

**Submission
No 2**

INQUIRY INTO INQUIRY INTO ELDER ABUSE IN NEW SOUTH WALES

Organisation: Seniors Rights Victoria

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The Director
General Purpose Standing Committee No. 2
Parliament House
Macquarie St
Sydney NSW 2000

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19 OCT 2015

GPSC's

28 September 2015

Dear Director,

Inquiry into elder abuse

As the key Victorian service addressing and responding to elder abuse, Seniors Rights Victoria applauds the establishment of an inquiry into elder abuse in New South Wales.

Elder abuse is a serious social and public health problem and a real and devastating family violence issue. This year, Seniors Rights Victoria actively participated in the State of Victoria's Royal Commission into Family Violence to bring attention to the largely hidden experiences of elder abuse victims and to recommend actions the Victorian Government should take to better safeguard older people. We are pleased to have the opportunity to share this information with the General Purpose Standing Committee No. 2 by enclosing with this letter a copy of our submission to the Royal Commission into Family Violence.

In addition to making a written submission, Seniors Rights Victoria participated in two days of public hearings of the Royal Commission into Family Violence. One session focused on financial abuse (the most common form of elder abuse experienced by clients of Seniors Rights Victoria, along with psychological or emotional abuse) and the other session was about diversity of experiences in family violence. Should you be interested, the transcript of these public hearings – including the evidence that was given by Seniors Rights Victoria – is available on the website of the Royal Commission into Family Violence: www.rcfv.com.au.

There is significant momentum at a national and State level on the topic of family violence. Seniors Rights Victoria believes that elder abuse should continue to be included in this broader conversation and for greater efforts to be made in cross-sectoral learning and collaboration. In addition, we recognise the potential benefits of Commonwealth-led initiatives and State and Territory cooperation in the area of elder

abuse. For example, public and professional awareness-raising, research on prevalence and effectiveness of prevention and intervention strategies, and the expansion of respectful relationships education to include elder abuse and the fostering of healthy intergenerational relationships, all lend themselves to cooperative action.

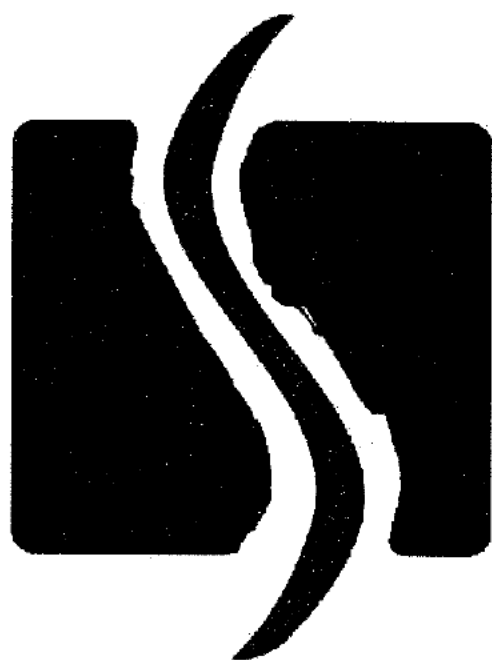
Seniors Rights Victoria is in contact with the NSW Elder Abuse Helpline and Resource Unit and TARS (the Aged-care Rights Service Inc. including Older Persons' Legal Service) and welcomes any opportunity to further engage with its New South Wales counterparts and with you about these or other matters relevant to the topic of elder abuse and protecting the rights and interests of older people.

Seniors Rights Victoria looks forward to following the progress on the inquiry into elder abuse and to the positive outcomes that will flow from it. Please does not hesitate to contact Cybele Stockley on [redacted] for further information or if Seniors Rights Victoria can provide any other assistance to the inquiry.

Yours sincerely,

Jenny Blakey
Manager

Enc.



Seniors Rights *Victoria*

Submission to the Royal Commission into Family Violence

June 2015

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'Peter' by Lillian Benfell

I am a man of 82 years
and for some reason I do not know,
I was placed into a Hostel for dementia
most high care and very few low.

I kept asking for my freedom
but my son kept saying no,
my frustration turned to anger
locked up, nowhere to go.

In my mind I could not understand
what it was all about,
that I had to wait for someone
to come and take me out.

I was like a fly
trapped in a spider web,
an ocean with a tide
that fails to ebb.

Words to a song that has no music
it can't be sung,
all of things going nowhere
and like my life never will.

No, that is not quite true
the spider will eat the fly,
the tide comes in and ebbs
as the day goes by.

Someone writes the music
to the song,
yesterdays are tomorrows
come and gone.

That can happen when SRV comes along
and helps you put things right when things go wrong,
and now I am back in my own house
the place where I belong.

Acronyms

Aged Care and Assessment Services	ACAS
Australian Bankers' Association	ABA
Australian Network for the Prevention of Elder Abuse	ANPEA
Culturally and linguistically diverse	CALD
Ethnic Communities' Council of Victoria	ECCV
Family Violence Intervention Order	IVO
National Ageing Research Institute	NARI
Office of the Public Advocate	OPA
Primary Care Partnerships	PCPs
Royal Australian College of General Practitioners	RACGP
Seniors Rights Victoria	SRV
Victorian Law Reform Commission	VLRC
World Health Organisation	WHO

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Executive Summary

Seniors Rights Victoria (SRV) welcomes the opportunity to make a submission to the Royal Commission into Family Violence (Commission).

SRV seeks to empower older Victorians so they can take steps to live in safety, with dignity and independence. SRV is the key statewide service that provides leadership across Victoria by addressing and responding to older people experiencing abuse – known as 'elder abuse'. Elder abuse includes physical, sexual, emotional or psychological, financial or social abuse and neglect. SRV operates a Helpline, provides legal and advocacy services to victims of elder abuse and undertakes community education.

Elder abuse is family violence when it occurs within the context of a family relationship and this is commonly the case. An analysis of SRV's Helpline data for a recent two year period showed that over 90% of alleged perpetrators were related to the older person, or in a de facto relationship, with two thirds of abuse being perpetrated by a son or daughter of the older person.

Elder abuse is not widely acknowledged by the public. Older people who seek help from SRV rarely identify themselves as victims of elder abuse or family violence. An important function of the Commission is to improve the general population's – including older people's – understanding of the range of unacceptable behaviours that constitute family violence. Greater understanding of elder abuse as a family violence issue will help empower older people to access help when needed. It will also help prevent the commencement or continuation of abuse by building awareness amongst family members who unwittingly commit elder abuse and increasing public shaming of those who act deliberately.

The purpose of this submission is to give voices to the many victims of elder abuse within families, to inform the Commission about what is being done both here and overseas and to suggest what more we should do in Victoria as a responsible and caring society intent on minimising violence in all its manifestations. Three real life stories of elder abuse in families are included in the submission to illustrate what elder abuse in families is and the destructive impact it has on victims' lives.

In Victoria, SRV believes that elder abuse can be effectively combated through existing frameworks but because of the intersection between family violence and ageing, policy making around elder abuse needs to be situated in the broader discussion about ageing and creating a society that respects the rights and needs of older people. As such, the Victorian Government must continue to take a whole-of-government approach to elder abuse.

Through vision and action, the Victorian Government has established a good foundation of expertise and resources in tackling elder abuse and there is great potential to build on it.

Summary of recommendations

SRV submits that the Royal Commission into Family Violence should recommend:

Policy framework

1. Continuing a whole-of-government approach to elder abuse led by cooperative efforts of the Minister for the Prevention of Family Violence and the Minister for Housing, Disability and Ageing.
2. Increasing the mandate and resources of the Commissioner for Senior Victorians to proactively engage in representing the rights and interests of victims of elder abuse.

Prevention of elder abuse

Awareness-raising and education

3. Funding a broad public awareness campaign that raises the profile of elder abuse in families and challenges ageist attitudes.
4. Increasing awareness-raising amongst senior Victorians in targeted ways.
5. The Victorian Government considers the expansion of respectful relationships education in schools to include elder abuse and carries out a pilot study to evaluate its potential effectiveness.
6. Funding targeted, innovative education programs.

Research into prevalence and programs

7. Carrying out an elder abuse prevalence study in Victoria and funding research projects to build evidence about the effectiveness of prevention and intervention strategies.

Preventing financial abuse

8. Professionals involved in future planning for seniors develop ways to encourage their clients to plan their finances in ways that minimise risk of financial abuse.
9. The Victorian Government takes practical steps to prevent financial abuse of older people in families by:
 - a. Disseminating future planning information to Victorian Seniors Card holders;
 - b. Encouraging and facilitating the increased use of family meetings and mediation.

Sexual assault of older women

10. Developing and implementing a targeted strategy to tackle the hidden crime of sexual assault of older women.

Early intervention in elder abuse

Improving first response

11. Improving Victoria Police training to enable members to respond more effectively in situations of elder abuse and increasing the numbers of police with specialist capability in elder abuse.

12. Ensuring the sustainability of the work at St Vincent's Hospital in detecting and managing cases of elder abuse and government commitment to replicate the model in all Victorian hospitals.
13. Improving the ability of GPs to identify elder abuse in families and developing standards and guidelines for GPs for the assessment of financial capacity of older patients.
14. Funding training programs for social workers to increase ability in identifying and responding to elder abuse.

Intervening in financial abuse

15. Providing for greater oversight of attorneys appointed under the new *Powers of Attorney Act 2014* (Vic) as detailed in Recommendation 8 of Justice Connect's submission to the Commission.
16. Ensuring that lawyers understand their professional and ethical obligations when acting for an adult child in the transfer of property to the adult child by an aged parent.
17. Increasing efforts by the banking industry to intervene early in suspected cases of financial abuse of older people including in the on-line environment.
18. Victoria Police and the Office of Public Prosecutions examine and consider replicating the work of the Seattle Police Department and King County (Washington State) prosecutors in relation to the policing and enforcement of financial abuse of older people.

Parents as carers of adult children

19. Giving greater support to parents providing care to adult children suffering from mental health or addiction problems.

Addressing the 'investigations gap'

20. Expanding the functions of the Public Advocate to receive and investigate complaints, and to conduct own-motion investigations, in relation to the abuse, neglect or exploitation of:
 - a. People with impaired decision-making ability due to a disability; and
 - b. People who, because of an attribute associated with ageing, are vulnerable to, or at greater risk of, abuse, neglect or exploitation.

Support for victims of elder abuse

Court systems

21. Resolution of identified problems in the court system and family violence intervention order process.

Services for victims

22. Creation of a network of regional coordinators, led by SRV's Melbourne office, to enable the provision of collaborative responses across a range of services, including social work and legal services, to older people experiencing elder abuse.

23. Government funding towards the expansion of Health Justice Partnerships as detailed in Recommendation 9 of Justice Connect's submission to this Royal Commission.
24. Improved housing options for older women and perpetrators of elder abuse and availability and efficacy of housing advice services at all Magistrates' Courts.

Accountability of perpetrators

25. Helping perpetrators of elder abuse in families change their abusive patterns of behaviour by making tailored elder abuse counselling and behaviour change programs available.

Tackling elder abuse in Indigenous communities

26. Funding SRV to implement a comprehensive strategy to tackle elder abuse in Victorian Indigenous communities.

Tackling elder abuse in CALD communities

27. Supporting the recommendations made by ECCV in their submission to the Commission and endorsed by SRV.

Introduction

Elderly Greek man facing financial ruin after unknowingly signing over his house to his son

Mother isolated from the outside world by her mentally ill adult daughter

Threat to kill much-loved pet forces grandmother to hand over pension money to her grandson

These are not the usual newspaper headlines we tend to see. Yet, they are real stories that Seniors Rights Victoria (SRV) encounters every day. They are stories of family violence committed against older members of our community.

The establishment of the Royal Commission into Family Violence is testament to the fact that the Victorian Government and the community share a powerful desire to stop family violence. However, abuse of older people is not widely recognised by the public as a form of family violence, nor is the variety of forms it may take and what people can do to help an older person experiencing abuse.

The purpose of this submission is to give voices to the many victims of elder abuse within families, to inform the Commission about what is being done both here and overseas and to suggest what more we should do in Victoria as a responsible and caring society intent on minimising violence in all its manifestations.

“There is sufficient anecdotal and research evidence to suggest that elder abuse is a global phenomenon that has clear parallels with child abuse and domestic violence. Thirty or forty years ago society, by and large, denied the existence of the latter social crimes because of the stigma associated with them. We now face a similar situation in relation to elder abuse....”

Dr. Alexandre Kalache, ‘The Longevity Revolution: Creating a society for all ages’, Adelaide Thinker in Residence 2012 – 2013

Director of the World Health Organisation’s global program on ageing 1995-2008

About Seniors Rights Victoria

Mission Statement

Seniors Rights Victoria seeks to empower older Victorians so they can take steps to live in safety, with dignity and independence.

Background

SRV is the key statewide service that provides leadership across Victoria by addressing and responding to older people experiencing abuse. We operate under the principles of empowerment of older people and recognition of their rights.

SRV provides information, support, advice and education to help prevent elder abuse and safeguard the rights, dignity and independence of older people.

Established in 2008, SRV is a program within the Council on the Ageing Victoria (COTA) and governed by its board. Funding is provided by the Department of Health and Human Services, the Commonwealth Attorney-General's Department and Victoria Legal Aid. SRV works in partnership with Justice Connect, Eastern Community Legal Centre and Loddon Campaspe Community Legal Centre.

SRV's services include a Helpline, specialist legal services, short-term support and advocacy for individuals and community education. SRV also provides leadership on policy, systemic advocacy and law reform and works with other organisations and groups to better identify, address and prevent elder abuse.

SRV assists Victorians who:

- Are 60 years of age or older (45 years and over for Indigenous clients), or people approaching 60 years of age with age-related disabilities and illnesses;
- Are experiencing or are at risk of experiencing elder abuse, mistreatment and/or financial exploitation within a relationship of trust;²
- Have issues relating to ageing; and
- Have capacity to give legal instruction (capacity is presumed unless demonstrated otherwise).

Elder abuse in the family violence context

Elder abuse within families

Elder abuse is family violence when it occurs within the context of a family relationship.

The World Health Organisation (WHO) defines elder abuse as:

A single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person.³

The definition used in Victoria was adopted from the Australian Network for the Prevention of Elder Abuse (ANPEA):⁴

Any act occurring within a relationship where there is an implication of trust, which results in harm to an older person. Abuse may be physical, sexual, financial, psychological, social and/or neglect.

Section 5(1) of the *Family Violence Protection Act 2008* (Vic) defines family violence as:

- (a) behaviour by a person towards a family member of that person if that behaviour—
 - (i) is physically or sexually abusive; or
 - (ii) is emotionally or psychologically abusive; or
 - (iii) is economically abusive; or
 - (iv) is threatening; or
 - (v) is coercive; or
 - (vi) in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person; or
- (b) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in paragraph (a).

Elder abuse is commonly carried out against an older person by a family member and can include any of the range of behaviours listed in the Victorian legislation.

Setting out these definitions at the beginning of this submission is important because it situates elder abuse that occurs within families squarely within the family violence framework.

At the moment, older people who seek help from SRV rarely identify themselves as victims of elder abuse or family violence. We believe that an important function of the Commission is to improve the general population's – including older people's – understanding of the range of unacceptable behaviours that constitute family violence. Greater understanding of elder abuse as a family violence issue should help older people access help when needed. The Commission's highlighting of elder abuse in families as a family violence issue will also help prevent the commencement or continuation of abuse by building awareness amongst family members who unwittingly commit elder abuse and increasing public shaming of those who act deliberately.

Forms of elder abuse

Elder abuse takes many forms.

Mistreatment

Mistreatment involves the denial of a person's right to live safely and independently.

Mistreatment can involve:

- Denying a person privacy or intimacy;
- Withholding information;
- Denying a person access to other relatives and friends by stopping visitors or interfering in phone calls;
- Restricting a person's freedom by not letting them leave the house;
- Intercepting a person's mail.

Neglect

Neglect occurs when an older person is deprived of the basic necessities of life. There are two types of neglect, active neglect and passive neglect.

Active neglect

Active neglect is the deliberate withholding of basic care or necessities, it can include:

- Leaving an older person in an unsafe place or state;
- Stopping access to medical treatment;
- Abandonment;
- Not providing adequate clothing or sufficient food and liquids;

- Not treating illnesses;
- Over or under medicating.

Passive Neglect

Passive neglect is the failure to provide proper care due to carer stress, lack of knowledge or ability. It may occur unintentionally and may simply require getting additional support to assist the carer and older person.

Financial Abuse

Financial abuse is the illegal or improper use of a person's property, finances and other assets without their informed consent or where consent is obtained by fraud, manipulation or duress.

It usually occurs between an older person and a family member but can also occur with carers or friends.

Financial abuse may involve:

- A family member taking a loan with a promise of repayment but not paying the money back;
- Stealing money or using an older person's banking and credit card without consent;
- Forcefully encouraging changes to a will or other legal document;
- Sale of any property or assets without authority or consent;
- Forced transfers of property.

Physical Abuse

Physical abuse includes any form of assault such as hitting, slapping, shoving, pushing and burning. It also includes physical restraint such as tying a person to a chair or bed, or locking a person in a room.

Sexual Abuse

Sexual abuse is any sexual activity or behaviour for which the older person does not consent or is incapable of giving consent (e.g. a person living with dementia).

Sexual assault and abuse includes a range of offences such as rape, indecent assault and sexual harassment. It can also include sexually exploitative or shaming acts such as:

- Leaving a person in a state of undress;
- Forced viewing of sexually explicit materials or images;
- Sexually suggestive comments;
- Exhibitionism;
- Inappropriate touching;
- Uninvited sexual approaches.

Psychological & Emotional Abuse

Psychological and emotional abuse is the infliction of mental or emotional anguish by threat, humiliation or other verbal or non-verbal conduct.

Psychological and emotional abuse can include:

- Verbal assaults;
- Humiliation;
- Threats;
- Harassment;
- Intimidation;
- Other abusive behaviours which result in emotional or psychological distress.

Psychological abuse may make the older person feel ashamed or powerless and often occurs in combination with other forms of abuse.

Social Abuse

Social abuse is preventing a person from having contact with relatives, friends, service providers and other people or restricting the person's activities, thereby increasing their sense of isolation.

Social abuse can include:

- Confining a person to their home or room;
- Preventing a person from answering the phone or door;
- Deprivation of access to transport;
- Intentional embarrassment in front of others;
- Stalking.

Prevalence of elder abuse

The WHO notes that there is little information regarding the extent of abuse in older populations, that it is underreported and that prevalence rates or estimates exist only in selected developed countries – ranging from 1% to 10%.⁵

In 2011, the WHO European Office published a report on 'elder maltreatment' (defined as 'physical, sexual, mental and/or financial abuse and/or neglect of people aged 60 years and older') showing that, in the previous year in the European Region, about 2.7% of older people had experienced maltreatment in the form of physical abuse, 0.7% had suffered sexual abuse, 19.4% had experienced mental abuse and 3.8% had been subjected to financial abuse. The prevalence of elder maltreatment was observed to increase among people with disability, cognitive impairment and dependence. The

report also stated that perpetration is most often carried out by caregivers who are partners, offspring or other relatives.⁶

In the Australian context, research indicates that elder abuse is experienced by approximately 2 to 6% of people aged 60 years and over.⁷ There is no prevalence data for Victoria. However, in 2013-14, SRV received 2236 telephone calls on its Helpline. Of these, 1206 related to issues of elder abuse. SRV subsequently provided advice (legal and advocacy) to 343 older people.⁸

A recent analysis of SRV's Helpline data for a two year period showed that over 90% of alleged perpetrators were related to the older person, or in a de facto relationship, with two thirds of abuse being perpetrated by a son or daughter of the older person.⁹

Spectrum of elder abuse

Elder abuse can happen to any older person, regardless of their background or lifestyle, and be committed by anyone. However, in SRV's experience, men are more likely to be the perpetrators and women are more likely to be the victims. This means that the intersection of age plus gender may make older women particularly vulnerable.

Abuse of older people can be subtle or extreme, intentional or unintentional, made up of one or many acts and change or escalate over time.

Sometimes elder abuse is the continuation of long-standing patterns of physical or emotional abuse within a family. It can also be the result of stressful situations including where an adult child is the informal carer of their parent or, inversely, where a parent is an informal carer of their adult child. Abuse can also be the result of personal characteristics of the perpetrator.¹⁰

Elder abuse does not discriminate between cultures but cultural differences may mean additional complexity in responding to elder abuse. The particularities associated with elder abuse in Indigenous and culturally and linguistically diverse (CALD) communities is discussed later in this submission.

Ageism in an ageing population

Behind elder abuse there is ageism, old age discrimination and the denial of older people's rights.

Australia is an ageing population due to sustained low fertility and increasing life expectancy. In 2012, people aged 65 years and over made up 14% of Australia's population. This is projected to increase to 22% in 2061 and to 25% in 2101.¹¹

In Victoria, the following projections have been made between the years 2011 and 2031:¹²

- The 60-69 age group will increase from 9.6% to 10.1%
- The 70-84 age group will increase from 7.9% to 11.2%
- The 85+ age group will increase from 1.9% to 2.8%

Unabated, elder abuse will affect more and more people as time goes by. It will ruin more lives, increasingly damage familial and societal structures, rob younger people of the benefits of intergenerational exchange and cost governments more money. Knowing that ageist attitudes are a causative factor behind elder abuse, it makes sense to challenge them in as many innovative ways as possible. Everyone in an ageing population has an interest in changing negative perceptions around growing older and in creating a society that values, includes and empowers people as they journey through the ageing process.

Unique experience of victims

Victims of elder abuse in families share the same experience as other family violence victims in having someone close to them, whom they ought to be able to trust, erode their sense of wellbeing through excessive use of power and control. Their suffering is also largely hidden within the walls of the family home.

However, the experience of elder abuse victims is unique in some ways. Victims who are now 60 years of age and older were born before 1955 and lifestyles and values were different from what they are today. Societal/cultural and gender conditioning as well as different generational expectations mean that older victims may have a higher tolerance for some abusive behaviours or be less likely to seek help. Parents experiencing abuse from their adult child may suffer extreme inner turmoil before being able to let go of feelings of responsibility for their 'child'. In terms of outcomes, victims of elder abuse generally want to preserve the relationship with the perpetrator (particularly when it is their child) and so legal outcomes like family violence intervention orders (IVOs), though often necessary, are never a preferred choice.

Barriers to access to justice and services

Elder abuse is one of the last grand taboos and the fact that society does not openly talk about it is probably the most significant barrier to access to justice and services by older victims. In addition to this lack of recognition, the unique experience of victims, as well as other relevant factors, creates a long list of potential barriers to access to justice and services:

- Inadequate societal acknowledgement and response;
- Ageism;
- Generational conditioning and expectations;
- Gender conditioning;
- Diminished physical or mental health;

- Lack of resilience;
- Feelings of responsibility towards adult children, guilt and shame;
- Overwhelming desire to preserve relationships at great individual cost;
- Reliance on abuser for care;
- Cultural framework;
- Language difficulties.

Overcoming these barriers means developing and implementing targeted strategies that take into account the unique experience of victims of elder abuse.



Policy Framework

In Victoria, SRV believes that elder abuse can be effectively combated through existing frameworks but because of the intersection between family violence and ageing, policy making around elder abuse needs to be situated in the broader discussion about ageing and creating a society that respects the rights and needs of older people.

The Victorian Government's 'Elder abuse prevention and response guidelines for action 2012-14'¹³ provide a good framework for combating elder abuse through four areas of focus:

- Professional education;
- Community education;
- Provision of legal, referral and advocacy services;
- Coordination of service responses.

SRV acknowledges the initiative of the Victorian Government in identifying elder abuse as an important health and community issue and the progress made so far. In particular, the establishment of SRV in 2008 as a peak body that not only has a Helpline but organisational capacity to provide practical and legal assistance to victims is a model which has been proven to work. The education programs that have been delivered under the auspices of the Victorian Government – aimed at senior Victorians, health professionals, local government and vulnerable members of the community including Indigenous and CALD seniors – have been valuable in raising awareness of elder abuse, enabling those who have contact with older people to recognise and assist in situations of elder abuse and in connecting people and other services to SRV.

There is great potential to build on the good foundation of expertise and resources that currently exists.

The Victorian Government must continue to take a whole-of-government approach to elder abuse. Elder abuse cannot sit within one portfolio and so cooperation between the Minister for the Prevention of Family Violence and the Minister for Housing, Disability and Ageing in leading a whole-of-government approach is critical.

Additionally, there is scope for greater vision and innovation by the Commissioner for Senior Victorians in the area of elder abuse. SRV submits that the Victorian Government should mandate and properly resource the Commissioner to take a more active role in representing the rights and interests of elder abuse victims.

Prevention of Elder Abuse

That prevention requires a holistic and long term approach to change entrenched cultural attitudes and behaviours was emphasised in submissions to the Australian Parliament's Senate Finance and Public Administration References Committee's inquiry into domestic violence.¹⁴

A general elder abuse prevention strategy will benefit from two identified elements:

- Awareness raising and education;
- Research into prevalence and evaluation of the effectiveness of programs.

In addition, targeted prevention strategies are important for particular forms of abuse. The most common form of elder abuse encountered at SRV is financial and so we have given particular attention to ways in which it can be prevented.

Awareness-raising and education

Education about elder abuse – what it is, how to recognise the signs, and what to do about it – must be a key component of an effective prevention strategy. Education should occur at different levels and its content will vary depending on the target audience. It should range from a broad community awareness campaign which situates elder abuse within the family violence dialogue and informs people about its unacceptability to education targeted at certain groups.

As Adelaide Thinker in Residence 2012-13, Dr. Alexandre Kalache observed:

“There is a lack of awareness, recognition and reporting of elder abuse by both service providers and the general public. Education in the public sphere is an essential step toward reducing that abuse.”¹⁵

Recent research supports the effectiveness of education strategies that take a comprehensive approach where different groups are simultaneously targeted.¹⁶

People identified by SRV as likely to benefit from awareness raising and education are:

- Victorian public;
- Senior Victorians;
- School students;
- Targeted groups, for example, new parents.

Victorian public

The Commonwealth Government has announced that it will work with State and Territory governments to deliver a \$30 million jointly funded national awareness campaign to reduce violence against women and children. The purpose of the campaign is to lift community understanding of its prevalence and to encourage all Australians to raise their voices to say that verbal intimidation and physical violence against women and children is never acceptable.¹⁷

Increased community awareness has already been achieved under the Victorian Government's 'Elder abuse prevention and response guidelines for action 2012-14', however, there is scope for more. SRV believes that the Victorian Government should consider implementing a broad public awareness campaign that raises the profile of elder abuse in families.

SRV notes that because of the lack of recognition of elder abuse in Québec, Canada, a public awareness campaign formed part of that government's 'Action Plan to Counter Elder Abuse 2010-2015' (renewed until 2017).¹⁸ SRV believes that such an awareness raising campaign would also benefit the Victorian public by encouraging people to recognise what elder abuse is, that it is a form of family violence, that it is not acceptable and that help is available.

Such a campaign would aim to broaden people's understanding of the concept of family violence which currently may be limited to situations of intimate partner violence perpetrated by a man against a woman and sometimes children. Such a view, while certainly an accurate representation of many family violence cases, does not take into account the unique profile of elder abuse cases. SRV believes that people need to improve their understanding of elder abuse as a family violence issue so that the suffering of victims becomes visible and we, as a society, are enabled to step in and help. Family violence does not limit itself as to age, gender, socio-economic background or type of relationship; in cases of elder abuse, we may see long-term intimate partner violence that continues into old age, intimate partner violence that begins to occur because a partner declines in cognitive abilities (for example, because of dementia) and abuse in any of its forms by an adult son or daughter against his or her mother or father. It is an awareness of this breadth of experience of family violence that needs to be transferred to the general public.

Elder abuse is included as part of New Zealand's 'Family Violence: It's not OK' campaign which has adopted a range of methods to prevent family violence including a media strategy.¹⁹ The campaign frames family violence as a serious social issue, builds a shared understanding of what constitutes family violence and promotes a position that it is possible to do something about it.²⁰ In evaluating the two earliest television advertisements, it was found that campaign recall was extremely high, that it was "normalising discussion about family violence" and respondents "felt the advertisements helped them to understand more about intolerable behaviours".²¹ SRV suggests that the Victorian Government examine the impact of the New Zealand campaign and in particular its approach to family violence which incorporates all its possible permutations, including elder abuse.

In formulating a broad public awareness campaign in Victoria, consideration should be given to tackling ageism and ageist attitudes which contribute to elder abuse. A relevant example from overseas is the Age UK campaign to promote human rights for older people abused in care.²² The film, 'His name is Charles', in 90 seconds, highlights abuse that may occur when older people are not seen as a person with a name, rich life story, needs and desires. In ageist societies such as ours, people become less visible and are treated with less dignity as they age. Unless we challenge and subvert the ageist attitudes that can lead to elder abuse, the future is bleak for younger generations. An anti-ageist approach should underpin an elder abuse awareness campaign in Victoria.

Recommendation

Funding a broad public awareness campaign that raises the profile of elder abuse in families and challenges ageist attitudes.

Senior Victorians

Initiatives targeted at increasing awareness of elder abuse amongst senior Victorians is necessary to empower older people to recognise what is happening to them and to seek help. SRV's clients do not readily label their experience as 'elder abuse' or 'family violence'. This indicates that we need to strengthen our efforts to inform senior Victorians about the different kinds of problematic behaviour that constitute elder abuse and how it can be prevented and how we can support them.

Effectively communicating this message to older members of the community requires an approach which takes the particular dynamics of the target group into consideration. For example, SRV has a website which provides information and the phone number for the Helpline but, according to the most recent data analysed by the National Ageing Research Institute (NARI), the largest identifiable way callers heard about the SRV Helpline was through word of mouth. This indicates the need for community awareness and outreach and that tackling isolation amongst older people is particularly important.

Positive results were achieved in 2010-12 when nine Primary Care Partnerships (PCPs) were funded to deliver both community awareness sessions and local area agency capacity building to respond to elder abuse cases. Project officers delivered over 100 elder abuse prevention awareness raising sessions to over 2300 participants including groups from CALD backgrounds. Results of a survey conducted for the Department of Health recorded a small rise in community awareness of elder abuse in the eastern suburbs in 2012 compared to 2008 which may in part be attributed to these efforts. A series of elder abuse tool kits for service providers were also developed by the PCPs and are available online via the SRV website. As discussed elsewhere in this submission, SRV recommends that the Victorian Government fund SRV regional coordinators to expand upon this work.

School students

It appears that educating school age students about unacceptable behaviours in relationships may be effective in preventing family violence. The Victorian Government has developed a learning resource for secondary schools entitled: 'Building Respectful Relationships: Stepping out against gender-based violence', which aims to help prevent violence against women. Unit 1, for year 8 students, looks at establishing a common understanding of the concepts of gender, relationships and respect. Unit 2, for year 9 students, explores the nature of gender-based violence and the implications for respectful practice. The Australian Parliament's Senate Finance and Public Administration References Committee, in its interim report to its inquiry into domestic violence, supports including such education in the national curriculum.²³

SRV believes that the school program has the potential to be expanded to cover elder abuse because of its common themes of gender, power, violence and respect. Concepts around ageing, ageism and ageist attitudes would add an additional layer of interest and complexity.

While evidence is limited, the WHO notes that school-based intergenerational programs (to decrease negative societal attitudes and stereotypes towards older people) have shown some promise.²⁴ In considering whether to expand respectful relationships education to include the issue of elder abuse, further research about the scope and effectiveness of school-based interventions may be useful and a pilot study should be carried out.

Recommendation

Considering the expansion of respectful relationships education in schools to include elder abuse and carrying out a pilot study to evaluate its effectiveness.

Targeted groups

Education programs that tackle elder abuse in innovative ways should be encouraged. There is currently a lack of clear evidence about what education programs work best to prevent elder abuse, both in Australia and internationally, so Victoria has the opportunity to develop and trial new programs.

Enormous opportunities exist to look at community education in a lateral way. For example, SRV knows from experience that an abusive situation can develop when adult children have their own children and then expect grandparents to step in and look after the family in a practical or financial way. In response, the Positive Ageing Team at Frankston City Council suggests making a presentation to new mums and dads about grandparenting and the potential for grandparents to be exploited. Raising the issue in a proactive way, encouraging new parents to think about their expectations and potentially discuss them with grandparents before problems arise, may be an effective prevention mechanism. SRV would like to see such innovations encouraged and funded.

Recommendation

Funding targeted, innovative education programs.

Research into prevalence and programs

There is need for research about the prevalence of elder abuse to nourish the development of prevention strategies and for new and existing programs to be evaluated for effectiveness.

A growing number of research studies around the world are starting to reveal the magnitude of the crisis, yet according to the WHO in August 2011:

“... the scope and nature of the problem is only beginning to be delineated. Many risk factors remain contested, and the evidence for what works to prevent elder mistreatment is limited”.²⁵

In recognition of the fact that elder abuse is poorly understood, the government of Québec in Canada funded the creation of a research chair on elder abuse at the Université de Sherbrook as part of their ‘Action Plan to Counter Elder Abuse 2010-2015’ (renewed until 2017). Mandated to promote the acquisition of new knowledge regarding prevention, detection and intervention among researchers and practitioners, SRV understands that the role is unique in the world. There is an associated website to promulgate the research.²⁶ Recent publications include a book on preventing, detecting and countering elder financial abuse.²⁷ The Research Chair, Professor Marie Beaulieu, will visit Melbourne next year and showcase expert evidence regarding elder abuse. Her visit will also provide an opportunity to discuss an evaluation of Québec’s five year action plan, the results of which are expected in June 2015.

Recommendation

Carrying out an elder abuse prevalence study in Victoria and funding research projects to build evidence about the effectiveness of new and existing programs.

Financial abuse: prevention

Financial abuse of older people needs to be tackled at all stages – prevention, early intervention, in supporting victims and in holding perpetrators accountable – but a particular focus on prevention is important to stop an older person suffering substantial financial loss.

Financial abuse is statistically the most common kind of abuse encountered at SRV. According to NARI's analysis of SRV's Helpline data from July 2012 to June 2014, 37% of clients reported financial abuse, closely followed by psychological or emotional abuse at 35.8%.

Prevalence and risk factors

Financial abuse of older people is an area where research has been carried out in Victoria and Australia and hence SRV has some understanding of its prevalence and risk factors. State Trustees commissioned Monash University to conduct a three year research project entitled: *Protecting Elders Assets Study (PEAS): Ethical Management of Older Persons' Financial Assets (2009-2011)*.²⁸ The study found that up to 5% of Australians over 65 have experienced financial abuse. The research also found that older women over the age of 80 are most at risk and that the older person's own children are most likely to be perpetrators. Characteristics identified as making an older person most vulnerable to financial abuse were:

- Diminished capacity due to dementia and other related illnesses;
- Isolation and dependence on others;
- Reliance on others for translation, transaction and services relating to the management of their finances, particularly if they are from a culturally and linguistically diverse background.²⁹

Other research involving a national online survey of aged care service providers in 2010 identified certain difficulties in detecting financial abuse of an older person by a family member.³⁰

- Not reporting abuse for fear of recrimination or breakdown in family relationships;
- Older people and family members believing that financial issues are a private matter;
- Family members becoming abusive toward workers when inquiries were made;
- Workers feeling reluctant to intrude in the older person's life;
- Difficulty obtaining an older person's consent to take action.

SRV's experience

The difficulties identified by the above research resonate with the experience of SRV. In particular, the pervasive view that financial matters within families are a private matter.

'Assets for care' arrangements

Older people who come to SRV may have transferred part or all of their home to a family member, or sold it and given the money to a family member in expectation of future care, without first seeking independent legal and financial advice or entering into a formal agreement such as a Family Agreement. An older person might have felt they had no choice, may not have understood potential ramifications or may have held a genuine desire to help their adult children, trusting that things would work out. Unfortunately, circumstances change and things can go wrong even in the face of good intentions. This led SRV to develop the pamphlet, 'Care for your assets: Money, ageing and family', which is a guide for older people who are considering:

- Selling their home and giving the money to someone who has agreed to take care of them in the future;
- Moving in with a relative, or having a partner move in with them;
- Transferring property to a close relative or friend;
- Giving or lending money to someone.

SRV's longer and more detailed booklet, 'Assets for care: A guide for lawyers to assist older clients at risk of financial abuse', is a comprehensive reference for members of the legal profession.

The benefits of formally documenting arrangements for care by an adult child in exchange for a parent's assets are clear.³¹ SRV believes that a shift towards openly talking about and formally documenting arrangements for the future care of an older person is necessary to safeguard their financial wellbeing.

Future planning

In concert with talking about and formally documenting 'assets for care' arrangements, which have been a focus of particular attention at SRV, older people must be encouraged to plan for their financial future in a comprehensive way. Reporting on the final stage of its research project, Monash University researchers observed that:

"... family structure and family relationships significantly impact on the capacity of older people to make rational financial decisions"

Accordingly, older people were advised to take the following steps to retain independent control of their assets:³²

Principles	Steps to take
Focused on the wellbeing of the older person	Communicate openly and transparently with children over plans
Based on confidence and trust	Seek good financial and legal advice
Open discussion of generational expectations	Obtain assessment of cognitive capacity prior to signing any legal documents
Plan for the future	Prepare a will
Supported decision-making leads to substitute decision-making	Appoint Enduring Powers of Attorney Financial and Medical
Accommodation transitions are managed in advance of a crisis	Think through future scenarios, even bad ones and be prepared for contingencies

This table reflects the level of care that SRV would like to see older people routinely take of their finances. From our experience, following these measures would prevent a significant number of cases of financial abuse from occurring.

SRV believes that accountants, financial planners and professionals working in superannuation funds have an important role to play in future planning and, in this way, preventing financial abuse of older people. SRV notes that seniors who regularly talk to a third-party about their finances appear to feel better equipped to identify and prevent financial abuse.³³ SRV commends CPA Australia for its leadership in developing online resources for its members to identify and respond to financial abuse. SRV would like to see other industry groups become more proactively involved in assisting seniors to plan and manage their finances in ways that minimise the risk of abuse.

Recommendation

Professionals involved in future planning for seniors develop ways to encourage their clients to plan their finances in ways that minimise risk of financial abuse.

Practical steps

There is need for the Victorian Government to take practical steps to prevent financial abuse of older people in families. SRV suggests two methods by which this can be achieved:

- Disseminating future planning information to Victorian Seniors Card holders;
- Encouraging and facilitating the increased use of family meetings and mediation.

Dissemination of future planning information

To encourage seniors to think about, talk about and plan their financial future, SRV submits that a practical step is for information to be sent out when people receive their Victorian Seniors Card or with the printed Seniors Newsletter which is regularly sent to seniors. The information would highlight the need for seniors to take control of their financial future and should include information about 'assets for care' arrangements which is likely to be an ongoing, if not increasing, concern for an ageing population.

Recommendation

The Victorian Government provide an information package about future planning targeted at seniors when sending out the Victorian Seniors Card or related newsletters.

Family meetings and mediation

SRV and the Dispute Settlement Centre of Victoria recently entered into a referral program so that older Victorians and their families can benefit from free mediation or a family meeting. A particular focus will be on facilitated family meetings as a pre-dispute mechanism in relation to the transfer of assets in exchange for care and accommodation. The aim is to encourage families to talk about and document such arrangements before the older person transfers any money or assets or moves in to a 'granny flat' or similar on their child's property. SRV's intention is that, by encouraging older people and their families to be clear about intentions in 'assets for care' arrangements and what will happen if circumstances change, the possibility of it degenerating into an abusive situation can be avoided.

Further to this, SRV sees great potential in the broader use of mediation and counselling. SRV believes that the Victorian Government should encourage families to have informal or professionally facilitated meetings to discuss changes to a parent's lifestyle or finances so that they becomes widely accepted and indeed a matter of habit. There needs to be research and evaluation of the scope and effectiveness of family mediation and counselling as a preventative tool.

Recommendation

Developing strategies to encourage members of the public to engage in family meetings or mediation to proactively plan for changes to an aged parent's finances or lifestyle.

Sexual assault of older women: a deafening silence

In the two year period between July 2012 and June 2014, SRV conducted advice calls with 755 older people. Of these, only two people reported sexual abuse. The lack of reports of sexual abuse does not mean that it is not happening. Rather, it reflects a national and international trend of silence and a failure on the part of our culture and our systems to adequately acknowledge and address the sexual assault of older victims.

SRV refers the Commission to the important research being carried out by the Australian Research Centre in Sex, Health and Society and how it is laying the foundation for improved prevention and intervention in sexual assault of older women. The report, 'Norma's Project: A research study into the sexual assault of older women in Australia', contains numerous accounts which give detail about the circumstances in which sexual abuse of older women is happening in Australia. It shows that prosecuting and convicting perpetrators of sexual assault against older women is problematic and so prevention and early intervention is key.

“Preventing the sexual assault of older women requires a multi-level approach. A framework for prevention, therefore, cannot be a solely primary prevention model. It must incorporate primary, secondary (early intervention) and tertiary (intervention) activities. As it specifically addresses the experience of older women, it works in conjunction with, and as an overlay to, the approach taken in the ‘Preventing violence against women: A framework for action’ report....”³⁴

SRV recognises that our organisation may need to be more proactive in raising community awareness about sexual abuse of older women.³⁵ We also encourage the Commission to help break the silence by recommending that the Victorian Government develop and implement a strategy to tackle this hidden crime.

Recommendation

Developing and implementing a targeted strategy to tackle the hidden crime of sexual assault of older women.

Mary's story

Mary experienced several decades of abuse from her husband, Bill. Mary tried to leave Bill more than 20 years ago, but she was only able to access emergency accommodation for six weeks after which she had nowhere else to go and she was forced to return home. This experience discouraged her from seeking help again until her health began to decline and she started to fear for her life.

Bill controlled every aspect of Mary's life through mental torture and physical abuse. They lived on a small rural property and Mary became more and more isolated. The only time she ever had any time to herself was during her weekly visits to church where she was able to meet friends.

Mary contacted SRV for assistance with the help of friends. Several services worked together with Mary and her friends to plan her escape from Bill. She wanted to make sure that this time the separation was safe and sustainable given her previous experience of leaving had failed.

With assistance from a housing worker, Mary was able to access affordable housing and, on the day she was to move in, the police applied for an intervention order on her behalf. Mary was terrified of the court process and so it was a relief to her that she was permitted to sit in a separate room from Bill when she attended court and not to have to face him in person.

Mary continues to build her strength and resilience with the support of new found friends and support services.

Early Intervention in Elder Abuse

Improving first response

SRV has identified a need for improved and ongoing professional education and training of those who may be amongst the first to have a suspicion of elder abuse or who need to take initial action in response to a complaint. They are: members of Victoria Police, health care professionals and social workers.

Victoria Police

In SRV's experience, police are inconsistent in responding to situations of elder abuse. While sometimes the level of understanding and response is exemplary, at other times it is disappointing and leads to further unnecessary suffering by victims.

Whereas the leadership by Victoria Police on family violence and elder abuse is strong, SRV is not convinced that the message has filtered down to its members. SRV welcomes the recent establishment of the Victoria Police Seniors Portfolio Reference Group and SRV hopes that it will provide an avenue to address police training and attitudes and to develop strategies that embed cultural change.

Better understanding of family dynamics in elder abuse cases, as well as the specific circumstances and needs of victims, should help members of Victoria Police respond more effectively and with greater consistency to situations of elder abuse, leading to improved outcomes for victims.

There is also need for police with specialist capability, such as Family Violence Liaison Officers. In addition to improvements in training generally, SRV recommends an increase in the numbers of police with specialist capability in elder abuse.

Recommendation

Improving Victoria Police training to enable members to respond more effectively in situations of elder abuse and increasing the numbers of police with specialist capability in elder abuse.

Health care professionals

Health care professionals who may benefit from targeted elder abuse education and training include hospital staff and GPs. Units about elder abuse should be included in relevant tertiary education courses.

Hospital staff

Hospitals are a 'window of opportunity' for detecting and responding to cases of elder abuse. Groundbreaking work has been undertaken at St Vincent's Hospital in Melbourne to deliver an integrated and consistent approach to the detection and management of suspected elder abuse, following a UK model. In March 2013, the hospital introduced a new Policy for the Protection of Vulnerable Older People, a model of care and a governance structure which included the establishment of a multidisciplinary Vulnerable Older People Coordination and Response Group.³⁶

Initially, St Vincent's identified the following barriers for staff in responding to suspicions of elder abuse:

- Lack of understanding of what constitutes elder abuse;
- Lack of understanding of their legal obligations;
- Lack of confidence about how to conduct an assessment;
- Lack of skills to investigate the issues.

In response, St Vincent's identified the following strategies to improve confidence to act on suspicion of elder abuse:

- Training and education;
- A model of care;
- Opportunities for case discussions;
- Access to expert consultation.

In the little more than two years since St Vincent's introduced these innovative measures, approximately 160 notifications of suspected elder abuse have been made. There was a marked increase in notifications as three levels of training were implemented, demonstrating the crucial importance of education and training around how to recognise elder abuse. Anecdotally, St Vincent's social workers now have situations of elder abuse brought to their attention every single day.

Substantial progress has been made at St Vincent's and SRV understands that its approach is unique in Australia. SRV strongly supports the work that has been done. We believe that its future sustainability should be assured in addition to a Victorian Government commitment to replicate the model in all Victorian hospitals.

Recommendation

Ensuring the sustainability of the work at St Vincent's Hospital in detecting and managing cases of elder abuse and government commitment to replicate the model in all Victorian hospitals.

General Practitioners

The Australian Medical Association's 'Position Statement on the Care of Older People 1998 – amended 2000 and 2011' states that:

Education and training programs on the recognition, intervention and management of elder abuse should be available to all health professionals involved in the care of older people.

Medical practitioners, especially general practitioners, have a pivotal role in the recognition, assessment, understanding and management of elder abuse and neglect, with effective reporting mechanisms available when required.³⁷

The Royal Australian College of General Practitioners (RACGP) in its Clinical Guidelines further notes that:

GPs are often the first independent professional to see an elderly victim of abuse. There are a number of reasons why medical practitioners may not have been more involved in managing cases of abuse. These include lack of awareness, insufficient knowledge regarding identification or follow-up of a potential case, ethical issues, time constraints, and the victim's potential reluctance to report the abuse.³⁸

SRV believes that the current climate of growing political and societal awareness and condemnation of family violence provides impetus to improve the ability of GPs to recognise and respond to elder abuse.

SRV recognises that difficulties exist because of limited consultation time and the fact that some people today are less likely or able to consistently see the same doctor throughout their lives. However, SRV is keen to work with the RACGP to help develop appropriate techniques to identify elder abuse in families.

Particular attention should be given to better equipping GPs in relation to capacity assessment and in identifying when an older person has diminished financial capacity. This is an important issue because older people with cognitive impairment and/or dementia leading to diminished financial capacity are particularly vulnerable to financial abuse.³⁹ Conversely, families may sometimes be too hasty in seeking to have an older person's capacity brought into question and in these situations the GP should act as an independent gatekeeper. The development of standards and guidelines for the assessment of financial capacity of older patients is needed to ensure better outcomes for patients, families and carers.⁴⁰

Recommendation

Improving the ability of GPs to identify elder abuse in families and developing standards and guidelines for GPs for the assessment of financial capacity of older patients.

Social workers

Social workers are often amongst the first to suspect elder abuse. However, they may not act on suspicions because of high workloads, uncertainty about how to help and/or poor support and referral structures within the healthcare system. This may be exacerbated when an older person is reliant on the perpetrator for care or does not want help. It is necessary for social workers having contact with older people to be equipped to act upon suspicions of elder abuse by involving appropriate agencies.

SRV would like to see the level of professional awareness about elder abuse raised to enable social workers to act upon suspicions and seek advice and support from relevant services. Education as to what services are available and what referrals can and should be made is also important.

Recommendation

Funding training programs for social workers to increase ability in identifying and responding to elder abuse.

Financial abuse: early intervention

SRV focused on the importance of prevention of financial abuse of older people in families earlier in this submission. Strategies to intervene early and stop further financial loss from occurring is also crucial. Without purporting to comprehensively address the issue of responding to financial abuse of older people, SRV draws attention to the following key issues:

- The worrying trend of middle-aged children with “early inheritance syndrome” and associated misuse of powers of attorney;
- The need for professional and ethical conduct of lawyers when acting for adult children;
- Leadership by the banking industry in detecting financial abuse;
- Increasing police capacity to investigate suspected cases of financial abuse of older people.

Early inheritance syndrome

The complex interaction between increasing longevity, ageist attitudes, generational expectations, economics and greed is resulting in a societal trend of “early inheritance syndrome”. This is where an adult child (often in their 50s or 60s but it can be any age) decides to swoop in on mum or dad’s assets in order to pay off their own debts, invest in their own business venture or otherwise spend money that actually does not belong to them yet.⁴¹

The adult child may obtain an Enduring Power of Attorney (financial) and take over their parent’s finances in order to benefit themselves and without acting in the best interests of the donor, in breach

of the fiduciary relationship. In some cases, the attorney may simply be misguided as to the nature and extent of their duties. In any case, the older person suffers financial loss that they should not have.

SRV made a submission to the Victoria Law Reform Commission's (VLRC) Inquiry into Powers of Attorney in 2009 calling for measures to support the appropriate use of powers of attorney.⁴² SRV supports the submission of Justice Connect to the Commission and in particular 'Recommendation 8: providing for greater oversight of attorneys'.

Recommendation

Providing for greater oversight of attorneys appointed under the new *Powers of Attorney Act 2014* (Vic) as detailed in Recommendation 8 of Justice Connect's submission to the Commission.

Lawyers

SRV has observed that lawyers acting for an adult child in the transfer of property to them by a parent frequently fail to assess that the parent does not have capacity or has not initiated the transaction. As a result, the older person may sign a legal document without understanding it, without considering the repercussions and risks or, in extreme cases, under duress. This is both a competency and ethics failure on the part of lawyers and means that lawyers are potentially facilitating instances of financial abuse. This failure should be addressed by the Legal Services Board and Commissioner in cooperation with the Law Institute of Victoria as the professional body responsible for administering the continuing professional development scheme for lawyers.

Recommendation

Legal Services Board and Commissioner in cooperation with the Law Institute of Victoria to take steps to ensure that lawyers understand their professional and ethical obligations when acting for an adult child in the transfer of property to the adult child by an aged parent.

Banking industry

The Australian Bankers' Association (ABA) has produced an industry guideline entitled, 'Protecting vulnerable customers from potential financial abuse',⁴³ which advises bank staff to watch out for vulnerable customers who regularly visit their branches and, if they have concerns, to escalate the issue to a supervisor or branch manager. SRV understands that banks are supposed to implement industry guidelines, but the ABA does not monitor this so the exact levels of implementation are unknown.

A recent initiative by Capacity Australia, supported by the ABA, is an e-learning tool that teaches bank staff to better understand dementia, financial capacity, supported decision-making, signs of financial abuse and appropriate responses to suspected financial abuse.⁴⁴ Following positive trials, it is hoped that banks will implement the e-learning tool.

The industry guidelines and the e-learning tool are positive steps being taken by the banking industry. However, much work remains to be done. This includes financial abuse carried out by telephone or on-line. On-line transactions are increasingly common; the trusted relationship between an older person and teller is disappearing. Protecting older customers from electronic financial abuse, whether by family members or others, presents a significant challenge to the banking industry.

Recommendation

The banking industry increases efforts to intervene early in suspected cases of financial abuse of older people including in the on-line environment.

Police

In relation to the policing of elder financial abuse in Victoria, SRV observes that there is both a lack of willingness to enforce where a crime has been committed and a lack of resources to investigate suspected cases.

In SRV's experience, police are sometimes reluctant to take enforcement action where theft or fraud has been committed by an adult child against a parent. A strong message should be sent through the Victoria Police that theft or fraud within a family context is not a lesser crime and that it merits the same level of enforcement as crimes occurring outside of families.

Due to its prevalence, SRV believes that more concerted effort on the part of Victoria Police to investigate suspected instances of financial abuses is warranted. In this regard, it is recommended that the Victoria Police and the Office of Public Prosecutions examine and replicate the work of the Seattle Police Department and King County (Washington State) prosecutors.⁴⁵ Seattle's Police Department has a particular unit devoted to the detection of, and prosecution in, elder abuse cases. SRV understands that this proposal may be on the agenda of the Victoria Police Seniors Portfolio Reference Group.

Recommendation

Victoria Police and the Office of Public Prosecutions examine and consider replicating the work of the Seattle Police Department and King County (Washington State) prosecutors in relation to the policing and enforcement of financial abuse of older people.

Adult children returning home

It is not uncommon for adult children to return home to live with their parents or to never leave home. A factor contributing to this is high rental and house prices meaning that younger people are finding it difficult to enter the real estate market.

Sometimes when adults return to their parents' home, it is triggered by something going wrong in their own life, such as a relationship breakdown, financial distress, problems with alcohol, other drugs or gambling, or due to illness. The request to come home may be sudden and unexpected, giving their parent/s little time to think about it or to discuss how living arrangements will work. Indeed, parents may not get any warning at all – an adult child may just turn up on the doorstep.

Some of the problems that adult children may be experiencing include:

- **Violence:** leaving a violent situation or being forced to leave due to aggressive behaviour.
- **Mental health issues:** from depression and anxiety to a psychotic breakdown, they may be finding it difficult to function well.
- **Alcohol and other drugs:** being misused or used to excess, affecting behaviour.
- **Gambling:** when problematic, can cause financial stress or mood swings associated with wins and losses.
- **Hoarding behaviours:** excessive collecting of objects causing the home to be uncomfortable, unsafe or unhealthy.

SRV works to empower parents with adult children living at home to prevent abuse from occurring. SRV advises clients to set boundaries and discuss mutual expectations around such things as payment of board or for food or contributing in other ways to the maintenance of the household.

Parents as carers of adult children

Adult children returning home or never leaving home is in some cases due to a systemic failure of services to assist adults with mental health and addiction issues. Parents remain or become permanent carers of their adult child, often with little support. Whilst living with parents can be considered by service systems to be a satisfactory outcome for an adult child with mental health or addiction issues, in practice, the results can be disastrous. If parents are not properly equipped and supported in providing care, all parties can find themselves in a difficult, stressed and potentially abusive situation. If our public health systems are going to continue accepting this as an appropriate outcome there needs to be better availability of advice and support for parents who are carers of their adult children.

Recommendation

Giving greater support to parents providing care to adult children suffering from mental health or addiction problems.

Investigations gap

In delivering SRV's advocacy and legal services based on an empowerment model where we give advice to, and act in accordance with the wishes of, an older person, SRV has noticed a gap in service provision around assertive outreach and investigation of situations of concern raised by third parties.

Sometimes, SRV receives calls from service providers or members of the public who have concerns about an older person experiencing abuse from family members. SRV's practice is to give general information and then suggest that the third party encourage the older person to contact us directly. This approach is based on a rights-based rather than a welfare approach. SRV believe's that older people are capable of making their own decisions and that respect should be accorded to their wishes rather than acting upon any perceived notion of need.

However, there are instances where a third party raises genuine concerns and it is unlikely that the older person will contact us themselves. In these cases, SRV's advocates find that there is little they can do except worry about the potential fate of the older person.

In an Australian study involving a national online survey of aged care service providers in 2010, a service provider voiced this concern about an apparent 'investigations gap':

"I have identified a person at risk and tried to get a government advocacy organisation involved but they have not been able to get involved unless the person concerned asks them or a member of their family. When you are dealing with someone with dementia with no insight and the family are abusing them, no one will ask for help and the situation remains unresolved. Agencies that provide support and advocacy need to be able to get involved when asked by a concerned agency, not just the person themselves or a family member."⁴⁶

Older people are not children and should not be infantilised and, as such, SRV does not support mandatory reporting of elder abuse. However, SRV believes that investigatory powers and functions should exist to ensure that concerns about the possible abuse of older people are adequately investigated. The appropriate body to hold the proposed powers and carry out the proposed functions is the Public Advocate.

In the submission SRV made in 2011 in relation to the review by the VLRC of Victoria's guardianship laws, SRV voiced support for the inclusion of investigatory powers in new laws to ensure that concerns about the possible abuse of people with a disability – beyond cases concerning guardianship and administration – are adequately investigated.⁴⁷ The VLRC subsequently recommended expanding the

functions of the Public Advocate to receive and investigate complaints, and to conduct own-motion investigations, in relation to the abuse, neglect or exploitation of people with impaired decision-making ability due to a disability.⁴⁸ SRV understands that the Public Advocate continues to support the expansion of her powers in this regard and SRV refers the Commission to the report, 'Responding to violence, abuse, exploitation and neglect: Improving our protection of at-risk adults', by Dr. John Chesterman, Manager, Policy and Education, Office of the Public Advocate.⁴⁹

To build upon the reform recommended by the VLRC and to ensure that older people who do not have impaired decision-making ability do not fall through the cracks, SRV suggests that the Public Advocate be further empowered to investigate in relation to the abuse, neglect or exploitation of people who, because of an attribute associated with ageing, are vulnerable to, or at greater risk of, abuse, neglect or exploitation. In this way, services could become involved to assist an older person even where that person is not in a position to proactively seek help on their own account. This would enable services to help older people in situations of family violence who might otherwise not be reached.

Finally, as stated in SRV's submission in relation to the VLRC's review of Victoria's guardianship laws, SRV believes that anonymity should be accorded to people who report concerns. This would increase the likelihood of members of the community reporting instances of suspected abuse and protect people who do report concerns from adverse consequences.

By way of an interesting comparison, SRV notes that the NSW Elder Abuse Helpline (which operates differently to SRV and is primarily a helpline and referral service rather than an integrated social work and legal service) is anonymous and receives notifications from neighbours and friends who have concerns about an older person. Because of its different set up, the NSW Helpline has scope to respond to calls from concerned third parties about neglect of an older person. Indeed, about 17% of the calls they receive are about neglect whereas SRV rarely receives such calls (NARI's analysis of SRV's Helpline data across the two-year period of July 2012 to June 2014 indicates that 0.8% of SRV clients reported neglect). Such a comparison on a purely statistical level shows that there is probably a service provision gap in Victoria.

The practice of the NSW Helpline in responding to notifications of neglect is to contact local police to conduct a 'welfare check'. SRV agrees that a police 'welfare check' is appropriate in the absence of other dedicated services. However, a 'welfare check' is discretionary and it is SRV's submission that a body such as the Office of the Public Advocate be statutorily mandated to investigate such situations of concern.

Whilst SRV's preference is for the model outlined above, an investigatory function could alternatively be carried out by Aged Care and Assessment Services (ACAS).

Recommendation

Expanding the functions of the Public Advocate to receive and investigate complaints, and to conduct own-motion investigations, in relation to the abuse, neglect or exploitation of:

- People with impaired decision-making ability due to a disability, and
- People who, because of an attribute associated with ageing, are vulnerable to, or at greater risk of, abuse, neglect or exploitation.

Patricia's Story

Patricia's son Robert moved into her home following several motor vehicle accidents. He had sustained serious injuries and was no longer able to work. He lacked motivation and also appeared to have mental health and personality issues.

Patricia had a small two bedroom home and initially allowed Robert to live in a caravan in the back yard. After a while, Robert objected to staying in the caravan and moved himself into the house, forcing his mother to share a bedroom with another family member. Robert's behaviour and attitude deteriorated further and created great tension within the household. He became manipulative, demanding and abusive. Robert refused to make any financial contributions to the running of the home, purchase of food or utility costs. He also regularly demanded money from his mother and became addicted to various prescribed medications and other drugs.

Patricia became extremely unwell as a consequence of the stress and abuse and moved out of her own home. Her health deteriorated to the point that she was hospitalised for a period. She then found alternate accommodation some distance from her home. During this time of recuperation, Robert remained in Patricia's house with two dogs and failed to clean or maintain any part of the house or property. The garden became overgrown with rubbish everywhere. Neighbours made complaints to the local Council and at one stage in summer a Fire Hazard Notice was served on Patricia as a result of the state of the property.

Patricia continued to pay rates and utility costs while Robert stayed in the house and he made additional demands for money from her. At one stage, he drove to her new home and insisted she go the ATM to give him \$2,000 cash. Over a 10 month period, Patricia was coerced by Robert into giving him almost \$20,000.

Patricia then sought assistance from SRV and an application for a family violence intervention order was sought on the basis of emotional, psychological and economic abuse. The Magistrate was appalled at the behaviour of Robert and made an order including an exclusion order that enabled police to assist and prevent Robert having further access to the property. Arrangements were made with police to enforce the order and a lock smith attended Patricia's property to change the locks.

Patricia remains hopeful that her son will accept the help he needs to turn his life around and that at some time in the future they can re-establish a relationship.

Support for victims of elder abuse

Court system

For older victims of family violence, entering the court system can be a strange and frightening experience. To ensure just outcomes, systems should accommodate the frailties and needs of victims so far as possible.

SRV's experience in Magistrates' Court proceedings has mostly involved representing older people who are applying for IVOs in cases of physical, emotional and financial abuse and commonly where there are multiple kinds of abuse occurring at the same time. SRV observes that the changes made to the intervention orders regime by the *Family Violence Protection Act 2008 (Vic)* were extremely important in assisting victims of forms of abuse other than physical; expanding the definition of 'family violence' to include a broad range of problematic behaviours has been one of the most important reforms to the family violence system introduced in the last ten years. However, SRV is not convinced that the broad legal definition of 'family violence' is reflected in the community's definition and understanding nor, even more worryingly, in Magistrates' practice.

SRV has identified areas of improvement in relation to court systems and the IVO process as follows:

- Magistrates' attitudes and behaviour in family violence intervention order proceedings;
- Community understanding of family violence intervention orders;
- Difficulties in the IVO process.

Magistrates and IVO proceedings

SRV has found the attitudes of Magistrates in dealing with older people to be inconsistent. Sometimes, the understanding that Magistrates have shown towards the "frailties" of older people has been admirable. Personal attendance at court has been excused on medical grounds and older people have been permitted to give evidence in a flexible way that takes into account their physical or emotional state. However, at other times, Magistrates have shown a disappointing lack of understanding of elder abuse and the particular physical or emotional needs of older people. For example, a Magistrate discounted name calling and controlling behaviour as falling within the definition of family violence, despite the particularly negative impact it had on an older female applicant. Another called an older applicant's capacity into question when she had hearing and language difficulties that were compounded by being in a stressful situation. The process for her then getting a capacity assessment was onerous and indeed unnecessary.

SRV is concerned that Magistrates do not use the full potential of the legislative definition of 'family violence' in making IVOs. SRV has rarely obtained (or observed others obtaining) IVOs for threatening, coercive, controlling or dominating behaviour. There is accordingly a concern that the legislation is not being used to its full potential. SRV would be reassured to know that Magistrates appreciate how damaging *all* the forms of family violence can be and that there is a professional willingness to make orders on the basis of any aspect of the definition, where appropriate.

SRV welcomes the Magistrates' Court response to family violence 2015-17 policy, which details six initiatives including professional development of all Magistrates.⁵⁰ However, SRV would like to see Magistrates achieve better understanding of the dynamics and complexities of elder abuse, of the decision-making capacity of older people and of the different or additional difficulties that older applicants might face in going to court to get an IVO compared to younger people.

In addition to increasing just outcomes, the professional development of magistrates in regard to elder abuse will ensure that older people are treated with dignity during court proceedings.

Community understanding of IVOs

SRV's impression is that members of the public still commonly understand family violence as involving physical violence whereas the legislative definition is much broader. In SRV's experience, older people do not have any appreciation that emotional, psychological or economic abuse are forms of family violence; even less so in relation to threatening, coercive, controlling or dominating behaviour. This lack of information and understanding creates a barrier to older people accessing the legal system.

In addition, older people tend to have a perception that an IVO is a criminal rather than a civil matter. Concerns about their adult child having a criminal record and possibly losing or being unable to gain employment as a result of an IVO prevent some older people from seeking one. It is important for everyone to understand how an IVO works to help ensure its effectiveness as an intervention mechanism.

These misconceptions about IVOs help illustrate why SRV submits that there is progress to be made in raising public understanding about family violence including the operation of the family violence justice system.

As well as raising awareness about the breadth of problematic behaviours that constitute family violence, SRV believes that there may well be scope to include examples of elder abuse in families in the *Family Violence Protection Act 2008* (Vic).

Difficulties in the IVO process

In assisting clients through the IVO process, SRV has experienced a number of difficulties including:

- Lack of information flowing between police, the Magistrates' Court and victims;
- Inconvenience of multiple procedural hearings;
- Need for victims to have better support before, during and after a hearing;
- Misuse of intervention orders;
- Delay at court;
- Lack of enforcement of breaches.

Each of these difficulties is addressed below.

Information flow between police, the Magistrates' Court and victims

In assisting clients who have made an application for an IVO, or where police have made an application on their behalf, SRV is sometimes frustrated by the lack of information provided about the status of the application and court dates.

In relation to police, SRV sometimes find that officers who make an application for an IVO on behalf of an older person do not follow up appropriately. They do not contact the older person to update them about the status of the application or court dates. When SRV attempts to contact the police on behalf of a client, difficulties are encountered because the officer responsible is unavailable (due to such things as changing shift times or long periods of leave) and a different officer cannot assist because there are no written records. Sometimes the matter is transferred to another officer, the applicant is not informed and the new officer does not follow up, meaning the application is 'lost' somewhere. This results in considerable frustration and distress for SRV's clients.

In relation to courts, there is again an information flow problem so that victims do not receive notification of court dates, resulting in anxiety and stress.

SRV notes that improved use of technology and information sharing is one of the initiatives listed in the Magistrates' Court response to family violence 2015-17 policy. However, it does not expressly mention improving communication between the police, courts and IVO applicants.

Procedural hearings

SRV considers that requiring older applicants to attend procedural hearings may cause them undue physical and emotional stress. SRV would like a more common practice of excusing older people from attendance at procedural hearings.

SRV would also like IVO processes streamlined to avoid, so far as possible, the need for multiple procedural hearings.

Support before, during and after court

SRV is able to help older people through the IVO process, however, not all older people seek its services. Furthermore, SRV is limited in numbers to two advocates and two lawyers. This means that it is important for services to exist at court to offer support to applicants before, during and after a proceeding. The availability of Magistrates' Court staff to inform, explain procedures and outcomes of hearings, and to offer referrals to other services as necessary, needs to be more consistent rather than ad hoc, which is currently the case.

In its response to family violence 2015-17 policy, the Magistrates' Court has committed to expanding dedicated family violence services to all headquarter courts across the state including specialised Family Violence Registrars, applicant support workers and respondent support workers. SRV strongly supports these measures.

Misuse of family violence intervention orders

The justice system must be alert to the misuse of IVOs and the fact that sometimes they are used as a tool of abuse by perpetrators of family violence.

SRV encounters adult children who, savvier than their elderly parents, obtain an IVO for improper purposes, for example, in an attempt to obtain an exclusion order to make a parent move out of a residential property.

Perpetrators also use court processes in an abusive manner by contesting an IVO then deliberately turning up late, or frequently not turning up at all, leading to continuous adjournments and increased anxiety and stress for victims.

Misusing the system is another way in which perpetrators of family violence attempt to exercise power and control over their victims and mechanisms to stop this from occurring should be implemented.

Delay

Delay at court

Waiting all day at court to have an IVO matter heard can be an arduous experience for any applicant but it may have a particularly negative effect on an older person with physical limitations or ill-health. To reduce waiting at court, the Magistrates' Court should stagger start times.

Delay also occurs when a respondent fails to attend court on time and the matter is stood down for several hours until the respondent attends or the Magistrate starts a warrant process. This delay takes an unfair toll on older applicants and alternative procedures should be considered to minimise delay caused by a respondent's late or non-attendance.

Delay in obtaining a final intervention order

Delay in obtaining a final IVO can be a cause of anxiety and stress for applicants. One reason for delay in obtaining a final order is the need to wait for concurrent criminal proceedings involving the respondent to be finalised. SRV looks forward to the development of a listing model that will see family violence related criminal charges listed before a court within set time frames, as set out in the Magistrates' Court response to family violence 2015-17 policy.

Enforcement of breaches

It is disappointing to note that police often do not take action when an IVO is breached. Whether this is because of a lack of time and resources or an attitudinal issue SRV cannot say, but it results in victims losing faith in police and the justice system. There is also potential for an escalation of breaches by the perpetrator which could otherwise be prevented.

Problems with courts

The layout of courts and their accessibility and user friendliness (or lack thereof) for older people is a relevant issue for SRV. We would like improvements made to court buildings and facilities to better accommodate older clients.

It can be problematic for applicants and respondents in IVO matters to enter and exit the court building using the same entrance and exit. Similarly, victims and perpetrators usually wait in the same areas within the court. SRV believes that having to see a perpetrator of family violence on multiple occasions before, during and after a hearing forces a victim to experience additional and unnecessary anguish. The Magistrates' Court response to family violence 2015-17 policy contains an initiative to improve waiting areas in courts for applicants and children to increase safety and this should involve applicants and respondents waiting in different areas.

For some courts, appropriate shelter from the outside elements and access to facilities like toilets is unsatisfactory or non-existent. In particular, this is the reality at Mansfield Magistrates' Court which provides antiquated facilities with no privacy or comfort for parties.

SRV points to the Ringwood Magistrates' Court as an example of a court that we consider to be well set up.

Recommendation

Resolution of identified problems in the court system and family violence intervention order process.

Services for victims of elder abuse

To better help victims of elder abuse in families, SRV has identified the need for:

- SRV regional coordinators;
- Increased integration of services;
- Better housing options for older women and for perpetrators.

SRV Regional coordinators

SRV submits that regional coordinators, led by SRV's Melbourne office, should be established to enable the provision of collaborative responses across a range of services, including social work and legal services, to older members of the community in all areas of Victoria.

There are a number of reasons why SRV believes that the current Melbourne-centric focus is not an adequate response to the needs of Victorian seniors and that SRV services should be more effectively delivered to regional areas:

- SRV provides a service to all areas of Victoria, with a higher level of service to those areas with a physical presence, that is, metropolitan Melbourne and Loddon Mallee;
- Service provider calls to SRV are disproportionately from regional areas;
- The availability of support within regional communities can be particularly important where a lack of anonymity and privacy, or a sense of shame at having friends and neighbours find out about personal affairs, can otherwise dissuade victims from seeking help;
- Isolation is an elder abuse risk factor and older people living in rural areas are more isolated.

Regional coordinators acting under the leadership and direction of SRV's Melbourne office could expand upon the important work accomplished by the previously funded PCPs in community awareness raising and local area agency capacity building. Regional coordinators would be placed in appropriate host agencies and would work to build a network of service providers, develop guidelines and toolkits and disseminate information while reducing the risk of regional differences or unnecessary duplication of work.⁵¹

In further support of regional coordinators, SRV refers the Commission to the example of Québec in Canada where, as part of its 'Action Plan to Counter Elder Abuse 2010-2015' (renewed until 2017), coordinators were integrated in each of Québec's 17 regions, covering a statistically similar population to that of Victoria (approximately 8 million people).

Integration of services

It is crucial to establish a relationship of trust with victims. Older people may take time to feel ready to make a change in their life and they need someone who knows about their situation, who is available to give advice and support while they moves through the stages of change and involves other services as appropriate to meet changing needs.⁵² At SRV, our advocates often carry out this role.

SRV supports further integration of services. Having regard to the above, we submit that it is important to nominate one person who coordinates the support provided to an older victim – an ‘anchor’ person.

In terms of integrative models, SRV knows from experience that having social workers and lawyers working together on a daily basis is effective. International research also provides support for an integrated social work-legal interdisciplinary model as providing better results for clients than those pursuing social work services only.⁵³

SRV is supportive of Health Justice Partnerships as offering a new model of collaboration between lawyers and health professionals in Victoria. The model seems to have potential benefits for older people. SRV endorses Justice Connect’s recommendations in its submission to the Commission in this regard.

Recommendation

Creation of a network of regional coordinators, led by SRV’s Melbourne office, to enable the provision of collaborative responses across a range of services, including social work and legal services, to older people experiencing elder abuse.

Recommendation

Government funding towards the expansion of Health Justice Partnerships as detailed in Recommendation 9 of Justice Connect’s submission to the Commission.

Housing

Housing for victims of elder abuse

SRV has no doubt that the availability of affordable and appropriate housing for family violence victims will be a major theme in many of the submissions to the Commission. We add our voice to the numbers calling for long term government commitment to this issue and draw the Commission’s attention to the particular needs of victims and perpetrators of elder abuse.

Whilst crisis accommodation might be available, the lack of availability of long term housing can force a woman to return to a violent situation, as illustrated by Mary's story in this submission. As Mary's story also shows, intimate partner violence does not magically end as the victim and perpetrator grow older. Indeed, where physical violence continues into older age, health concerns can become even more significant and it is harder for the victim to defend themselves or leave the abusive relationship.

More broadly, when an older person needs to leave a family violence situation and obtain alternative housing, they might face barriers such as not being classified as 'high risk' and therefore not able to access housing. They may feel they cannot or should not access emergency or long term accommodation that is designed for younger women and their children. Housing that is suitable for older women should therefore be made available and its availability widely known.

Another barrier for victims in accessing housing is simply the lack of awareness about what services are available. Older people sometimes go to homelessness services in the first instance because they do not know of other options. Dissemination of information and appropriate referrals by hospitals, social workers and aged care services are therefore crucial.

Housing for perpetrators of elder abuse

A challenge that needs to be faced is providing better housing options for perpetrators of elder abuse who are middle aged single men without employment and who may have addiction or mental health issues.

Too often, following a marriage breakdown, loss of employment or because of an addiction or mental health crisis, an adult child returns to the family home and a pattern of abusive behaviour against a parent begins. Whilst acknowledging that perpetrators are sometimes daughters and victims are sometimes fathers, it is more often an adult son who abuses his elderly mother. Unfortunately, the problem is compounded because these are the men who have the most difficulty in obtaining private rental or government housing.

SRV is aware that advice on housing is available in at least some Magistrates' Courts for men who have had an IVO made against them and therefore cannot return home. SRV supports the availability of such advice as well as improving awareness amongst service providers about its existence.

Recommendation

Improved housing options for older women and perpetrators of elder abuse and availability and efficacy of housing advice services at all Magistrates' Courts.

Gwen's story

Gwen's son Craig lived with her in her home on a rural property about one hour's drive from Melbourne. Craig had issues with drugs and gambling and was abusive towards her. He stole money from her purse, threatened to kill her and made no contribution to household expenses. Despite Craig's increasingly volatile and violent behaviour, Gwen felt a strong sense of ambivalence about taking action against him. She felt caught in a terrible bind between feeling responsible for helping her son and needing to feel safe in her own home.

Despite calling to report the abuse to police, they did not take out a family violence intervention order on her behalf. As a last resort, and feeling fearful for her safety, Gwen attended her local court in person to make an application for an order. Craig was removed from the house after the interim order was granted. Gwen continued to feel unsafe despite the order being in place and changing the locks on her property. Craig breached the order by coming to her property on several occasions and she had to call police.

A number of administrative errors caused delay in Gwen getting a final intervention order which caused her additional and unnecessary distress. She had significant mobility and health problems which made it very difficult to attend court, which was more than an hour away. However, a Magistrate did exempt her from attending two mention dates once a medical certificate was provided.

Gwen hopes that Craig now leaves her in peace and quiet for the duration of the 12 month intervention order.

Accountability of perpetrators of elder abuse

Court ordered counselling and behaviour change programs

For many of SRV's clients who are parents suffering abuse at the hands of their adult child, obtaining an IVO is an extremely painful decision and involves them breaking a bond that they never thought could be broken. They often resist such a step for a long time because they do not want to get their 'child' into trouble or have them forced to leave the family home. Often, the parent feels humiliated, ashamed or that they have failed in some way even if it is objectively clear that the perpetrator's behaviour is abusive.

SRV's clients are often more inclined to proceed with obtaining an IVO if they think that it might force the perpetrator to change or seek help for the problem that is causing them to be abusive (for example, mental health issues, drug, alcohol or gambling addiction). This is why SRV would like to see participation in counselling or behaviour change programs more commonly attached as a condition of an IVO.

The scope for courts to order counselling is currently limited. Counselling orders can only be made by the Family Violence Court Division at the Magistrates' Court at Ballarat and Heidelberg when an IVO has been made against a male in relation to a female partner or former partner. This is not a legislative restriction, but because it is the only counselling currently approved by the Secretary to the Department of Justice.⁵⁴ The service providers are Child and Family Services Ballarat and Kildonan Uniting Care.

SRV observes that a service provision gap exists in the area of counselling or behaviour change programs for perpetrators of elder abuse. Current programs which aim to help men change their violent or controlling behaviour towards female partners are unlikely to be suitable for perpetrators of elder abuse given their different profile and circumstances. Indeed, it could be alienating for a perpetrator of elder abuse to participate in programs where they could not relate to the experience of other perpetrators. However, the themes explored in men's behaviour change programs – acts of power and control and the pattern of intimidation in a relationship – are applicable to elder abuse. As such, SRV believes that programs could be developed to assist perpetrators of elder abuse in families change their ways.

In ordering a person to participate in behaviour change programs, we are acting upon an assumption that it works. At the moment, apart from sanctioning a perpetrator of family violence, ordering them to

participate in behaviour change is the only option. There may be scope to develop other kinds of interventions for perpetrators and this should be a subject of research.

In terms of the effectiveness of behaviour change programs, SRV refers the Commission to the longitudinal study being carried out by Emeritus Professor Thea Brown at Monash University. SRV understands that it is the only study of its kind in Australia. The study will not be completed until 2016 but results so far indicate that men's behaviour change programs are effective, although not for everybody. SRV understands that a separate submission is being made to the Commission by Professor Brown.

Apart from this, orders for a person who has apparent addiction or mental health issues to attend targeted counselling or programs to address those issues, would also be appropriate and useful.

Recommendation

Helping perpetrators of elder abuse in families change their abusive patterns of behaviour by making tailored elder abuse counselling and behaviour change programs available.

Elder abuse in Indigenous communities

"In some instances, our young people have become the oppressors and they target their abuse at the older people in our communities. For those younger people who live with a sense of helplessness and hopelessness as a result of disadvantage, they often hold their old people to ransom, bullying them to pay bills, look after children, stick up for them with authorities, and finance their substance abuse and gambling. This is lateral violence and it is elder abuse."⁵⁵

Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner

SRV recognises that tackling family violence and elder abuse in Indigenous communities requires a culturally appropriate approach. Elder abuse may look different in Indigenous communities compared to mainstream society and happen for reasons that are culturally, socially and historically based. Apart from economic abuse involving people being bullied for their money, in particular welfare payments, Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Gooda, points to "the social and emotional aspects" of elder abuse as being "directly linked to the breakdown of our cultural norms as a result of colonisation, dispossession and oppression. These cultural norms include our responsibility as Aboriginal and Torres Strait Islander people to respect and to care for our elders."^[1]

Through its community education program, SRV established a partnership with the Gunditjmarra Aboriginal Co-operative to deliver targeted education sessions and produce a printed resource to communicate the message that abuse of elders will not be tolerated.



All SRV staff have received Aboriginal Cultural Competency training and, under the guidance and education of the Wurundjeri Land Tribe Land Cultural Heritage Council, visited significant Wurundjeri sites. The aim of such education is to facilitate understanding and communication so that SRV is culturally responsive to Indigenous clients and service providers.

In working with Indigenous communities, SRV has learnt that long term relationship building to establish trust is crucial. There needs to be a sense of ownership by the community of the measures and programs introduced and so SRV's peer education model works well. A genuine process of consultation and approval of written resources must also take place.

The process of relationship building can be time and labour intensive but it is a proven method in responding to elder abuse in Indigenous communities; once productive relationships are established, much can be accomplished. SRV would like to be in a position for its community education program to reach out more broadly across the State but requires additional funding to do so.

Recommendation

A comprehensive strategy to tackle elder abuse be implemented by SRV as follows:

- A full time position be funded to develop and deliver a culturally-specific community education curriculum and program. The position be auspiced by a peak Aboriginal organisation and work collaboratively with SRV.
- Culturally-specific community education programs be delivered to Aboriginal communities in Victoria to raise awareness of elder abuse in the community.
- A professional education program funded to train workers in Indigenous communities and services to develop strategies to prevent elder abuse, deliver elder abuse community education and respond appropriately to incidences of elder abuse.

Elder abuse in CALD communities

“Unfortunately, it is not uncommon for difficulties experienced within inter-personal relationships to be even less likely to be reported among migrant and multicultural communities. A host of added social and cultural factors further complicate the already delicate interplay of personal and familial aspirations, expectations and obligations.”

Marion Lau OAM JP, Deputy Chairperson, ECCV

Approximately one third of people over 65 years of age in Victoria are from CALD backgrounds. Whilst elder abuse is not necessarily more common in ethnic communities, as the Ethnic Community Council of Victoria (ECCV) observes, older people within these communities may be at greater risk or face additional barriers in accessing assistance. Lack of English language skills, cultural influences and smaller family networks can mean that a CALD senior is more vulnerable to abuse where it occurs and that they are less likely to identify abuse or seek support. Programs to prevent and intervene in situations of elder abuse therefore need to be culturally sensitive and adapted to the needs of the particular ethnic community.

Adult children returning home is a common occurrence in ethnic communities, as it is elsewhere. However, additional complexities might arise due to cultural specificities such as:

- Reliance on an adult child for translation of documents;
- Social stigma attached to revealing an adult child's addiction;
- Speaking out about family problems in a close-knit community with traditional values.

The work of ECCV and SRV has highlighted some important reasons why ethno-specific prevention, intervention and support strategies are required. Some examples are:

- CALD communities prefer a 'whole of family' approach for messaging and the term 'dignity and respect' is preferred over 'elder abuse' or 'individual rights';
- Ethnic communities relate better to stories and narratives that depict common scenarios of abuse rather than a didactic approach;
- It is not enough to translate English documents into other languages. By way of illustration, the word 'abuse' translated into Macedonian defines physical abuse only and not the broader

definition of abuse as we understand it. A more appropriate word for the Macedonian community is maltreatment;

- As some CALD people grow older, they tend to drop the language they have learnt and revert to their first language only.

To help address language barriers in particular, ECCV, in collaboration with SRV, has created resource kits to support bilingual community educators working with seniors from the Chinese, Greek, Filipino, Macedonian, Turkish and Serbian communities.

Recommendation

SRV endorses the recommendations made by the ECCV in its submission to the Commission.

Notes

- ¹ Alexandre Kalache, *The Longevity Revolution: Creating a society for all ages* (2013) 68.
- ² The existence of trust as the sole connection excludes relationships that are based on the exchange of money for services and, accordingly, SRV refers such calls to appropriate complaints agencies.
- ³ World Health Organisation, *The Toronto Declaration on the Global Prevention of Elder Abuse* (17 November 2002) 3.
- ⁴ Victorian Government Department of Health, *Elder abuse prevention and response guidelines for action 2012-14* (2012) 1.
- ⁵ World Health Organisation, *Elder Abuse: What is elder abuse?* <http://www.who.int/ageing/projects/elder_abuse/en/>.
- ⁶ World Health Organisation Regional Office for Europe, *European report on preventing elder maltreatment* (2011) viii.
- ⁷ National Ageing Research Institute in partnership with Seniors Rights Victoria, *Profile of elder abuse in Victoria: Analysis of data about people seeking help from Seniors Rights Victoria – Summary Report* (June 2015) 5.
- ⁸ Seniors Rights Victoria, *Annual Report 2013-14*.
- ⁹ Above n 7, 3.
- ¹⁰ Victorian Government Department of Human Services, *With respect to age – 2009: Victorian Government practice guidelines to health services and community agencies for the prevention of older abuse* (2009) 4.
- ¹¹ Australian Bureau of Statistics, *Population Projections, Australia, 2012 (base) to 2101* <[http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/3222.0main+features32012%20\(base\)%20to%202101](http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/3222.0main+features32012%20(base)%20to%202101)>
- ¹² Victorian Government Department of Transport, Planning and Local Infrastructure, *Victoria one page summary* (2014) <http://www.dtpi.vic.gov.au/__data/assets/pdf_file/0006/222945/Victoria-One-Page-Profile-VIF2014.pdf>.
- ¹³ Above n 4.
- ¹⁴ Senate Finance and Public Administration References Committee, *Inquiry into domestic violence in Australia, interim report* (March 2015) 6.
- ¹⁵ Above n 1.
- ¹⁶ Bert Hayslip Jr. Ph.D., Julie Reinberg Ph.D. & Jennifer Williams M.S., 'The Impact of Elder Abuse Education on Young Adults' (2015) 27:3 *Journal of Elder Abuse & Neglect*, 233-253.
- ¹⁷ The Prime Minister, the Hon Tony Abbott MP, 'National awareness campaign to reduce violence against women and children', Media Release 4 March 2015 <<http://www.pm.gov.au/media/2015-03-04/national-awareness-campaign-reduce-violence-against-women-and-children>>.
- ¹⁸ Gouvernement du Québec, *Governmental action plan to counter elder abuse 2010-2015* (2010).
- ¹⁹ <<http://www.areyouok.org.nz/family-violence/older-people/>>.
- ²⁰ Point Research Ltd, *An innovative approach to changing social attitudes around family violence in New Zealand: Key ideas, insights and lessons learnt* (March 2010) 10.
- ²¹ Ibid at 16.
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