistrate as being unable to sign a new Power of Attorney due to

lack of capacity. (The revocation document is deemed invalid due to this.) The court registrar is not able to retrieve the signed revocation document from my father who left the court house with this document.

- August 2012. Mum is under constant pressure from her husband regarding her funeral money. He constantly requires her to tell him where she put the money until she eventually transfers her money to their joint account that he controls. Mum said she was under so much pressure, verbal abuse and threats that she had to transfer her funeral money into the joint account to get some peace.
- August 2012. Two weeks after revocation document was signed by mum. Mum diagnosed with dementia by a specialist geriatrician who states in a letter 'her dementia is of severity such that she does not have the capacity to revoke or change her Power of Attorney or Enduring Guardianship'. 'Any new paperwork signed around the time of my review, or after my review on 14 August 2012 would also be invalid'.  
The geriatrician also states 'I have been informed that the local magistrate would not accept orders for Power of Attorney and Enduring Guardianship around this time as my Mother did not comprehend what she was signing'.  
Geriatrician also notes that "husband does all the talking and wife looks to husband for answers" and that the husband stated to geriatrician that he believes mum has dementia.
- August 2012. Husband changes mums GP. Mum's health is noticeably declining. Obvious health problems are not being managed to improve her health.
- August 2012. Geriatrician writes to Diabetic Nurse Educator and suggests diabetes education for mum and her husband. The purpose of the education session was to inform my father of the importance of podiatry treatment for mum that he was refusing to allow. He continued to refuse treatment for her.
- May 2013. My father was still furious that mum had made me her POA and Enduring Guardian and that he has, so far, been unable to get his son in control of mum's (meagre) assets.
- May 2013. Mum is distressed about the constant requests from husband for her to sign **more** documents. Again she is being asked to sign for Power of Attorney, Guardian and Will. She states many times to her husband that she cannot sign as she has dementia and the doctor has said that she should not sign anything. Mum asks her husband to stop the constant nagging and advises him that her blood pressure rises and makes her feel very ill when he does this. Her husband constantly tells her that he wants his son in charge. Mum answers no to this and looks to me for help. She asked me to make a voice recording of statements which I did.
- May 2013. Mum said she remembers visiting Solicitors in town when we were walking past their office but could not remember why. She decided to go into their office and ask. The secretary quickly went into another office and telephoned mum's husband. The secretary then explained to my mother that they had prepared documents for mum to sign. Mum asked about the documents and also said that she could not sign anything as she had 'this dementia thing'. We left the office and I took mum home. She later told me she was abused verbally for hours by her husband.
- May 2013. I telephoned the Local Court Magistrate who advised me to put Solicitor on notice that my father and brother had tried to achieve control over my mother's health and financial affairs through the Local Court House and are now trying back door tactics with full knowledge that mum has severe dementia. I notified Solicitor via fax message and they

promptly cancelled the appointment with my father and brother where new documents were to be signed by mum.

- May 2013. My father and brother tell mum that if I try to stop her signing these new documents, they will make my life difficult and complain to my place of work and I will lose my job. Mum is very worried about these statements and is intimidated by them but this is of no concern to them and they do later carry-out their threat against me.
- May 2013. Mum makes many voice recordings because she wants her wishes to be known. She said she is under constant pressure including threats from husband and son to sign **more** documents. Mum states that she already has her own Will (1998) and she wishes this to remain as her valid Will.
- June 2013. Husband states frequently that his wife does not have dementia and she is capable of signing documents. To suite his own objectives, he makes this claim to the local magistrate, to the bank staff and to his solicitor (and later to his property conveyancer). Note: Mum's husband wants her to sign new Will to ensure he receives total assets. He is confident that she will decease before him and has mentioned to me that high insulin dosage can be fatal.
- June 22, 2013. Father and brother arrange with local Solicitors in town for mum to sign for a Power of Attorney, Enduring Guardian and Will. Mum signs these documents. Her dementia would have been obvious to all. This is ignored by the solicitor. Note: **Solicitors** office has three flights of outdoor stairs leading up to their office. My mum could not have negotiated these stairs due to her leg and foot problems.
- July 2013. Mum states that she cannot remember signing any documents with **Solicitors** or with her husband and son. She cannot remember ever going to a solicitor's office.
- October 2013. Referral from **Dr GP** and GPs wife (practice nurse) asking for an aged care assessment for mum. A note typed by Doctors wife, states that mum is not compliant and refuses medical and nursing advice. Drs Wife also states that my mother and father are paranoid about their privacy because I work in this system and she said they want nothing to do with me. It is clear that my father would have been instrumental in details provided in this note. My mother stated often that she did not like attending Dr GPs surgery as his wife often barged in during appointments and there was no privacy or professionalism considered. My mother's referral was processed at my place of work by other personnel. I **did** read the referral both for work reasons and for concern about my mother. I was also her Enduring Power of Attorney and Enduring Guardian. The poor level of professionalism displayed in the referral by this GP and his wife was extremely disappointing to me and other staff involved in processing the referral through Aged Care Services.
- November 2013. Aged Care Assessment completed by local Aged Care Team. The assessment was approved for **high level** of care. This assessment was acknowledged and then signed by mum's husband. He signed the document on behalf of mum because he said his wife has dementia.
- November 2013. Aged Care Assessment mailed out and is received by husband and then forwarded to son.
- November 2013. My father escalates his attacks on me to stop my involvement with mum's health and financial affairs. His son notices that emergency contact phone number on Aged Care Assessment belongs to me and complains to Aged Care Department. Father and son write to Privacy Ombudsman and complain further. That is, carried out threat made by them in May-June 2013. (This drive to destroy people who challenge his dominance is symptomatic of his type of genetic personality disorder.)

- Privacy Ombudsman wrote to my place of work.  
A workplace investigation took place where I was accused of breaching workplace policy and procedure by accessing my mother's records. I attended a recorded interview and was treated as though I was guilty and made to feel under threat of losing my job over a period of months.  
Initially, my work place did not research their own policies correctly and promptly ended their investigation when they realised that I was actually an authorised contact person for my mother. I am also her Enduring Power of Attorney and Enduring Guardian and this enables me to have my contact details listed without question. I also note that I gave my contact details to the NSW health system in 2010 as mum requested. She knew I was the only person in her immediate family who cared about her.
- November 2013. Mum is still being denied health services by husband and son. She desperately needs podiatry. She is diabetic and has "diabetic legs", oedema feet and infected toe nails. She is barely able to walk.

2014 – early 2015. My access to mum was severely restricted and controlled by her husband. Mum is still being denied services and her health condition is deteriorating. She is finding it very hard to go out of the house. She is now only rarely allowed to go out for short outings (for coffee) with me and then only when my father is with her. These outings are always tense with my father monitoring everything that is said.

April 2015. Mum could only walk 3 metres. I noticed that her right leg and foot were extremely swollen. I asked her if she would mind if I made an appointment with a specialist and try to help this problem. Mum consented. When I returned to work the next day I mentioned my mum's problem to an Aged Care Nurse Practitioner and showed her a photograph that I had taken the previous day. The Aged Care Nurse Practitioner then showed the photo to the Podiatrist who said that mum needed urgent intervention. The Aged Care Nurse practitioner then telephoned the GP surgery of Dr GP and spoke to his wife and asked if they could arrange for an x-ray as my mother had severe swelling of her foot and leg. Drs Wife advised the Aged Care Nurse Practitioner that my brother had stated that I was to have nothing to do with my mother's health care. Drs Wife then telephoned my father and said that "I was interfering again". My father then became abusive toward me, further denying me contact with my mother. My brother complained to Aged Care and stated that the photograph provided of my mother's leg and foot was fake. My brother threatened the Aged Care Nurse Practitioner and said that he would make sure that she would lose her job. My mother's problem was ignored by her husband and son and her doctor and I could not get help for mum.

- June 2015. My father decides to sell their house and buy one in a low cost area so that he can have additional money at his disposal. Documents regarding my mother's dementia diagnosis were again sent to his solicitor.
- June, 2015. Land and Property are again alerted to my father's impending corrupt activities. Previously advised in 2013 and later advised in August, September, and October 2015. Copies of geriatrician letters were forwarded. Land and Property later advised "they are not there to police these issues" and if the transfer documents were completed correctly they would be registered. LPI acknowledged that I had made representations that my mother was incapacitated, relying on a medical report from 2012 (specialist geriatricians report – qualified to determine dementia). I lodged a caveat on my mother's share of the property to try to get my father to reconsider the sale of their house. He ignored this and proceeded. LPI

advised that they received an application for a lapsing notice **signed by my mother. LPI contacted the solicitor and conveyancer employed by my father to ask their opinion on mum's capacity.** Of course, they said everything is good. LPI received a note dated in 2013 from mum's treating GP, I (a general practitioner – not qualified to determine dementia) stating that my mother had capacity to make decisions regarding the management of her affairs. I have been advised that a medical report with the latest date is the one the LPI will act on. In this case the LPI gave credence to a note from a GP unqualified to give an opinion on dementia over a qualified geriatrician who gave a diagnosis of severe dementia more than a year earlier. Unfortunately dementia is not reversible.

- August 2015. I wrote to the real estate agent, \_\_\_\_\_, several times and I offered to view contract of sale documents on behalf of my mother. They ignored me. I sent them proof of mum's dementia. They ignored that.
- September 2015. The solicitor who assisted my father to produce a fraudulent Enduring Power Attorney, a fraudulent Enduring Guardian and a fraudulent Will is acting for my father in relation to his/mum's house sale. This solicitor ignored mum's geriatrician report. He proceeded to use the invalid documents he generated and then claimed my mother was capable of comprehending and signing property sale documents and property purchase documents that for the first time in her life allowed her husband to take full ownership of the new property after her death. Solicitor also wrote to me incorrectly claiming that property was held in Joint Tenants when it was actually held in Tenants in Common.
- September 2015. The conveyancer selected by my father, **local Conveyancer**, produced fraudulent property transfer documents that enabled the transfer of property from Tenants in Common to Joint Tenants which, of course, gave my father the benefit of my mother's share of the property following her (imminent) death. The conveyancer proceeded with the property transfer after being provided with valid documents that made clear my father's fraudulent intent and demonstrated that my mother had dementia and did not understand what she was signing. The conveyancer claimed my mother was capable of understanding the transfer documents. The conveyancer also lodged caveat documents on behalf of my brother to record a financial interest in the new property. My mother would not have understood this. The caveat still remains listed.
- September 2015. Father would not agree to involve aged care services for mum when they moved to the new house.
- September 30, 2015. Moved to new house . Mum only spent 10 days in new house.
- October 10, 2015. Mum hospitalised due to hypoglycaemia (hypo) attacks which she had never experienced before. The usual cause is insulin not administered or failure to administer correct dosage.
- October 10 & 11, 2015. Father advises me that mum is ok and she is in bed resting when she had actually been admitted into hospital on October 10.
- October 12, 2015. Hospital staff state that my mother does not wish to speak to me. Nursing staff will not provide any details to me on my mother's condition.
- October 14, 2015. Hospital Director of Care apologises to me when it is realised that my father and brother have asked nursing staff to prevent me from speaking to my mother.
- Blood tests reveal extremely low blood sugar levels
- October 20, 2015. Mum is assessed by another Geriatrician working in the hospital who agrees with the diagnosis of severe dementia made by the previous Geriatrician.



- October 30, 2015. Discharged from hospital to nursing home and deemed never to return to home due to severe dementia. My mother is traumatised by this and wants to go home, usually thinking her home is still the old house.
- November 15, 2015. Discharged from one nursing home and then taken to another nursing home. This was arranged by my father who did not consult with me regarding this move. My mother was traumatised again by this move. This nursing home is 130km from my home.
- December 22, 2015. NSW Guardianship hearing. Guardianship application lodged by local Aged Care team. Brother lodges last minute application to review my Enduring Power of Attorney and Enduring Guardian. Guardianship stated that this last minute application would not be considered and suggests to my brother that he withdraw his application or NSW Guardian would make financial management orders for my mother. Brother withdraws his application which then recognises my documents dated 2011 as valid. Guardianship state that provision is to be made for me to visit my mother at the nursing home regularly.
- December 23, 2015. Father visits nursing home next day and asks the manager if there is any way that I can be prevented from seeing my mother. The manager advises that she is aware of the Guardianship ruling and advises father that he would be advised of my visits so that he can arrange his visits another time.
- January 19, 2016 Hospitalised. Primary diagnosis: sepsis secondary to cellulitis (ulcerated leg and infected toes, extreme oedema, legs, feet and abdomen) Secondary diagnosis: Decompensated congestive heart failure.
- January 24, 2016. Mum died. Primary cause of death: Congestive cardiac failure Ischaemic heart disease, Lower gastrointestinal bleeding – Metastatic malignancy of unknown primary – unknown (never diagnosed) it was also noted that she had gangrenous toes on her right foot.
- The continued denial of podiatry and correct health care contributed to her death.
- Please note the **time frame** from **September** when my mother signed documents that she was supposed to have understood according to a Solicitor, Conveyancer and Land & Property, then becoming hospitalised in **October, severe dementia again diagnosed.**  
Timeframe: approx. 5 **weeks**

### **HOW CAN WE PREVENT ELDER ABUSE? My views:**

#### **Consistency across a very broad area is needed.**

NSW Police need to be more vigilant in elder abuse issues. They need to continually support elder abuse and ensure that their own staffing levels are adequate to manage this 24 hours a day.

Elder Abuse reporting agencies needs to have increased powers to assist these issues. They need to ensure their staffing levels will support the needs required.

Aged Care services need to have more powers when protecting elderly people against abuse.

Registration of Enduring Powers of Attorney and Enduring Guardian is needed.

Solicitors need to comply, be honest and transparent and need to register documents.

Solicitors need to be brought to attention and act honestly within the law. They are NOT an authority on specialist medical or capacity issues.

Conveyancers need to be brought to attention and act honestly within the law. They are NOT an authority on specialist medical or capacity issues.

Law Society NSW needs to revisit their advice to solicitors. They currently promote **“Techniques lawyers can use to enhance client’s capacity”** this document can be found via the Law Society of NSW website – “when a client’s capacity is in doubt”. This document does not promote transparency rather it appears to be suggesting that there are ways to increase a client’s capacity in order to justify the signing of documents.

Law Society NSW should be promoting guidelines for assessing competence for granting power of attorney under the heading “Referral for medical opinion or reports”. This states that a client’s general practitioner will usually be able to give a useful opinion! Also recognises that a Geriatrician should be consulted if the person is **aged** and has **memory** problems. Any medical reports relevant to the person’s capacity should be provided by the Geriatrician and should be considered by the solicitor.

**This is all about “getting it right” Solicitors should be transparent, trustworthy and honest.**

This was not demonstrated in my mother’s case. As mentioned the solicitor ignored a Geriatrician’s report.

Aged Care teams should issue Enduring Power Of Attorney and Enduring Guardian blank forms along with a pamphlet explaining that local courts can assist with completion.

We should encourage people to use their local court registrar as they are not money - motivated.

Local court registrars to be trained in dementia issues and release of document policy and guidelines.

Land and Property NSW need to respond appropriately when alerted to fraudulent behaviours and cease making decisions which outweigh their own capabilities.

The caveat system needs upgrading. It is a simple task to lodge a caveat with minimal costs involved. If the caveat is contested and the caveator does not wish to remove the caveat due to valid issues like “Dementia” an application to the Supreme Court for an extension of the caveat needs to be lodged under current rules. This is extremely costly and prevents most people from continuing even though they can demonstrate fraudulent behaviours.

The Supreme Court fee structure needs to reflect the needs of ordinary people. This process needs to be people friendly and not rely on ordinary people having to appoint costly and money motivated solicitors.

Dementia specific issues should be “fee free” when applying for caveat extensions via Supreme Court.

**a registration system for Enduring Powers of Attorney and Enduring Guardian.**

Other legal documents such as a will, medical alerts (specialist doctors i.e. geriatrician), funeral plans, could also be filed, should there be a need. Banks could also access this information. This type of registration system could be accessed by other government departments who need to correctly confirm details.

This will be aimed at protecting people and their loved ones and the documents they wish to put in place for their future management.

**I hope that we will see a registration system in this country that will protect people and the decisions they make. I especially hope that we will witness fewer cases of corrupt and fraudulent behaviours toward our elderly such as in my mother's case.**

**My mother was abused by her husband, son, her solicitor, conveyancer, real estate agent, Doctor GP and his Wife, Land and Property NSW. They all contributed to producing fraudulent documents.**

**I am very interested in providing support in this area.**

Thank you for your work with this inquiry.

Thank you for your interest in this story. I hope it will help our elderly.

Yours Sincerely,

Daughter

Reference:

Law Society of NSW "Guidelines for assessing competence for granting power of attorney" "Referral for medical opinion or reports". This states that a client's general practitioner will usually be able to give a useful opinion! Also recognises that a Geriatrician should be consulted if the person is aged and has memory problems and any medical reports relevant to the person's capacity should be considered.