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REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 2

INQUIRY INTO ELDER ABUSE IN NEW SOUTH WALES

At Sydney on Monday 22 February 2016

The Committee met at 9.30 a.m.

PRESENT

The Hon. G. J. Donnelly (Chair)

Ms J. Barham
The Hon. S. Cotsis
The Hon. P. Green
The Hon. M. R. Mason-Cox
The Hon. Dr P. Phelps
The Hon. B. Taylor

CHAIR: Welcome to the second public hearing of the General Purpose Standing Committee No. 2 Inquiry into Elder Abuse. The inquiry is examining the effectiveness of law, policies, services and strategies in New South Wales in safeguarding older people from abuse. It will also consider new initiatives to enhance existing safeguards and empower older people to better protect themselves from risks of abuse. I would like to acknowledge the Gadigal people who are the traditional custodians of this land. I also pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals who may be present today or listening to the hearing. Today's hearing is the second of four public hearings we plan to hold for the inquiry. Today's hearing will focus on policy with experts from the fields of gerontology, health and aged care and advocacy groups. In the two later hearings we will hear evidence from legal experts and government agencies.

Today's hearing is open to the public and is being broadcast live via the parliamentary website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, while media representatives may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside their evidence at this hearing. I urge witnesses to be careful about any comments they may make to the media or to others after they complete giving their evidence today as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcast of the proceedings are available from the secretariat.

There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer to the secretariat within 21 days. I remind everyone here today that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. While it can be helpful to hear about individual cases, we also wish to protect people's privacy. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. Witnesses are advised that any messages should be delivered to Committee members through Committee staff. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

SUSAN RYAN, AO, Age and Disability Discrimination Commissioner, Australian Human Rights Commission, affirmed and examined:

CHAIR: Welcome to the public inquiry. We greatly appreciate you making yourself available for this morning. Would you like to start by making a short statement? If you could keep it to two or three minutes, that would be great.

Ms RYAN: Thank you, Chair and Committee members. Thank you for the opportunity of participating in your inquiry. As you are very well aware, I am a commissioner in a Commonwealth agency and we recognise this is an initiative of the New South Wales Parliament. The thoughts and strategies that I have been working on recently in relation to protecting people from elder abuse tend to have more of a national coordination approach, but nonetheless New South Wales is our biggest and most populous State and I am very pleased to participate in any way that I can to assist this inquiry to produce what we need.

CHAIR: Thank you very much. There is representation on this Committee from the Government, Opposition and crossbench, so we have decided to share the questions between members. Would someone like to commence the questioning?

The Hon. SOPHIE COTSIS: I am happy to. Thank you, Commissioner, for joining us here today. I have read a number of your articles and I know that you have spoken at a number forums in New South Wales. You talk about a nationally coordinated approach. Can you elaborate further about that and how all States can work together?

Ms RYAN: Yes. I have been in discussion with the Commonwealth Attorney-General, Senator George Brandis, who is very keen to see some sort of Commonwealth role—and it would be a role of coordination, obviously, since the service delivery is largely with the State agencies. In discussion with other Commonwealth agencies and with the Attorney I am developing proposals such as, first of all, that there be a national prevalence research project into the prevalence of elder abuse across Australia. We do not know how prevalent it is—we have international figures which we can extrapolate to Australia—but we know that it is a lot, we know that most of it goes unreported and it is my view that we would be better placed to develop nationally coordinated policies with the States if we had a better, more comprehensive picture of what is happening across the nation.

I notice a prevalence study is also one of the terms of reference of this Committee. So that is the first national initiative I am advocating. The second I am advocating but really need the input of State parliaments such as yours on is whether there is scope for a national elder abuse hotline. I am very well aware that the State of New South Wales has put its hotline in place and I congratulate the Parliament and the Government on those measures. We know that most of the States and Territories have hotlines. The data that they can gather from the hotline is, of course, the main data that we have got other than the data from police services, hospitals and doctors.

My concern in approaching this issue from the perspective of the human rights of older people is that it is often very difficult when a person believes they are being abused for them to know where to go. The New South Wales hotline is there for people in New South Wales, but because people move about and they may move from one State to another State to join a family or to go to more suitable accommodation, I am wondering if there would be use for a national hotline which would perform a triage function of the calls that come in so it could be communicated very widely. I am also advocating for a national communications campaign about this awful issue that we are trying to deal with. So there would be one number that a person could ring and at that stage they would be told, "You can ring a New South Wales number," "You need to ring a legal service," "You need to get financial advice," or, "You need to get advice on how to do a power of attorney." I am wondering whether that would improve and bring together the work of the State hotlines. So that is another proposal.

I also wonder, given that there is now, I am pleased to see, a lot of new awareness of the problem of elder abuse in several parliaments in Australia—and, as I said, the Commonwealth is now interested—whether there would be a valuable role for a national clearing house to coordinate research, to provide information and to ensure that the research and the clinical research that is going on now throughout Australia. A national secretariat could collect that and make sure that everyone working in this area was available, I suppose ultimately moving towards some sort of best practice approach or things of that nature.

So the only other national issue—which is, again, like all of them, a Commonwealth and State issue together—is the question of powers of attorney. We know that for an older person to give a power of attorney is generally seen as a way of getting legal protection of your assets, health care and so forth. Sadly we also know that there are cases where a power of attorney is misused. Also, again, there are cases where a person was living in New South Wales, gives the power of attorney to someone in New South Wales, moves to another State—and what happens to that power of attorney? So a proposal for a national register of powers of attorney has been raised. I wonder whether that is something that the Committee might consider.

The Hon. PAUL GREEN: You mention best practice. Is there anywhere around the world with best practice that we should maybe look into?

Ms RYAN: I am told that there is a lot of very good practice in the United Kingdom [UK]. I am told that by others. I have not had the opportunity to do any in-depth work on this myself. I think that we usually look to the Scandinavian countries for good social policy implementation. But I have heard particularly that the UK has over recent years put a number of measures in place for communications, hotlines and essential information.

The Hon. PAUL GREEN: Thank you.

Ms RYAN: I should add that this issue is an issue for all First World countries because of the increased longevity and the change in the way people live—they do not live in the tight communities they used to live in and so on. All of these changes are being experienced by all First World countries. As I said, I hear that the United Kingdom has a number of good things in place but I think we are probably all looking at how to deal with this issue more effectively than we have been able to up until now.

The Hon. Dr PETER PHELPS: Commissioner, you talk about "this issue", but it is really a multiplicity of issues. There is the benign neglect of just ignoring people—locking them away in a home and never seeing them again. There is the physical abuse side—if you like, a malignant neglect. There is a financial interest from acquisitive and greedy children who cannot wait for Mum to fall off her perch so that they can get the home and the inheritance. These issues can have a broad umbrella of abuse, but each must have their own specific policy prescriptions towards them. I am interested in your perspective. We would like to address all of them but, assuming we have limited resources, what is the key area that you see as being the chief cause of concern for elderly people?

Ms RYAN: You are right to say that there are many forms of abuse. From what I have heard—I am no expert in this issue—the matter of financial abuse is extremely urgent. I spoke recently at a seminar on financial abuse hosted by the Financial Services Council. There is a lot of evidence. It comes through community legal services, where people go when their assets have been stolen by a family member. It also comes through banks. I understand that banks are now upgrading their training of frontline people because cases have been reported, documented and then gone to court. In some cases it involves an old, frail person, sometimes with dementia, being brought to the bank by a family member or a "friend", who says, "She wants to hand her assets to me", or "She wants to guarantee this loan." It is now very important that bank tellers on the frontline are trained to see that something is wrong and not proceed before getting more advice. The financial advice issue is very big.

Of course, the other reason that financial abuse is such a growing and large part of elder abuse is that these days older people have assets, whereas a generation or a couple of generations ago they did not. They went on the aged pension and that was it. Now because of successive homeownership arrangements most old people have a home. They might have bought it for a modest price 50 years ago but it is now worth a great deal more. They now have an asset that greedy and unprincipled family members are keen to grab. The impetus for financial elder abuse comes from extended homeownership and what has happened to home values. In the future, of course—not now—older people will also have substantial superannuation savings. Again, that will be an attraction to those who are wicked enough to want to grab them.

Financial abuse is a huge issue. There are other forms of abuse, and they are also terrible. However, there are strategies that could be put in place to try to pull back financial abuse. Providing information and training to relevant bank financial advisers, a hotline and so on could be effective. I like to look at how we can change things. Some of the issues we are dealing with are very hard to get a handle on, but I think we could get a handle on financial abuse, and I hope we do.

The Hon. Dr PETER PHELPS: Following on from that, there must be a paradigm shift in the way that people approach issues of inheritance. Fifty years ago mum lived until she was 72, but these days she could reach 92 or 95. The expectation that you will inherit a windfall or something must be removed from children's consideration. Advances in gerontology mean it is likely that your parents will live two decades longer than they would have in the past. Despite that, people believe they will get an inheritance, and that produces a series of unfortunate assessments about parental longevity.

Ms RYAN: It does. Trying to deal with that wrong assumption that you are entitled to your mother's house decades before she dies lends itself to some sort of community education campaign. You are correct in saying that many people believe that they own their mother's house—she owns it. With the in-principle very welcome change in longevity, the old person needs the asset as part of providing for their aged care as they need it. Superannuation is now a hot topic, and I do not want to get into pre-budget speculation. Superannuation savings should be used by the person who owns them to support them in their old age and not be handed over to pay off a son's business debts. You are right, but that is a deep cultural idea that has taken hold. We need a comprehensive community education campaign to re-establish that it is the owner's asset and that it is to be used for her or his benefit.

The Hon. BRONNIE TAYLOR: You said that we are not sure about the prevalence of elder abuse because we do not have the research data, but that we accept that it is high and mostly unreported. You also referred to education and powers of attorney, which are an issue in rural and regional areas. I am a rural and regional member of Parliament. I had an instance when I was nursing when I knew a patient's wishes and that they had a will. However, when they went to a hospital across the border and different family members were involved the will was changed 12 hours before the person died. That was not an isolated case. If you were to speak to nurses, many would recount similar experiences. I remember getting the call from the staff at the hospital asking what was going on. Because the hospital was a couple of hundred kilometres away people could not get there. Are we moving towards an education campaign aimed at not only lawyers, health professionals, home carers and others but also the broader community? We acknowledge that it is a problem but we do not have the data. What are we doing?

Ms RYAN: We need to do a lot more. The positive is that there is now much greater focus on it. This Committee and people with hands-on experience like you are getting engaged in the issue. However, to have an effective community campaign we need more data. In designing such a campaign we must first ensure that it appeals to people in regional areas. We are also dealing with a lot of very old frail people for whom English is not their first language. Members would be aware of the complications that arise from that. We must take that into account in a campaign. It could involve a series of campaigns crafted for each area. I am not aware of any anti-elder abuse campaign at this stage.

I hope that the work of this Committee will trigger other initiatives in the States and the Commonwealth. Hopefully, with the Commonwealth now looking at how it should engage we will get that going. That does not need to wait for the prevalence study, because we know there is a lot of elder abuse and that a lot of it is financial abuse. I believe that we have enough data to start educating the community. The New South Wales Police Force also has a lot of data. Of course, the police and the lawyers get involved only when something terrible has happened.

The Hon. Dr PETER PHELPS: When they know about it. It is the societal problem of dobbing in your son because he is ripping you off.

Ms RYAN: It is a huge problem. It is a basic thing to say to older people, especially older ladies, "If your son asks you for a loan, the first thing you should do is get legal advice." It is a confronting and harsh thing to say, but we have to a find a way to say it. I also think that our non-government organisations have a big role to play, particularly National Seniors and the Council for the Ageing. They have branches and activities all over Australia and I think they are an important part of this. I assume the Committee will be hearing evidence from them. When we are looking at communicating with groups of old people we need to go through the non-government organisations that are already communicating with them.

We must also consider the various ethnic groups. There are Greek and Italian organisations such as Co.As.It which have big networks and which provide services to older members. We should look at what is being done and then work with them to communicate. As members have observed, it will be different in regional areas and in, for example, a tight Italian community. We need to cover the whole field.

Ms JAN BARHAM: Thank you for your advocacy. It is important to speak out about this issue to raise awareness. One thing I have not heard often—although we heard it during the registered nurses in aged-care inquiry—is that sometimes the people who are caring for older people may not be the most appropriate family member to do so. Often they are the member of the family who is unemployed, retired, frail or with mental health issues. They are also most likely to be the perpetrators of abuse. Should we be focusing on that part of it? Should we be looking at providing greater carer supports for them and some sort of specialised network of education and awareness raising for them about the likelihood of abuse?

Ms RYAN: I think we should. The scenario you have described is very common. Who is living at home with old mum or dad? It is probably not the person who is employed and who has a home and family. I see the carer as crucial. The other part of the national strategy that I am trying to develop goes to the training of our aged-care workforce. The Senate will be conducting an inquiry into that matter soon. That is crucial because it will be the aged-care worker going in perhaps two or three times a week who will notice that the unemployed son with addiction problems is causing trouble. Given the way they are now trained, those aged-care workers are not equipped to know what to do.

There needs to be someone that they can call, perhaps a network of social workers, health workers and so on. That carer must first be trained in what to do so that they can react when they see something, and it may not be signs of physical abuse. It may be distress exhibited by the old person or they may say, "I'm very worried about my son. He keeps asking me to do this, that and the other." They need support and somewhere to go. They probably do not want to ring the police straightaway because they would be nervous doing so. They need some sort of easily accessible information—a hotline or whatever it may be.

Of course, the other people who might notice something are neighbours. People still have neighbours, especially in regional areas, and they notice things. Again, they need to have a safe, confidential way of contacting someone and saying, "I think there is something wrong next door." I am sure the Committee will have a lot of expertise in developing these things. We are also aware that abuse occurs in residential aged-care facilities, and protections are in place and are being developed further. Last week I had a meeting the Commonwealth Aged Care Complaints Commissioner. I am sure the Committee is familiar with that role, which has been greatly upgraded recently.

The commissioner's role is to record and investigate complaints about care in residential aged-care facilities or as provided by providers in the home. Once it gets to that stage, there is a capable resource to deal with it. However, of course, the commissioner's role does not address what happens between a son, mother, daughter or father in the home. I see the problem of abuse in the home perpetrated by family members as even harder to deal with than abuse in residential settings.

The Hon. PAUL GREEN: Is there any evidence of lack of respite resources leading to carers not getting a break and eventually blowing their top because there is no outlet?

Ms RYAN: I am sure there is. I do not have the data, but we hear about it all the time. A lot of work has been done with regard to carers generally. In fact, the Human Rights Commission produced a report about carers in 2013, and I encourage the Committee to read it. Carers get into a most difficult position. They have often given up their job to provide care, they are isolated, and are there 24/7. The situation can get out of control. They must be provided with respite from this awful isolation. We are all in favour of the home based care arrangements that are being developed and expanded. They are essential. Respite for carers is an essential part of keeping carers going and if carers cannot do their job it falls back to public resources. There is every reason, not just human rights, for supporting carers in that way.

The Hon. PAUL GREEN: The thought is always that we will take the patient or the client out of the home and put them into a resource. Like hospital in the home we have to get the carers to do the respite in the home and let the relatives have a break.

Ms RYAN: That's right. The respite carer could come in and replace the daughter or the son so that they can have a break. There are respite centres.

The Hon. PAUL GREEN: We tend to say they have to go somewhere and we have to put them somewhere for a two week rest. It is not necessarily so. We have to get carers to come into the home for two weeks.

Ms RYAN: If the home arrangements are otherwise satisfactory because it is quite disruptive to the old person to move them. "Do I have to go there", and so forth.

The Hon. PAUL GREEN: They become very anxious.

Ms RYAN: Supporting carers in the home is absolutely essential.

Ms JAN BARHAM: Are you proposing that there be a 24-hour hotline?

Ms RYAN: Yes, I think it has to be. Incidents occur at any time of day or night.

Ms JAN BARHAM: And privacy to talk might only be available in the small hours.

Ms RYAN: That's right.

Ms JAN BARHAM: There is the New South Wales hotline and there is evidence that it is nine to five Monday to Friday with an answering service at other times. Unfortunately that does not appear to be working. I and my staff have tried ringing it after hours but it rings out. Some of the other hotlines have simple numbers, whereas this is a 10 digit number. Do you agree that it has to be shorter?

Ms RYAN: Totally, of course I agree: 1-2-3, or something like that. Again, who is going to be calling that line: the old person who is in a very frail state and cannot cope with the long numbers or perhaps the carer is a person who has not got a lot of skills. Absolutely. I know it is a budgetary thing, I know I am speaking to a committee of the Parliament and it is a budgetary issue to extend the services, but apart from the assistance to the people we want to assist, I do believe that further down the track there are savings. If people are helped and looked after initially then disasters that are costly for the public purse can be avoided.

Ms JAN BARHAM: If the Federal Government was supportive we would be sharing the cost. It is about crisis avoidance.

Ms RYAN: It is. I do think it should be a shared cost between the two governments.

Ms JAN BARHAM: Mandatory reporting: do you think it is necessary to have a legislated system of mandatory reporting?

Ms RYAN: I have listened to what those closer to the issue than I say about that and there is a diversity of views. The analogies made with mandatory reporting of abuse of children—it is not exactly the same situation, I think. The fear is expressed that if there were mandatory reporting then the carer that comes into the home might feel scared to get involved with mandatory reporting and then you have to give evidence, and so on and so forth. Whereas with a hotline that person could ring and say, please have a look at this. I cannot form a view on mandatory reporting. It does need to be considered and again the views of police, doctors, nurses and carers should be taken into account as to whether mandatory reporting would improve the situation.

The Hon. SOPHIE COTSIS: Commissioner, you stated in a speech last year that you were working with the United Nations [UN] to look at a convention of the rights of older people, how is that going?

Ms RYAN: Yes; from the point of view of the Australian Government I am sorry to say not very well. The proposal for a new convention on the rights of older people has been around since about 2002, there have been a number of international meetings and there have been regular annual meetings of a working group at the UN, but at this stage to proceed to the drafting of such a convention you would need a majority vote of the general assembly of the UN and at this stage there is not a majority. At this stage the Australian Government has not decided to support such a drafting. I have spent a lot of time talking to Ministers and shadow Ministers about this, but at this stage they have not said, yes, it is something that Australia will support. Partly the Government or Opposition advisors say we have tools and supports in Australia for older people. We have, although when it comes to elder abuse we can see we are not doing a very good job.

The significant thing about the proposed new convention is that most of the countries in our region support it—Indonesia, Malaysia, Thailand, Timor-Leste, Philippines—those countries that do not often engage in supporting conventions say we need it because we don't know how to deal with the crisis of our older people. And they don't. They also have greatly increased longevity, it is not as great as ours but it is greater than it used

to be. What our Asian neighbours are finding is that the traditional way of caring for older people—in the home by the family, most admired by people such as ourselves—has broken down because people are leaving villages to find work, they are not going back, they are immigrating, so the traditional family based care has gone. The governments of those countries are interested in seeing a UN initiative. What would it do? It would give greater focus, a way of setting up reporting systems and it would give governments and non-government organisations [NGO] in those countries a lot more to work with. Even though to this moment I have not been successful in persuading the Australian Government to support this I still hope it will happen. I think it is possible. I throw that out there for all of you very effective people.

The Hon. MATTHEW MASON-COX: Can I bring it back to New South Wales. Can I ask you in reference to a speech you gave last year about existing laws not effectively protecting the rights of older people. Can you give us some concrete ideas about how you would change the existing laws in New South Wales to improve the protections by reference to what was done in Victoria to change the power of attorney law?

Ms RYAN: I believe there is a scope for law reform but I am not in a position to say what those reforms should be. The change to the power of attorney arrangements in Victoria are new and at this stage we need to see how practical it will be. Members of the Committee will be aware that there is now a new role, a supportive attorney position, a person who does not have the full power of attorney but represents the person. How the supportive attorney, how their powers or responsibilities mesh with the person who has the power of attorney it is a little bit early to see. I congratulate the Victorians for taking the step, but it is early days. I have heard from a number of lawyers and community legal centres—where they see the problems when the law does not work—that we should have new legal definitions of elder abuse and I think we should consider that.

Again, we need to know what we are looking at. It should be the case that laws against violence and fraud protect older people but clearly, from what you are hearing in this inquiry, they don't. It is probably a job for the NSW Law Reform Commission to look at for the New South Wales laws and see where the law could be strengthened specifically to give greater protection. I believe it is possible to do that, but I have not got an opinion at this stage because I am still trying to find out what those who have more expertise than I do believe will take us forward.

Ms JAN BARHAM: You raise the point about the training that is necessary. We know through the registered nurses and nursing homes inquiry that there is a real trend towards lesser standards for workers in aged care. Do you think that needs to be changed and a refocus on the importance of training and skills development within the aged-care workforce with a nationally based strategy to deliver that? One of the recommendations from that committee is a working with vulnerable people check.

Ms RYAN: Yes.

Ms JAN BARHAM: Are you supportive of those stronger moves before we get into crisis?

Ms RYAN: I am supportive of a working with vulnerable people check and the regular criminal checks. To be a good aged carer, an effective aged carer, you do not need a medical degree or full nurse training. We know there are people temperamentally suited to it. It could be a more preferred job for a midlife person who wants to do something different and many of the carers are migrants and have been able to get this work whereas they can't get other work. We don't want to make difficulties for people with little formal education who want to do aged care, are suited temperamentally and are not criminals. We don't want to discard them and say you have to do a nursing degree.

At the same time I do believe we can provide better targeted and regulated training. You are aware in this State of what happens when providers outside the regulated system provide shonky training, if I may say so. A lot of that has happened in the aged-care training space. I think the area does need regulation and standards do need to be higher, but not made higher in a way that will exclude people who are willing and able to do the work. They need the support. There will be a cost somewhere along the line to provide better training and supervision but it is a cost that we all must face up to.

CHAIR: Thank you for coming along this morning and providing us with important insights and reflections. We appreciate that very much. We wish you well with your ongoing important work advocating on behalf of our seniors and elderly.

Ms RYAN: I look forward to reading your report and no doubt advocating its recommendations.

(The witness withdrew)

SUSAN ELIZABETH KURRLE, Geriatrician, Hornsby Ku-ring-gai and Eurobodalla Health Services, Chair of Health Care of Older People University of Sydney, sworn and examined:

CHAIR: I have heard that this has been an area of interest for you for some time. I understand that you were an early advocate for looking at elder abuse in this State. Could you give us an oversight of how things have developed since you, and a small number of others, started to look at this issue, advocate and open the conversation on this issue in New South Wales? How has it progressed, regressed or not gone anywhere at all, perhaps?

Professor KURRLE: I saw my first case of elder abuse 27 years ago—or at least the first case I recognised as elder abuse. I had probably been working in geriatrics for about five years by that stage. I went back to colleagues and said, "This is what I saw" and everybody said, "Oh, no." This was pre-google and pre-Wikipedia—

CHAIR: Is there such a time?

Professor KURRLE: It is amazing when you look back. I discovered in the United States [US] elder abuse was a big business—this was in 1989—every state in the US had legislation relating to elder abuse. It was something we had totally missed. Ditto the United Kingdom; they had very little work on elder abuse there. We started with a couple of research projects, publishing, just working very gradually. I have to say New South Wales led the way. In 1994 we did a lot of work and we had a lot of support. We had a task force; we developed training materials, which are still in use. The videos have now become DVDs. I recently saw one being used in Holland, dubbed in Dutch, which is hilarious because we wrote the scenarios ourselves.

We have come a long way. I am very positive. Probably the thing I am most thrilled about is the helpline that finally got up in February 2013. We first asked for that in 1994, but I know things move slowly. All the States are very aware of it. In my submission I put two cases, both real, that really illustrated for me that we have come a long way. People talk about elder abuse now; people know what it is. No-one had a clue about it in late 80s and early 90s. Yes, we have come a long way.

The one retrograde step—and it is not State; it is Commonwealth—is the removal of aged-care assessment teams from within aged-care services. I started life with what was then called a geriatric assessment team, then aged-care assessment team. We were in the community and the hospital. Now they are completely separate and their mandate to assess and manage elder abuse has been taken away, because they do not do case management. It has left a big hole, and I addressed that in my submission. I am half-clinical; I work both city and country. I see a broad range of cases. I am also academic, which is handy at times. It is lovely to balance both. I only see maybe four or five cases a month now because I only work clinically about half-time.

But a case last Thursday evening was of financial abuse, where two sons have put dad in a nursing home. Dad would be able to be managed at home; he is frail but does not have cognitive impairment. A power of attorney has been misused, so I am reflecting what has already been mentioned. It is rife. I was on the Guardianship Tribunal for 22 years as a professional member. I resigned two years ago; I thought 22 years was long enough. What you saw there was just incredible. Certainly, the tribunal's role in elder abuse has increased significantly.

The Hon. Dr PETER PHELPS: Exacerbating it or having to deal with it?

Professor KURRLE: No, I think having to deal with it. I would say 95 per cent of cases are very positive; we hear about the 5 per cent that are not, unfortunately, or that do not work well. But we have come a long way. The fact you are holding this inquiry is really good evidence that we have come a long way. Other than the prevalence study—which I supported Commissioner Ryan in; I think it was my number one recommendation—we need some evidence to say this is what is happening. We did a prevalence study in aged-care services of people we knew were being abused. That was one in 20. We know now it is more than that, but a lot of people do not report it, so you only find out later. That is important because it will not only give us numbers, it will give us some information on what is going on.

Dr Phelps said different sorts of abuse often need different interventions. Financial abuse—I agree—one can deal with, probably mainly through legislation but also community education. Neglect is harder. What do you do in a case of an older man whose wife has had a stroke and he takes her home because she wants to be

at home? They want to be together but he cannot even boil water. We put in some care, but he does not want very much. She comes back into hospital two weeks later—pressure areas, dehydrated. He was not trying to hurt her, but that is the situation. Legislation does not help that. That is where care services, recognition and dealing with the human side are important. I want to make it really clear, in a lot of elder abuse harm is committed but it is not necessarily intentional. In a lot of situations there are two victims, and we need to remember that. The ones that hit the press are obviously the opposite.

CHAIR: You make a very important point. You are inviting us to distinguish between intended and unintended abuse. Is that what you are submitting?

Professor KURRLE: Yes. When you look at definitions, we say anything that causes harm to an older person within a relationship of trust. It can be intentional or unintentional, and we say that very clearly because neglect is often unintentional. We talked about the inappropriateness of some carers—the unemployed or disabled younger person that may end up caring for mum or dad. They do not have the ability to manage that. We have to be very careful how we look at abuse and not just say it is a victim and an abuser. Often it is two victims and that is where it differs from a bit from domestic violence. That is important to note.

I think Commissioner Ryan did not mention the role of the general practitioner [GP]. The GP is absolutely pivotal—obviously I am medical and I think that way, but who sees most older people? Ninety-seven per cent of older people—that is, people over the age of 65—see their GP at least once a year. I think there is a strong role there and, although this is not the scope of this Committee, in the role of the new primary health networks [PHNs], linking those with the local health districts and we would have strong relationships. It is important to acknowledge that and how we bring the GPs into this. Nursing is essential here; the role of the practice nurse, the nurse practitioner, within the primary health networks. I think I touch on that in my submission. I tried not to be too wordy.

CHAIR: It was a very clear and pointed submission; you made your points clearly.

The Hon. BRONNIE TAYLOR: It is fantastic to see someone with your skill and expertise coming to the regions and the beautiful Eurobodalla—your reputation proceeds you in that fine part of the world. In rural and regional towns it is usually not just the one family member who goes to the GP but it is the family, so people can share information in a safe space. I am really interested in your point about highlighting the role of the GP. I have recently been on an inquiry about service coordination and found that sometimes we talk about groups that are involved. In some cases someone has seen their GP as well as the worker who comes in to assist them with daily living—Meals on Wheels or someone coming in to clean the house. Some evidence suggests that because the case management is neutral—whether or not that is an Aged Care Assessment Team—the person may be required to be neutral but if they see nothing quite right, where do they go with that information? Do you think that is also an issue?

Professor KURRLE: Yes. That is where once they would have gone to the Aged Care Assessment Team and they cannot any more. In New South Wales we do suggest they go to the helpline but it has restricted hours and sometimes it is difficult. We are trying to encourage people to speak to their supervisor in that situation, which means you then have to make sure the next person up is aware. I am aware from the helpline that they do get calls from the supervisors of care workers. We had a case in Eurobodalla, but it was a bank teller and it went up the line picking up that this elderly man was coming in and taking out money. You can do it in the country as it involved talking to someone you knew and they would put you onto the right person. You can do that in the bush much more than you can do it in the city, which is why we need something more formal.

In my submission I mentioned we need a group of people with practice wisdom; we had that in ACAT. These people can see a situation and assist. You can ring and talk to them off the record and we still do that but it is very hard because you cannot with aged-care assessment teams anymore.

The Hon. BRONNIE TAYLOR: I have worked with ACAT for years and know what you are saying. What about people who are not in the system? Once you are in some kind of system, the nurse can pick that up because they can feel that something is not right as they are trained to do that. Some people are not in the system and at some point the police may become involved. Does the helpline provide the neutrality to coordinate the services? Perhaps there needs to be an education campaign to use the helpline. Those of us within the system know where to go, but we need to capture the people who have not been to their GP recently.

Professor KURRLE: That is why so much is underreported. This is the group you do not see until they come into hospital and you find they have two pervious fractures that have never been brought to attention. They are quite often difficult to deal with. The helpline will be huge; I am so thrilled that it is up and running. We need to publicise it a bit more and make it clear that it is available. We should not try to reinvent the wheel. All the other States have done good stuff: Aged Rights Advocacy service in South Australia, who did not have a helpline but are about to. They have wonderful brochures they put into the supermarkets, doctors surgeries. They are out there saying, "This is how you protect yourself".

Advocare in Western Australia run it there. Elder Abuse Prevention Unit in Queensland have done a lot of work. Seniors Rights Victoria have done a lot of work. Everybody is working at it and you hear about this when you get together at conferences and the like, but more often over a glass of wine later you find out what is happening. When I look at the fact that in 1989 non-one had heard of elder abuse and now we are having an inquiry I realise we have come a long way. It is time. Every year we get three weeks extra life expectancy. Earlier we talked about the growing population—people used to die at 72 and now it is 92. In Australia this is still growing up by three weeks a year. It is going to affect all of this.

The Hon. Dr PETER PHELPS: Maybe we should reintroduce smoking.

Professor KURRLE: Absolutely—smoking at 80 probably prevents Parkinson's Disease, amongst other things.

The Hon. Dr PETER PHELPS: My grandmother-in-law smokes at 95.

Professor KURRLE: There are a few who get away with it. It is going to be a problem for all of us. The financial stuff is big. At the Guardianship Tribunal I watched that change, over my 22 years, from much more guardianship issues, so personal issues, to the financial.

The Hon. Dr PETER PHELPS: On the financial and legal situation, you spoke about an education campaign. There is a role not only for bank tellers but also solicitors. We are stuck in this horrible situation where we work on the basic presumption that parents would like to help their children. We do not want to infantilise the older person and say, "Are you sure, dear, you want to give your daughter $100,000 to start a company?" "Yes, I bloody well do. I want to help her start a company", as opposed to having someone dragged in and forced to take it. I am not sure we can legislate to give people awareness about that without infantilising older people. At the same time, it seems to me there is a clear need within the Law Society, banks, or financial institutions for an educative process about ensuring that these people are acting out of their free will as opposed to some sort of external coercion.

Professor KURRLE: You said it. We cannot legislate, but we should educate. I have done a number of sessions. One of my colleagues, Sue Field, spoke to you. She and I together have done lots of education with the Law Society. You can only educate those people who will come to the sessions. At the guardianship tribunal you would see powers of attorney done by somebody who clearly had no ability in what they were doing.

The Hon. Dr PETER PHELPS: The legal profession requires their professionals to do in-service training to maintain their certificates. I am sure it would be a useful suggestion for us to recommend that greater emphasis be placed on potentially coercive behaviour in dealing with elderly clients.

Professor KURRLE: Absolutely.

Ms JAN BARHAM: I am going to bring up the age assessment care issue again and try to understand why we have lost what you and other people are saying was a very good system. We have an increasing aged population and an awareness of elder abuse. You said the system was effective. Can you explain why we no longer have it and how that came about?

Professor KURRLE: The Commonwealth, and I have no idea of its reasons—I would have loved to have been involved—decided that the Aged Care Assessment Team should not be integrated into aged-care services that are usually run by Health and that they should be standalone services with very, very clear directions for how they assess and what they do. Gone are the days when they could do an assessment and not fill in a form because it was not necessary, or do case management. That has gone. They are now completely separate. In a lot of cases, they have been taken away geographically from the hospital or the community service where they were embedded and they are separate. I have no idea why it has happened. I have written probably

six letters. I have spoken to various bureaucrats. Unfortunately, the aged care Ministers tend to turn over quite a lot, so it is difficult, and I have no idea why. We may need to fill that gap—no, not may, we must fill that gap in some way. It is very difficult, but to have something in the community that will assist with managing abuse cases is so important.

Ms JAN BARHAM: Thank you for clarifying that. I was googling and trying to find if there had been a study or a report that brought that forward. Could I ask if you might be able to provide some additional information about that?

Professor KURRLE: I can certainly try. There is a mass of information about the changeover, but we were never given reasons—never.

Ms JAN BARHAM: You also raised the issue of peer-to-peer abuse in nursing homes, which has not come up in many submissions. Can you elaborate on that a little bit and talk about how your awareness is raised and what is done?

Professor KURRLE: We knew resident-to-resident abuse was happening because we would see them coming into hospital. It is usually people with cognitive impairment—with dementia. I will give you the example we had four weeks ago. An older lady walked into another older lady's room—both of them are in a dementia specific unit—and proceeded to go through her drawers, whereupon the lady's whose drawers they were pushed her over. The lady who was pushed over fractured her humerus. The lady who pushed her over then tripped over her and fractured her wrist. They both came into hospital. This was clearly a resident situation, and you can understand why. However, because they both had dementia, this was not reported.

You would be aware that there is mandatory reporting for serious physical assault and sexual assault but not necessarily if the person has dementia. In this case, both of them did. I do not think anything would have been served by reporting it to the police. It was a situation that was unfortunate, but happens. My mum has dementia. She goes into other people's rooms all the time and it is something that is accepted. What do we know about it? A study was published last year entitled "Age and Ageing" by a Melbourne group, which I am pleased to say is probably the first one that really looked at it and what we can do. I would say most good aged-care facilities are aware of it. It will be a growing issue because the people that are going into aged-care facilities now are more frail and particularly those with dementia have significant behavioural issues because they cannot be managed at home. That is something we are aware of. It has always existed. We are putting a name to it.

Ms JAN BARHAM: It is important to note that for it to be picked up in a prevalence study indicates how much it is happening.

Professor KURRLE: Yes, we now have good evidence it is happening. It is in one of the world's top gerontology journals. If people want some light bedtime reading I can make all of those available. It is interesting.

The Hon. SOPHIE COTSIS: Professor, thank you for coming in today. In one of your recommendations you state the New South Wales Government should consider a Health Ombudsman. Can you elaborate on that?

Professor KURRLE: I spent a lot of my life in acute hospitals and I have watched the situations of physical abuse. When an older person comes in with a delirium, an acute confusional state, due to an underlying medical problem, they are agitated, they are aggressive. We sedate them and we tie them up. That is absolutely wrong. That is being addressed at a different level. The Australian Commission on Safety and Quality in Health Care, which is the overriding organisation that looks at standards in hospitals has, on 28 January, released a caring for cognitive impairment campaign. I chair that group and we are looking at how to better look after these sorts of issues. We are working at it from a lot of different directions, but the older person is sent home because the cardiologist said, "Their heart is fine." They have not got out of bed for five days, they cannot even go to the toilet, but we send them home. There are real issues with things like that. We send them home because there is bed block; we need the beds.

I deal with that daily. I am the director for the local health district of aged care and rehab, so this is another hat that I wear. I see this issue. How do we manage this, how do we better look after older people? That systemic abuse is significant. A number of colleagues, geriatricians in the Australian and New Zealand Society

for Geriatric Medicine, asked specifically that I put that in, but I said it is already in. It is an issue, but there are ways of dealing with it. A Health Ombudsman would pick up that, amongst other things.

The Hon. SOPHIE COTSIS: The statistics show us that we are an ageing population. This is an important inquiry to ensure that governments of both persuasions look not only at now but also the future. I am concerned about what you are saying, that we move people home. What happens when they go home? Is there care? Is there support? What happens?

Professor KURRLE: Most people manage one way or the other. There are neighbours, general practitioners, family. They bounce back to hospital, if you look at the return, within 24 hours. You will see that happen. It is more vague in some ways than specifically being punched or having money stolen, but when you look at the definition, it is any behaviour which causes harm to an older person within a relationship of trust, and that is the issue. We should be looking after our older and vulnerable people better than we do. We are improving. We definitely are improving, but it is a slow, slow process.

The Hon. Dr PETER PHELPS: Professor, a hospital is not the place for an older person who should be in a nursing home. To what extent is it the case that the older person has presumably been told, "Have you thought about going into a home?" and says, "Under no circumstances am I going into a home. I would rather go back to my home"? That is the problem. There is bit of an idea that, "I will bounce from home to hospital, to home to hospital". Making a more sensible decision would be to say, "I have reached a stage where I have to give up my home and go into a nursing home because it is a nursing home and nursing homes are"—

The Hon. MATTHEW MASON-COX: Set up to care for you.

The Hon. Dr PETER PHELPS: Yes.

Professor KURRLE: That is one of my daily jobs. We have the frequent flyers, as they are called. It is slightly derogatory but it explains that they keep coming back for that reason. In those situations we will often go to the NSW Civil and Administrative Tribunal, Guardianship Division. They say clearly if the person has failed several times, and we have evidence of that, then they would support the appointment of a guardian who may make that decision. I was involved in one similar case recently. They are a problem. We are able to make our own decisions—99 per cent of irrational decisions are made by rational people. They want to go home and we need to have care available. Mind you, we put the care in and then they cancel it. Not that many people get choofed home for that reason. It is more that they are better cardiologically or respiratorily, rather than have we look at all their care needs. Then, are we doing the right thing?

The Hon. PAUL GREEN: Recently we adopted a grandma and she had had those no frequent flyer trips to the hospital. What was good was that eventually someone said, "How about you have a trial in a nursing home?" She had the trial in the nursing home—I will not mention the nursing home—but she did not like the food one bit and she has not been a frequent flyer anymore. She is back home, on her feet, and she is confident. So it can work.

The Hon. Dr PETER PHELPS: Big props to Mrs Green and her cooking.

The Hon. PAUL GREEN: That may come into it. The point is we have to be mindful that sometimes they think the grass is going to be greener on the other side at these institutions, and it is not.

The Hon. Dr PETER PHELPS: No, the trouble is they think the grass is going to be brown and burnt.

The Hon. PAUL GREEN: Not necessarily. On this occasion the person thought it would be so much better because she would have someone around24 hours a day, meals, cups of tea, but when she experienced it, it was not anything like home, so it encouraged her to reflect, "Maybe if I am a little bit more careful at home, more audited, and I can get the support", which was available through those care lines, which is fantastic. Now that person is still at home and enjoying that opportunity. It is not always about racing them into institutionalised care. Most people would say they want to stay home as long as they possibly can. That should be our aim. It is much better to keep them in their familiar surroundings, close to their neighbours.

Professor KURRLE: Their pets.

The Hon. PAUL GREEN: Their conveniences, their pets, their doctors. I want to ensure that we do not document that we should be racing people in.

Professor KURRLE: Absolutely not.

The Hon. PAUL GREEN: We have to get to the bottom of why they are frequent flyers and that we understand holistically what their issue is. The experiment of putting this person in a nursing home, saying, "Get a taste of this", has inspired her to be more successful at home.

Professor KURRLE: That is aversive therapy.

CHAIR: What is the role of the general practitioner in all of this? You can use a practical example or talk about it in theory. How does a GP respond to an elderly person who the GP identifies, either from a physical examination or from talking to the person, that there has been some abuse? How are the GPs equipped to deal with this reality?

Professor KURRLE: They are getting a lot better at dealing with it. We had 700 GPs participate in a webinar that a colleague and I did on elder abuse. That was across eastern Australia, not only New South Wales. There clearly is a lot more interest and a lot more understanding. We really pushed the idea of the two questions: Are you afraid of anybody? Has anybody hurt you lately? That is something we suggest all GPs ask. It is very difficult because often the GP is caring not just for the person who is being abused but also for the alleged abuser. Sometimes that can be good, sometimes that can be bad.

Fifteen or 20 years ago GPs would avoid this; you avoid it because it is so difficult to deal with. The advent of the Help line has helped and we know that from Queensland as well. Our local Aged Care Assessment Team will still take referrals directly from GPs simply because a number of them are like that, rather than going through the myagedcare web site, which is yet another thing we will not talk about today. But the role of GPs is absolutely pivotal because so often in elder abuse there is an underlying medical problem, the person is more vulnerable to abuse because they have got heart failure, or Parkinson's disease, or they have had a stroke, they are very breathless or they have got dementia. So being able to address the underlying problem as well, and being aware of it, is really important.

I personally feel GPs are very well placed to do that with support with educated practice nurses both here and in the Eurobodalla, and that has been really interesting because the practice nurses often will go in to a person's home. They do what is called the over-75 assessment. Once you hit 75 every year there is an assessment. We are getting the two questions about elder abuse included in that assessment, and it is the practice nurse who usually does most of that. There are a lot of opportunities to do that. Then it is a case of saying "Have you got powers of attorney in place? Have you done enduring guardianship? Have you talked about this? You know you can deal with this separately. The GP is then pointing their patient in the right direction. It is not easy. These are heart-sink patients for us.

What do you do when you have got a lovely lady living in a home in St Ives and you discover the real estate agent has proposed marriage to her and will marry eventually, but in the meantime he is gradually take all her money? We were involved in this case two years ago. It was so difficult to deal with. We did finally get a niece to take it to the Guardianship Tribunal and we were able to sort it out. This sort of thing is happening all the time. The GP rang me and his comment was "Sue, something funny is going on." That was all he knew but he knew something funny was going on. He was able to make a referral on the basis of, perhaps, this lady did not have cognitive capacity and we went from there.

That is what we need our teams for and I think it was my recommendation No. 5 that we should consider development of teams of health care professionals. I think that is particularly nurses and social workers with some input from geriatricians, perhaps, to assist in the identification assessment and management because these are really hard cases. You will have heard of the lady last year in Kellyville who was found by the real estate agent. Her body was found three or four months after death. She had been cared for at home by her daughter. Her daughter continued to work. The geriatrician who had been very worried used to say to her daughter, "Is your mum okay?" "Yes, yes, yes". Her mum had been dead for four months. Now I think that was at the Coroner's Court late last year.

These things are ongoing. Even when you do everything, you make all the right referrals, you cannot manage everyone, and we will still have the ones who slip through the cracks. I think having everybody aware

and neighbours knowing about the Help line. I think it is useful so people can ring and just bounce and say "Look, we are really worried about Mrs So-and-so. We haven't seen her for a month." Now she may have gone to live with another family member, or she may be dead, or she may be locked in her room as this lady was. Sorry to finish on such a negative note.

The Hon. PAUL GREEN: I think it is a positive note. We have got to save a few, and the more that percentage grows the more we are saving people.

The Hon. Dr PETER PHELPS: Do you say we have our own, if you like, de facto ACATs operating at a local area health level?

Professor KURRLE: Only in some places.

The Hon. Dr PETER PHELPS: It is basically on an ad hoc basis?

Professor KURRLE: It is an ad hoc basis, it really is, we have lost that and it is very sad.

The Hon. Dr PETER PHELPS: If the Federal Government does not reverse its decision is there some merit in having the States set up their own ACATs?

Professor KURRLE: Probably not ACAT because it is Federal money and the ACATs assess for eligibility for federally funded services. So they have to keep that role and it is all now done through your Medicare number so it is done on a national basis. What we have to have is our teams, probably within our primary and community health sections within each local health district. It does not have to be a lot, it has to be somebody or several people who you can ring to talk about a situation, and it works well. People will ring me. I will get a call once and week and we will just chew the fat for half an hour and say, "Have you thought of this?" Maybe we can do that. That is happening with a number of my colleagues as well, I know. That is what you need. This is what I am suggesting that we just teams of health care professionals. I have said "teams" but it could be one person. In southern it could be two people, one in the north and one in the south. Obviously in northern Sydney it would be a bigger group so there is someone to ring to discuss the issue.

The Hon. BRONNIE TAYLOR: A contact.

Professor KURRLE: Yes, just the contact. Who do you go to if you are not in already in a care situation? I think that is something. I do not think it is hugely expensive but I think it could be very, very effective.

CHAIR: I thank you for your submission and for the work you have done over a period of time. It is important that there be people who identify issues at the start and become early advocates and clearly you are one of those in New South Wales.

The Hon. SOPHIE COTSIS: A pioneer.

CHAIR: It is has obviously extended beyond this State in terms of you have described the work you are doing interstate working with others as well. On behalf of our senior citizens and our elderly, thank you very much for the great work you are doing.

(The witness withdrew)

(Short adjournment)

PAUL VERSTEEGE, Policy Adviser, Combined Pensioners and Superannuants Association, affirmed and examined:

CHAIR: Welcome and thank you very much for coming along today. We have decided that we will share the questioning. Represented here today are members of the Government, the Opposition and the crossbench. We have received your submission, numbered 41, thank you. You can take it as read. We appreciate the fact that you have specifically put in some proposed recommendations for us to consider as part of our deliberations. Would you like to make an opening statement?

Mr VERSTEEGE: I would like to make a brief statement. The Combined Pensioners and Superannuants Association [CPSA] has made a submission so I will not go over all the detail. These opening comments are intended as placing an emphasis on just two issues; one, which is general, to do with information and data, and the other one with aged care. As everybody agrees, there is very limited data on the extent of abuse of older people in the community, and the accuracy of the data is very uncertain. An estimate of 50,000 older people having been a victim in New South Wales is being used quite commonly, but, as I said, the veracity of that information cannot be confirmed.

Also, the call data collected by the Elder Abuse Helpline, which is a very good initiative that CPSA absolutely supports, gives us the number of calls and the type of abuse; it does not give us any in-depth information and it certainly does not track what is happening with those referrals, which is understandable because of privacy issues. Still, making policy in a vacuum is not advisable even if all the stakeholders agree and insist that elder abuse is a serious issue and it is rife.

Since 1995 New South Wales has had a blueprint about what should be done with reports of elder abuse; so we have had a good 20 years of active involvement and commitment to dealing with elder abuse. Two years ago the New South Wales interagency policy for preventing and responding to abuse of older people specifically nominated a number of services that would deal with elder abuse complaints. However, the 2014 interagency policy omits to mention that those agencies collect information. The previous iteration of that policy did have a reference to information collection by agencies. Obviously, New South Wales, I would suggest, is sitting on some valuable data that has been collected over potentially 20 years and I think that data should be mined.

Moving on to the next issue that I would like to highlight; it is basically elder abuse in the setting of residential aged care. I know that the residential aged-care sector is regulated federally but New South Wales obviously has some involvement as well. For years, since the start of aged-care reform in 1997, New South Wales has had a requirement for all nursing homes in New South Wales to have a registered nurse on staff 24 hours, seven days a week, which shows you that New South Wales, if it thinks it is necessary, will step in and regulate nursing homes.

The point I want to make is that under section 63 of the Aged Care Act, the Federal Act, nursing homes must report physical and sexual abuse to the health department and to the police. The incidences of that type of abuse—and we are talking about significant physical and sexual abuse of elderly people—has gone up dramatically. We have worked out that since 2009, when those reports started, the number of nursing home cases has increased by 20 per cent, but reportable assaults, as they are commonly known, have gone up by 86 per cent. In 2015 there were 2,625 reportable assaults Australia-wide, with New South Wales probably accounting for about one-third of that number—it is not broken down. This means that if you are in a nursing home, if you are a frail elderly person you have a 1.1 per cent chance of being assaulted and the perpetrator being reported. Of course, the number is likely to be higher. That is an unacceptably high risk.

Also, I would like to highlight that apart from that quite shocking number, what is excluded from those reportable assaults is resident-on-resident assaults. With a residential aged-care sector that has slightly more than half of its residents diagnosed with dementia and the issues that go with that, there is a lot of resident-on-resident abuse. It is not reported, the information is not even collected; aged-care providers actively resist collecting such important information. Obviously, if you are in a nursing home it does not really matter who you are assaulted by, it is a terrible experience. For that reason, CPSA feels that New South Wales should consider building on its 24/7 registered nurse requirement for nursing homes and get involved in mandatory staffing requirements for nursing homes.

CHAIR: In terms of the figures that you quoted in your opening statement, do you have a citation for those? I did not get the reference.

Mr VERSTEEGE: The reference for that is the annual operation of the Aged Care Act 1997 reports, which are published every November.

The Hon. PAUL GREEN: Have you got any suggestions in terms of best practice, where this inquiry can head to address these issues?

Mr VERSTEEGE: If you have an expectation that we have a huge academic resource available to us, we do not have that. We get front-line reports, which are very informing; we have a huge commitment to advocacy in the aged-care area and we have specific ideas for that, as I just made clear in my opening comments. The issue of elder abuse generally is such a wide one that I do not feel competent to comment on any best-practice solutions. There are a few things that we have mentioned in our submission, about an initiative in South Australia with—I forget the exact name—a unit that specifically deals with the prevention of elder abuse, and also at Canberra, of course, which has introduced its Working With Vulnerable People scheme.

The Hon. PAUL GREEN: In aged-care areas do you have an opinion or an idea of having a working with elderly check like a Working with Children Check, that there may be systemic issues?

Mr VERSTEEGE: In aged care, in both residential and community aged care, there are police checks of course. Probably the education side could be strengthened, certainly for workers in aged care that do not have extensive qualifications. There is a very low entry barrier to become an aged-care worker. So certainly we would hope that education and training of those people would—

The Hon. PAUL GREEN: I note in your submission you say that nearly two-thirds of those involved in elderly abuse are children of the parents. Do you have any suggestions of what initiatives could be undertaken to approach that?

Mr VERSTEEGE: The main thing there, I think, is there is an obvious parallel with domestic violence. You could regard that as a subset of domestic violence.

The Hon. PAUL GREEN: That is a very good point in itself. It should be and it is something I am hoping the inquiry will come up with in the recommendations—that it will be a subset of domestic violence in those cases. That will help lift the exposure of this across the nation if we put it under the title of domestic violence with the sort of attention it is getting. That is a good point.

Mr VERSTEEGE: Thank you. I think general community education will make victims aware and will make people around those victims—neighbours, for example—aware that elder abuse is not just a thing that happens to somebody far away and that it can be very subtle in its manifestation. You might hear something but something much more serious might be going on inside the house. As a general example, an education campaign like a road safety campaign would be very helpful, certainly if it was repeated periodically.

The Hon. Dr PETER PHELPS: In relation to figures for physical violence in homes, is it possible that the 2009 increase relates not so much to instances but to better reporting of instances which are occurring? In other words, there has not been a sudden upsurge in violence in nursing homes; rather the reporting of those instances has, if you like, become more regularised and more mainstream for the institutions themselves.

Mr VERSTEEGE: It was certainly raised, because the first time reportable assaults were actually reported in the operations of the Aged Care Act the defence by aged-care providers was that, yes, the number was high but obviously they were learning about this. If this increase of 86 per cent of reportable assaults compared with a 20 per cent increase in places is in the greater part due to a learning process on the part of aged-care providers, we really need smarter aged-care providers.

The Hon. Dr PETER PHELPS: The other thing relates to peer-on-peer violence. Is there a danger that the mandatory reporting of that would lead homes to, if you like, refuse to take dementia cases at a greater degree than they otherwise would? The situation I can easily see is a facility with basically high-care dementia patients would in all likelihood have a greater rate of peer-on-peer violence than one which refused to take dementia cases. That could lead to community perceptions that facility A is a bad facility because there is lots of violence there and facility B is a good facility because there is no reported violence there.

Mr VERSTEEGE: That perception of course would be correct—let's make that the main point. If there is a mandatory reporting requirement and one home does not have any reports and another one has lots then I certainly would put my mother in the one that does not have any violence. I do not think it is a good idea to make light, almost, of how serious this violence can be and how frightened the victims of it are. That really should drive policy in this area. I am not taking away from your point that there might be all sorts of unforeseen effects but I think that the situation we have at the moment is one where aged-care providers get away with resident-on-resident assault and not managing it as well as it should be managed or perhaps as well as they can.

We all recognise that aged-care providers are under pressure. If you look at the funding specifically for care, you could say that this violence is a logical consequence of that, almost. You could also say that that is a reason why New South Wales should step in and impose staff-to-resident ratios, because if no-one does it—if there is no regulator that does it—then it will never happen. And of course the Federal Government, who is the regulator and main funder—I remind you that nursing homes get about three-quarters of their care revenue from the Government—has a vested interest in keeping those subsidies as low as it can, understandably, but it is a conflict of interest and I think it is one that the New South Wales Government should take note of and resolve for New South Wales at least.

The Hon. SOPHIE COTSIS: You are recommending vulnerable community support officers. So they are police officers—is that right?

Mr VERSTEEGE: Sorry—

The Hon. SOPHIE COTSIS: To be stationed in local area commands—it is one of your recommendations.

Mr VERSTEEGE: Sorry, I was getting confused with a Canberra scheme that also uses the word "vulnerable". Yes.

The Hon. SOPHIE COTSIS: So they would be police officers?

Mr VERSTEEGE: Yes. There are a number of them—I do not know quite how many. The idea is that each local area command has an officer that can pipe up, if you like, when there are elder abuse inquiries, complaints or reports.

The Hon. SOPHIE COTSIS: Do you see their role as similar to that of the domestic violence liaison officers?

Mr VERSTEEGE: More or less.

The Hon. SOPHIE COTSIS: How do the ones that already exist operate? What do they do? Do they also coordinate with other services? Do they have local peak meetings?

Mr VERSTEEGE: Yes. I am sure this is all in its infancy. We know of a project in Redfern. I do not know the exact title—I would have to provide that to you on notice.

The Hon. SOPHIE COTSIS: Okay.

Mr VERSTEEGE: There is a project in Redfern which is a domestic violence project where agencies get together at the local level. They know people who are at risk even though the people themselves might not perceive themselves as being at great risk, sometimes because of a lack of knowledge about their partner. Special patrols are provided and special action is taken. I do not know how effective it is but it is obviously a very good approach to prevention of abuse.

The Hon. SOPHIE COTSIS: Thank you.

Ms JAN BARHAM: Thank you for your submission. I want to follow up on the point about a proper definition. I am sorry I was out of the room when you did your presentation. Hearing from other people and the submissions that were received, do we need a national uniform definition of what elder abuse is? Do you know if there is much work being done on that?

Mr VERSTEEGE: In advocacy I think what happens a lot is that people get stuck on definitions. I am not saying that there should not be a definition that everybody can agree about but I think even a cursory reading of the interagency policy on elder abuse, for example, gives you a very good idea what is involved. As a working thing federally, sure, you all need to be on the same page, but I think the priority is for jurisdictions to act when they can rather than try to get together other jurisdictions as well and make it Federal. I do not place a great deal of stock on definitions.

Ms JAN BARHAM: It is just that your submission recommends it. It was something that was focused on—the need to get clarity about when and how to report and respond.

Mr VERSTEEGE: That is really why we are going into a full protocol.

Ms JAN BARHAM: The other points that you have made are very practical points. I raised an issue earlier about carer support for those people who may be perpetrators. Is that an issue that has come to your attention? With the education and support services do you think they should refer to the fact that there are often two victims—the perpetrator—

Mr VERSTEEGE: And the carer.

Ms JAN BARHAM: Yes.

Mr VERSTEEGE: Yes, and sometimes the carer is the victim. I have heard anecdotes about that as well. Obviously if you are going to set up a scheme such as the one in the Australian Capital Territory [ACT] for working with vulnerable people I think it would be a good idea to include carers in that as well. Obviously from a policy point of view it is quite easy to determine who are carers or the greater majority of them. Because they would in most cases be on a carer allowance, it would be easy to pick them.

Ms JAN BARHAM: We have heard that there is a high level of family financial abuse. Do you think there is a need for review of the carer allowance and whether that is providing enough support for people who are often 24/7 involved? If they are resorting to financial abuse maybe it is an indication that for the work—

Mr VERSTEEGE: In principle, yes. But I think specifically in this area there is a dearth of information about whether there are actually a lot of carers on carer allowance perpetrating financial abuse because their carer allowance is not sufficient.

Ms JAN BARHAM: We do not know.

Mr VERSTEEGE: We do not know, so—

Ms JAN BARHAM: That is why we need a proper study. On the subject of the additional training and regulation of people that work with older persons, I think your organisation is very supportive of seeing more stringent controls around that.

Mr VERSTEEGE: There are police checks for people who work in the aged-care sector. We have just talked about the informal carers who are not subject to any checks or training. There certainly should be initiatives to train them up and to make them aware of what actually constitutes abuse.

Ms JAN BARHAM: And hopefully how to avoid it.

Mr VERSTEEGE: Yes.

The Hon. Dr PETER PHELPS: We heard earlier that there is probably a greater role for NGOs. Presumably the Combined Pensioners and Superannuants Association [CPSA] is best placed in that position. I know of no other organisation Australia wide which would have the reach into older communities that CPSA does. Maybe Government, Federal Health or something like that would be able to do it, but in terms of NGOs you would be hard pressed to beat CPSA as a lead agency. I do not so much mean on a reactive basis—people calling you up and saying, "I've got a problem." I mean being funded to be more proactive and going out to your members, non-members and the elderly community more generally with a range of options to make people more aware of their rights.

Mr VERSTEEGE: Yes. First, I do not think the CPSA is the only non-government organisation with reach into this group.

The Hon. Dr PETER PHELPS: Is there a better one?

Mr VERSTEEGE: There is no better one.

CHAIR: That is recorded by Hansard in perpetuity.

Mr VERSTEEGE: There is a number of organisations.

The Hon. Dr PETER PHELPS: You have to hit the culturally and linguistically diverse [CALD] organisations as well.

Mr VERSTEEGE: Yes, and the CPSA is traditionally a more Anglo membership-based organisation simply because of its history, although that is changing.

CHAIR: My question is designed to apply a little pressure. I am trying to understand the dimensions of what we are dealing with. You are the second witness today who has described elder abuse as "rife". That is strong language

Mr VERSTEEGE: Yes.

CHAIR: On what basis can you say that it is rife? Are you relying on any specific evidence, statistics or your experience in making such a firm, clear, statement?

Mr VERSTEEGE: I used the word "rife" in the context of a dearth of information. The point I made was that everyone seems to think that it is rife, but the information is not there to support that. However, I have a feeling that if the people who work with older people—those in the health sector and the police—feel that it is rife then it is rife. The lack of information is deplorable in the area of policy development. The CPSA is also given to using words like "rife" to get its point across that there is a problem.

CHAIR: I am in no way underplaying or seeking to undervalue the issue confronting us.

Mr VERSTEEGE: Yes.

CHAIR: Taking your point about the dearth of substantive evidence, statistics and so on, what do you think is the most effective way to go about grasping an understanding of the dimension of the problem? In other words, how do we most efficiently collect that data given the range of ways in which it could be collected? Is there a most efficient or indicative way to collect statistics or information to make that considered assessment?

Mr VERSTEEGE: I think the information has been collected, and has been for a long time, with specific reference to elder abuse. We have had protocols and now we now have an interagency policy dealing with elder abuse. A lot of information has been collected over 20 years.

CHAIR: By whom?

Mr VERSTEEGE: By the police and health workers. The 2007 interagency protocol makes the point that agencies specifically mentioned should maintain adequate records of their engagement with elder abuse. I would assume that that was a superfluous reference because that is what agencies would do anyway.

The Hon. Dr PETER PHELPS: So your critique is not that they do not collect information but that they do not make it available in a useable form to make policy prescriptions based on it?

Mr VERSTEEGE: I have never seen a collation of that data. The first collation in New South Wales we have had was from the elder abuse hotline.

The Hon. Dr PETER PHELPS: There is also the issue that that would be overwhelmingly skewed towards physical abuse as opposed to what we have heard about increasing financial abuse.

Mr VERSTEEGE: Yes.

The Hon. Dr PETER PHELPS: Is there perhaps an argument to say that there should be a random selection of interviews on a range of issues, not only about physical abuse but also about elders being asked to provide money, whether they are in contractual relationships and so on? Should it be extended above and beyond the mere reporting of physical abuse towards the economic side?

Mr VERSTEEGE: I recognise that what is being reported with regard to elder abuse will probably be skewed towards physical violence rather than financial abuse. With regard to the point about financial abuse and powers of attorney, there could be a requirement that people account for what they spend. There could be a pro forma approach. However, we must be careful with that because powers of attorney are in respect of people with little money and a lot of money, but it is of equal importance to them. Once you start auditing people there will be a cost. If you look at how much self-managed funds spend on compliance costs you will see that it is horrific. You do not want that in the financial elder abuse area.

The Hon. MATTHEW MASON-COX: How many of your members are in retirement homes, residential parks and those forms of accommodation?

Mr VERSTEEGE: I cannot provide a breakdown, but the majority would still be in their own homes. We have an increasing membership in residential parks, or caravan parks as they were once known, because of our advocacy in that area. We are receiving an increasing number of inquiries about residential aged care. That means at least one partner has gone into residential aged care. I cannot provide percentages.

The Hon. MATTHEW MASON-COX: Have you had much feedback in relation to care options that older people are now taking up in greater numbers? Are there any problems there in relation to elder abuse, particularly in respect of the operators of those establishments?

Mr VERSTEEGE: It is difficult to describe that as elder abuse. For example, there are a lot of complaints about people in residential parks being asked to pay money that they should not be paying.

The Hon. MATTHEW MASON-COX: Do you mean intimidation?

Mr VERSTEEGE: Yes. It is a fair point that that area is perhaps not as well regulated as it should be.

Ms JAN BARHAM: You would be introducing another level whereby an external party has some control over a person's life in terms of where they live. They could be pressuring older people and financial abuse could be happening in that circumstance. The fear of losing a place to live might result in people handing over money for which there is no accounting.

Mr VERSTEEGE: I do not know of many cases where that has been done in a criminal way. The example in residential parks would be where people do not have the consumer power to defend themselves. It would not technically be financial abuse, but it would cost them money.

The Hon. Dr PETER PHELPS: It is more of a Fair Trading matter than an elder abuse matter.

Ms JAN BARHAM: I am not sure; it sounds like another element of financial abuse. The former Minister and I know that because of the increased powers granted to owners and managers they can and do kick people out more readily. Residents' powers have been diminished and that allows for greater abuse.

The Hon. Dr PETER PHELPS: Although Professor Kurrle said that the defining feature of this was the misuse of power by a person in a trust relationship. I am not sure how many people trust their landlord. I think it is qualitatively different.

Ms JAN BARHAM: So if it is a legal right to take advantage of someone it is okay?

The Hon. Dr PETER PHELPS: I am saying that it is a Fair Trading issue rather than elder abuse issue per se.

CHAIR: That is a policy discussion.

The Hon. Dr PETER PHELPS: Otherwise everything horrible that happened to old people would become an elder abuse matter. I am not sure that that is within the scope of this inquiry.

Mr VERSTEEGE: That highlights the importance of a definition, and I now support you.

Ms JAN BARHAM: Thank you, but I think I was supporting you. It is important to know the boundaries of this issue.

Mr VERSTEEGE: That is a fair point.

The Hon. MATTHEW MASON-COX: It interesting that you recommend that a definition of "elder abuse" be incorporated in the Crimes Act. That is a fairly significant intervention that cuts across all these issues. However, you have backed away from that somewhat in talking about trying to get a Commonwealth-based definition of "elder abuse". Is it your position that you are now backing away from the recommendation or suggestion in your submission that we insert a definition of "elder abuse" in the Crimes Act?

Mr VERSTEEGE: I accept that it goes back to a definition. The Crimes Act must be very specific. A definition of "elder abuse" in itself will not lead to prosecutions. There must be very specific offences. We were mainly referring to the strengthening of offences that are not now offences, such as tormenting people and psychological abuse. That was the intent of the recommendation. We do not claim to be legal drafting people.

CHAIR: I refer to point number 8 in your submission. I am looking specifically at the text in bold on the fourth line, which states:

> However, a working with vulnerable people check would be more comprehensive. The Act—

I understand that is a reference to the Aged Care Act 1997—

> requires workers and volunteers to undergo a Working with Vulnerable People check if they are working with an—

And you then quote a section from the Act. Your understanding is that the Commonwealth legislation provides for a certain cohort of people to undertake a working with vulnerable people check.

Mr VERSTEEGE: Yes, a police check.

CHAIR: Are you using the two interchangeably? You talk about the police check in the second sentence:

> Currently the Commonwealth *Aged Care Act 1997* requires all people working with aged care recipients to undergo a police check.

I understand that. However, you go on to state:

> However, a working with vulnerable people check would be more comprehensive. The Act requires workers and volunteers to undergo...

Is there at least part provision for—

Mr VERSTEEGE: No, there is not. That reference to "Act" may refer to the Australian Capital Territory; that is, it is incorrectly rendered in lower case.

CHAIR: Now I understand.

The Hon. SOPHIE COTSIS: Reference was made to the culturally and linguistically diverse community. Do you coordinate campaigns with CALD leaders or the Ethnic Communities' Council of NSW? As Dr Phelps said, yours is one of the peak groups. How do we get that information to CALD communities?

Mr VERSTEEGE: The CPSA does not have a great deal of interaction with CALD groups simply because of its membership. The membership and online supporters drive our campaigns. Obviously, a small body like CPSA can publish only in English. We connect specifically with new members online and we can

only do so in English, which makes it difficult for the cultural and linguistically diverse community that needs it to read it.

The Hon. SOPHIE COTSIS: Is there an opportunity to engage with the Ethnic Communities' Council to work together on some of these campaigns?

Mr VERSTEEGE: Absolutely.

The Hon. SOPHIE COTSIS: Resources are scarce, but with your knowledge and information and their networks you can do something really important in terms of getting that information out there?

Mr VERSTEEGE: We can do work in that area. We do have branches that are exclusively Italian, we do have a few Chinese branches and we do have some members that are involved with the Combined Pensioners and Superannuants Association. The bulk of our work has been purely policy driven and probably we would like to do more in the CALD area.

The Hon. SOPHIE COTSIS: Perhaps off-line we can talk about Multicultural NSW, obviously being a Government agency, working with you and other groups. They have the networks that can put that information out there. We will talk off-line.

CHAIR: Thank you for your submission and coming along today. The Committee has resolved that answers to any questions that may have been taken on notice will be returned within 21 days. I am not sure if there was anything specific but we will check *Hansard* and if there is the secretary will liaise with you. Thank you for the great work done on behalf of our seniors.

Mr VERSTEEGE: Thank you for the opportunity.

(The witness withdrew)

HELEN MACUKEWICZ, Professional Officer, NSW Nurses and Midwives Association, sworn and examined:

ROB SHEEHY, Area Manager for Aged Care, Health Services Union,

MEL GATFIELD, Assistant Secretary, United Voice NSW Branch, and

ANGUS McFARLAND, Assistant Secretary, Australian Services Union NSW and ACT (Services) Branch affirmed and examined:

CHAIR: Each of the organisations represented here today has made a submission to the inquiry. Those submissions have been received and you can take them as read. In terms of proceeding, would any of you individually, or if there is a spokesperson, wish to make an opening statement? Be mindful to keep the opening statement to a few minutes to allow maximum opportunity for questions. Representatives of the Government, Opposition and cross bench have resolved to share the questioning on a fluid basis across the table.

Ms GATFIELD: I thank the Committee on behalf of all the unions here: We have Angus from Australian Services Union; Rob Sheehy, from the Health Services Union; and Helen Macukewicz from the NSW Nurses and Midwives Association. We all cover workers in the aged-care sector and often work together on these issues so we wanted to take the opportunity to appear together. We have all made submissions. From United Voice's perspective, we cover 2,500 home-care workers in New South Wales. They deliver services in people's homes and I think have a unique insight into this issue because of that. We surveyed our members and have done a lot of work with members. The real issue is having really clear training for employees so they understand and having clear systems in place. Home Care New South Wales has, as of today, transferred to Australian Unity, so some of the intergovernmental rules do not apply any more. We need to make sure that the policy is consistent in all providers. It is about making sure that there is adequate training and workforce in the area.

CHAIR: In terms of the other opening statements, just so we are clear about what is the respective coverage, if each of you cite that so we see what the picture is.

Mr SHEEHY: In the Health Services Union we cover a range of roles in aged care, primarily in residential aged care. That includes carers; support staff, including laundry, cleaning and catering; activities staff; administration; maintenance; allied health professionals; and some home carers when they are based in a residential facility. We surveyed our members and we found a high awareness of the issue amongst the members and a strong commitment to offering quality care. Some members did identify that they felt well supported in both the training they received and also the policies and procedures to identify and raise elder abuse.

We also found another sizeable percentage of our members who had fear and concern about raising or reporting elder abuse in terms of consequences for themselves, as many of them are in vulnerable employment situations such as casual or permanent part-timers who are working over their prescribed hours. They had concerns about if they reported the abuse whether it would be acted upon. A big area of concern was staffing as a risk factor, in terms of being able to identify when abuse occurs but having sufficient staffing to provide care to a level so that there is no neglect or unsafe work practices. That was a big area of concern that our members identified where they are often working with only one or two people on some of the shifts.

Ms JAN BARHAM: Are you able to identify how many people you represent in the State?

Mr SHEEHY: Over 5,000 in aged care.

CHAIR: Most of those facilities would primarily be receiving funding from the Commonwealth?

Mr SHEEHY: Correct.

Ms MACUKEWICZ: The NSW Nurses and Midwives Association is the registered union for all nurses and midwives in New South Wales. Membership is comprised of all those who perform nursing and midwifery work, including: assistants in nursing who are unregulated; enrolled nurses; and registered nurses and midwives, at all levels, including management and education. We have approximately 61,000 members and are affiliated with Unions NSW and the Australian Council of Trade Unions. Eligible members are also deemed to

be members of the New South Wales branch of the Australian Nursing and Midwifery Federation. Our role is to protect and advance the interests of nurses and midwives in the nursing and midwifery professions.

We are also committed to improving standards of patient care and the quality of services in health and aged-care services. We have around 10,000 members currently employed in aged-care roles. They may not be experts in elder abuse but they know what good care looks and feels like. They are concerned that the constant erosion of registered nurses in aged care, low staffing ratios and fear of reprisal should they raise issues places avoidable risk of abusive practices upon those reaching the end of life. We welcome the opportunity to represent our members at this important inquiry and hope that it will achieve common understanding of the measures required to better protect care recipients and workers in aged care.

CHAIR: Some of the 10,000 would be employed in hospitals and others in retirement settings, is that the two key places?

Ms MACUKEWICZ: Yes, the overwhelming majority would be in residential aged-care facilities. Only a small percentage would be employed in public health.

Mr McFARLAND: The Australian Services Union, New South Wales and Australian Capital Territory branch, has 7,500 members in the social and community services division and that is the part where our members work with older Australians. Specifically our coverage in relation to aged care would be two-part: First, we cover coordinators or case managers in community aged care. As an older person seeks support from a provider for home care or community-based care our members will assess what needs they have and help them set up and coordinate a package of care that is generally provided by United Voice members as the home-care workers that come in and provide the care.

Because we cover things like neighbourhood centres, community centres, community legal services, the whole gamut of the non-government community services sector, we have a lot of members who work in what we would call soft entry points for detection of elder abuse. In particular, community and neighbourhood centres where they often run programs that bring older people in the community together who may be isolated. That is a soft entry point for detection of abuse. It might not be part of a formal care plan of a particular provider but it is a way that our members in those types of services are involved in supporting older Australians and detecting elder abuse.

The Hon. BRONNIE TAYLOR: My question is to Ms Macukewicz. I wanted to pick up on two points in your submission. Number seven of your recommendations talks about mandatory in-service. I think it is a fantastic idea. There was evidence this morning about mandatory in-services with health. You have the original one when you start and every year you have to do an update. Occupational health and safety is always done but this would be an important thing that could make a difference. I thank you for that. I do not think you were here when Professor Kurrle gave evidence but some of your associates were. Recommendation 6 talks about removing the exemption to report incidents of abuse involving cognitively impaired residents. When Professor Kurrle gave an example were you here?

Ms MACUKEWICZ: Yes.

The Hon. BRONNIE TAYLOR: She gave an example of why it had happened and really good insight into it. When I look at this recommendation, it flags something for me. How do you feel after you heard what was said this morning? If we look at doing something like that in response to this recommendation then those two people would have been seen by professionals at the hospital when they presented with multiple fractures from pushing each other and falling.

Ms MACUKEWICZ: I agree it would be wrong and our members believe it would be wrong to criminalise people when they are essentially blameless due to being cognitively impaired. Nobody wants that situation at all. The difficulty is unless you are reporting these incidents, the core issues do not get addressed, which is one of the reasons why those incidents happen. Our members tell us a lot of those incidents are happening because of staff shortages—one registered nurse to 100 patients at night, 80 per cent of those being high-care, as well as a small dementia unit to look after. An incident such as the one the professor mentioned this morning is a classic example of where there was inadequate supervision of two people who had the potential to wander at night. Without the reporting mechanisms being there, it is how we can effectively identify the causal factors behind those incidents. We do not want them to happen. We want to prevent them and look for solutions, rather than addressing the problems when they happen.

The Hon. BRONNIE TAYLOR: I do not think anyone doubts that. I thought it was an interesting insight and Professor Kurrle explained it well. Mr Sheehy, after I said I thought mandatory education was a great idea of the nurses' union, I looked at the fascinating graph of survey results in your report. People were asked whether there was a policy and they overwhelmingly answered yes. They were then asked whether they had an adequate level of training, to which the answer was also yes. The graph shows a number do not receive adequate training, but that the percentage who believe they do is fairly high. They were then asked whether they were confident that if they witnessed an incident they would be able to do something about it. If a lot of people feel they have the education and know what to do, what are we doing wrong that these incidents continue? We may not have the evidence of that other than anecdotally.

Mr SHEEHY: From reading through the survey responses, there seem to be a lot of good operations where a lot of our members work. But then there is a sizeable minority—but it is still sizeable at about 28 per cent—who are unable to describe their training as adequate. The question is where to go with that.

The Hon. BRONNIE TAYLOR: The 28 per cent as opposed to the majority?

Mr SHEEHY: Yes. There was a strong level of fear in those areas. There was a question of what we can do about it when they feel unsupported by their management and are in some vulnerable situation. Some things can seem quite insurmountable, like staffing levels.

The Hon. BRONNIE TAYLOR: I guess the data is reflecting that some people are not doing the right thing and we need to concentrate on that bunch, whereas your evidence suggests that a lot of them know what to do.

Mr SHEEHY: Yes, from the people who did the survey that is right. A lot felt that the issue was taken seriously.

The Hon. BRONNIE TAYLOR: I was interested because I thought that that would not be reflected.

CHAIR: In dealing with an incident of elder abuse in a workplace, what is the typical procedure that an employee works through to elevate the matter? Is there a general procedure that is universally applied or does it vary from company to company or workplace to workplace?

Ms MACUKEWICZ: Generally, if it was a member of staff in an aged-care facility, the responsibility would be to push it up through their organisation, to seek advice from the manager and then the manager would make the decision as to where they would take it from there. One of the difficulties for our members is that they either do not adequately recognise the issue, feel complicit in it or feel that they will lose their job if they do raise issues of concern. That came out in our survey quite strongly, that members do feel reprisals should they raise issues. At the end of the day this is their job and they are not well-paid workers. They rely on this job, many of them older workers, single-parent families. This is the main source of income for them and it is a low income. They have a greater fear of losing their job than taking no action. It is a real dilemma for them. Our members are telling us there are not adequate protections for them in the workplace should they raise issues.

CHAIR: The ultimate manifestation of that fear is that they will not be called in for a further shift, or they will be taken off the roster for a period. When they say they have concerns, what are their specific concerns?

Ms MACUKEWICZ: All our aged-care members want to do a quality job. None of them want to be complicit in abuse, and unfortunately some of the institutional practices and staffing ratios force them to be complicit in that, so they fear that they partly to blame, some personal responsibility. That is because they care so much about the work they do and the people they care for. Also, a lot of members tell us that there are indirect repercussions—not being given the favourable shift patterns, being excluded from certain things, the underlying repercussions that they feel are not necessarily tangible. Often they are pushed out for raising issues.

Mr SHEEHY: Along with that and especially in some regional locations, our members said they know any reporting would become public knowledge. Some highlighted undefined fears but also the fear of professional and personal repercussions in a regional town, where all involved are known in the community and if there is any loss of hours or even the job there is limited alternative employment.

Ms GATFIELD: From a home-care worker's perspective, often because they work in other people's homes there is no workplace where they all come together. We have members who rarely get together with other workers or their supervisor for a few months. Best practice is an hour meeting once a month—and I mean best practice in the industry, not that we would see that as best practice. That is why our submission goes to the need for mandatory qualifications and mandatory training so that when events occur they know what to do and how to escalate it. Unfortunately also in the homecare sector we find that our members provide services at the time the clients need them—early in the morning or late at night—and there is not necessarily anyone to ring. So how do they escalate an event? Do they wait until the next day and fill in a piece of paper? Hopefully technology will start to address some of these issues, but there are some real concerns about the practicality and consistency of home care.

Mr McFARLAND: On the point about fear, the feedback we have had from members in community aged-care providers is that the sector is becoming so competitive as it expands and that there is a lot of pressure from very high workloads. A lot of time people feel they would be affecting the reputation of the organisation in the market if they raise some concerns. Our members feel professional repercussions of those kinds of things. That is in answer to the question about why there may be fear of reporting. It is because of incredibly high workloads and pressure on our members in providers to get clients in, get them set up with a plan and move on to the next client, whereas detection of elder abuse and support requires a lot of more time.

Ms JAN BARHAM: Ms Gatfield, you have spoken about the change happening today and said there is a lack of certainty about the transfer of home care to Unity. Can you clarify that?

Ms GATFIELD: There is an intergovernmental agency reporting mechanism and when New South Wales homecare services were part of the Government they would have to comply with that. As soon as you go into the community sector—and now home care is with Australian Unity—it relies on Australian Unity having the appropriate policies and procedures in place. I am confident that is the case, but there is no consistency in how that operates. There is no statewide or national way for a community provider to escalate and let other agencies know. I think that is a gap in the framework.

Ms JAN BARHAM: Was this gap identified prior to the transfer of the service?

Ms GATFIELD: I think it is within the community sector anyway and this is a massive change in the homecare sector in New South Wales.

Ms JAN BARHAM: Now that service is being transferred from public to private, could we change circumstances to make it a requirement?

Ms GATFIELD: We think if there was mandatory reporting and mandatory training that would provide a really easy framework for community organisations or mutuals like Australian Unity to apply and train their workforce. But we argue that it needs to be mandatory because they need to bring care workers together to train them. As I said, that just does not happen enough, so people are left to their own devices and we do not have a systematic way.

Ms JAN BARHAM: Does that contribute to the turnover of people? People burn out in the care sector. Is that because we are not doing enough to support them in their work?

Ms GATFIELD: From our members' perspective it is a very low-paid job. There is no mandatory qualification, no career path as such. Members say they love the job and get a lot of satisfaction from working with people, but the pressure that my colleague spoke about with increased competition and the need for profit means that the time a person would spend in someone's home is going to be really pushed. If we look to what has happened in the UK, you have had zero-hour contracts and 15-minute visits for homecare providers. How can you do your job in that time? That is the concern. We need people to have time to come together.

Ms JAN BARHAM: The other part of my question refers to the point raised in the nurses' submission about staffing ratios. We have heard about the resident-to-resident abuse situation and that the simple way of limiting that unfortunate situation is to have more staff. Is that correct?

Ms MACUKEWICZ: That is one of the solutions, yes. There is lots of research internationally talking about things like assessment tools that can be used and some therapeutic interventions where there are trigger points for people exhibiting aggressive behaviours. The difficulty is that they all have staffing implications and

with poor staffing ratios we cannot implement those strategies in aged care because they are too time-consuming and too costly. Unless we resolve the issue and raise the staffing ratios in aged care we are going to find that a lot of the interventions that could be put in place to reduce the incidence of aggression are not going to be practically implemented.

Ms JAN BARHAM: When you say too time-consuming and too costly, is that like saying, "We do not care enough" or is it that the profit for a lot of operators is increasing but the quality is being restricted, as we have heard in other evidence? Is that a fair assumption?

Ms MACUKEWICZ: It is not for us to comment about the motivations of providers as to why they are not implementing these initiatives, but what our members are saying is that there is a lack of supervision because of a lack of staff in aged care. The incidents are not being managed appropriately and, unfortunately, for some older people, they are either being overmedicated to reduce the effects of aggression, or they are being isolated within the facility, neither of which is an optimal outcome for those people. What we would like to see is greater emphasis on the registered nurse presence in nursing homes so that some proper therapeutic interventions could be put in place, but also greater training for staff in dealing with people with aggression and the creation of some specialty roles so there are career pathways for staff as well, where they can become experts in managing complex behaviours.

Unfortunately, that is lacking at the moment because our members are telling us all the time that care homes are operating on minimum staffing ratios and we have heard examples of one registered nurse and for up to 130 patients. How a registered nurse caring for that many people can provide therapeutic interventions to prevent aggression, I do not know.

Ms JAN BARHAM: As you said, if they complain then—

The Hon. BRONNIE TAYLOR: That is not the only person on duty. Sorry, I want to clarify what you said. You say one person is looking after 130 people—I am not questioning that it might be one registered nurse. For the record, it is important to say that there would be more staff in attendance than one person only looking after 130 residents.

Ms MACUKEWICZ: Yes, that is correct, there would be but I am talking about the professional oversight.

The Hon. BRONNIE TAYLOR: I understand exactly what you are talking about and exactly where you are going, 100 per cent, but I am saying that I think it is important—

Ms MACUKEWICZ: For the record.

The Hon. BRONNIE TAYLOR: Yes.

Ms MACUKEWICZ: Yes, I am talking about professional oversight, those people who have had clinical training to be able to assess behaviours, to be able to pick up on clinical triggers that might be a factor that enhances aggression.

Ms JAN BARHAM: To clarify for the record also, if you have 130 residents, there is no ratio that says how many people, regardless of their training levels, need to be there to manage that group of people, unlike in childcare. Is that correct?

Ms MACUKEWICZ: That is right. There are no minimum ratios in aged care. That means that where you have got a situation where providers are able to legally manage challenging behaviours without having to report abuse, unfortunately, our members are saying that the system, the safety mechanisms through the Aged Care Quality Agency—which is meant to be monitoring whether providers are effectively putting behaviour management plans in place for those people—is failing because people are being aggressive over and over again, and we know those behaviour management plans are not being effective because there are not enough people to implement them.

The Hon. PAUL GREEN: I remember that in university training we were led to believe that throughout our shifts we would have 20 minutes with each patient. We were shell shocked once we were on the ward. We were lucky if we had 20 minutes for the whole day, let alone 20 minutes with an individual who had

some sort family disruption in their life and really needed our time. It does not exist, let us be fair. You can never provide ratios on that, but you can be aware of the daily activities and needs. I put that on the record because the reality is that every person deserves a lot of time every day, and, sadly, that cannot be given through nursing care. As my colleague said, there is team nursing, and that is why you have diversional therapists for treating Alzheimer's, which you have brought up. Diversional therapy is growing, which is fantastic, because they are able to look after more vulnerable patients who would be more likely to have agitated states.

Ms MACUKEWICZ: Can I respond to that?

The Hon. PAUL GREEN: Please.

Ms MACUKEWICZ: The difficulty in providing peripatetic service staff into aged-care facilities is that they do not tend to be there when these incidents happen, and that is the difficulty. You can argue that we should not be putting minimum staff and ratios in aged care but, at the end of the day, if we were to do a good job for the older people of New South Wales, that is exactly what we would be doing. The difficulty is we can get a diversional therapist in, but they tend to work nine to five, Monday to Friday, or they are an in-and-out service. The people who really need their support are the people who are there 24/7. I believe Professor Kurrle was talking about an incident that occurred at night-time, something that happened in somebody's bedroom at night. That is a key time that our members tell us there is a 1:100 nurse to resident staffing ratio, and that is the problem. They have not got access to those services at that time.

The Hon. PAUL GREEN: I would agree, most incidents happen on nightfall, or thereabouts.

Ms MACUKEWICZ: Yes.

The Hon. PAUL GREEN: A hospital cannot be staffed because of those situations happening, as they do—dare I put on record that near full moon there seem to be a lot more incidents. Whether it is anecdotal evidence or not it is fact that more accidents happen at night.

CHAIR: With respect to training about elder abuse, from the most comprehensive to the most minimal, can you each describe what the comprehensive training is for your members? How is it delivered and how regularly is it refreshed? Give us a sense of how it is done.

Ms MACUKEWICZ: From our members' point of view, the training that they receive is highly variable. Some of them receive very good in-service hands-on training, which is verified and checked. For others, they undertake an online training course that could be completed by anybody. The difficulty with an online training course is that there is nobody there to have a one-to-one assessment about whether that information has been effectively transferred. I do not see how you can train people to deliver compassionate care and care with dignity through an online training course. I just cannot see how the two are consistent. It is highly variable.

Mr SHEEHY: It is the same with our members. Some of them have highlighted that they had regular training. By that, across a year there would be a calendar of training covering a broad spectrum of care, including elder abuse, and that would be every year. Others, like Helen, have reported online training. Others have reported that training has been mentioned but has never come about, or staff have not been released to participate in the training so it has not occurred, or it has occurred on paper but has not occurred in practice. It is variable.

The Hon. BRONNIE TAYLOR: You are saying that people are saying they have trained people when they have not received the training? Have you got evidence of that?

Mr SHEEHY: Members have said that training has been booked and then at the last minute it has been cancelled or they personally cannot attend, so others may have attended.

The Hon. BRONNIE TAYLOR: I am trying to clarify for the record what has been said. You said some people are saying that they provided training but they are not providing it. So training is being provided, but sometimes a person cannot attend?

Mr SHEEHY: That is right. Maybe the individual is not released because of staffing issues and then they have not been trained for an extended period of time.

Ms GATFIELD: I will reinforce what has been said. There is a variation across providers and across regions. Someone in one part of New South Wales might get different training than in another part, even in the same organisation. It is varied and there is no consistency and no minimums, so there is nothing that has been done.

CHAIR: There is no mandating of training?

The Hon. PAUL GREEN: Or a curriculum? We need to think about a recommendation that includes a statewide curriculum.

Ms GATFIELD: Statewide and also that our members are given the time to do that. I reinforce that the online training does not necessarily give you that experience. We have members who have worked in home care for 30 years. They have built up experience and they would be able to mentor people and do on-the-job work, so people understand how to do that. That is not happening. So having a curriculum, but also having the time.

The Hon. PAUL GREEN: Or having an initiative so that private providers buy in on it, such as a tax break or something else, so that they allocate that time.

Mr McFARLAND: The only thing I would add is that in community aged care our members are often those in case management and coordinator roles that provide or are responsible for providing training to home-care workers and to support them. Again, as my colleague has mentioned, there is a real diversity in how much time and resources people are given in their organisation to provide that kind of ongoing training and support. We certainly get concerns from our members that they are not able to have enough face-to-face time to support their team of home-care workers in ongoing professional development training at work.

The Hon. Dr PETER PHELPS: Do you have a follow-up question?

The Hon. BRONNIE TAYLOR: I do. Ms Gatfield, please do not ever apologise. The work that people do in home care is phenomenal. The workers are often doing a lot of the personal care stuff that registered nurses are not doing. I know that when I used to do all of that, the things I picked up about a person were vital. Your workers are an integral part of it all, which brings me to my point. When you talked about the fact that there was a 15-minute allocation, or there might be longer—when I used to work as a nurse it used to be in blocks. In home nursing at North Shore we were allocated in blocks of time. Sometimes you would spend longer and sometimes the time depended on what you were faced with on the day. I am interested in what you have said. I take on board evidence about the night, that there is no-one to ensure that someone has had their medication and there might not be someone to ring if they are worried and they have to follow up the next day. We ran an inquiry into service coordination. One of the biggest issues was organisations not talking and communicating for fear of breach of confidentiality, which is not accurate, but I will not talk about that ad nauseam today. Do you think that if a neutral person was coordinating the communication between your workers and the community nurse who works out of the health service and anyone else that we would get better results and be more pre-emptive in discovering incidents of elder abuse?

Ms GATFIELD: Yes, I think that makes a lot of sense. As you say, our members are doing that unique work and often every day, so getting someone up, showering them, putting them to bed. If there was a clear way of reporting and understanding and that communication was improved, it would have to be better. There are a number of different agencies and a number of different organisations going into somebody's house to provide the different levels of care, how do you pull that together, and how is it done systemically?

The Hon. BRONNIE TAYLOR: It is quite staggering that it is not happening. The services are there, but perhaps if everyone was talking about it, they would find incidents earlier.

The Hon. Dr PETER PHELPS: Ms Macukewicz, I put a suggestion to you regarding the mandatory reporting of peer-to-peer violence, which I presume you recommend. Could we make a distinction between mandatory reporting and mandatory publication of the reporting so that the health authorities are aware of incidences, not only quantitative but also qualitative analyses of incidences, without it necessarily becoming a matter of public record? My grave concern, and I raised it earlier, is that the unintended consequences of the publication of such matters could be that nursing homes will simply refuse to take dementia patients. What is your association's view of mandatory reporting but not necessarily mandatory publication?

Ms MACUKEWICZ: I do not think there will come a time when aged-care providers do not accept people with dementia-related illnesses because of the sheer numbers. I do not think that would be a circumstance. Our organisation would always advocate for transparency for the consumer. The more information the consumer gets about a service, the more information they will have to make an informed choice about whether or not they want to send their loved one to that facility. It is a difficult issue. I can see your point of view in respect of providers might not want to get it out there if they are failing to protect. There are different ways in which that data can be managed without having to advertise it.

I do believe that our members would want the information in the public domain so there is a level of accountability for aged-care providers. I think one of the difficulties with the system we have got now is that it does not allow for exposure where there is poor management of challenging behaviours. Unfortunately that is exacerbating the situation as there is no incentive necessarily to manage that effectively because it is costly.

The Hon. Dr PETER PHELPS: I do notice that is exactly the opposite argument to what the NSW Teachers Federation says in relation to NAPLAN. There is a distinction between various views on publication of individual facilities.

Ms MACUKEWICZ: Sorry, I think elder abuse is a different issue to education. This is about life and death in some circumstances and elder abuse cannot really be compared with education in that respect.

The Hon. Dr PETER PHELPS: I disagree with you in relation to exposure of individual abilities or lack of abilities of particular facilities but be that as it may. My second question, Ms Gatfield, relates to pulling it all together. In your view one way to do that would be an expanded role of the hotline so that that becomes not merely for the elderly but also for practitioners within the field to be able to report about a instance which may be of concern to them. But, if you like, that hotline would necessarily have to be expanded, and that that becomes the central point where you do not have to go up through an organisational structure, but you have an ability to not even report but also to offer your own concerns, views, queries of what should I do? Is there an element of that which could be expanded to actually provide a service for workers within the field?

Ms GATFIELD: I think again it would come back to care workers knowing when they should do that and what would be the appropriate way of having a consistency. We do also have those concerns about, if I raised something will there be repercussions? I think you will see in our submission we talked about kind of nationally consistent whistleblower protections; a place where you would know that there would be actions. The other thing that care workers have also talked about is not hearing back, so not understanding "Okay, I have raised this issue, then what happened? Did I get heard? Have other providers been informed?" I think there is definitely a place for what you suggest but how it does come together is the question.

Mr McFARLAND: Part of the role of our members in community aged care is to be able to provide that assistance in bringing a lot of the different care and supports they have together, and an ongoing monitoring and review of that with the older person through case management services. But something that we know is that where there are issues the workloads are so high. Again I go back to that point about it being very competitive. We have a lot of our members do case management with 60, 70 people that they case manage simultaneously. So for them to be able to support someone in an ongoing way if they need to provide holistic support for them, it is really challenging with 60 people that you are doing it at the same time.

The Hon. BRONNIE TAYLOR: I take up your point. The Committee made a site visit at Bourke with a number of service providers conveying all sorts of different things. They said it is not more services; it is actually the coordination of them that they seek. When you say someone is case managing 65 people there are lots of people involved in that.

The Hon. Dr PETER PHELPS: Breaking down the silos, I think is what you are saying.

The Hon. BRONNIE TAYLOR: Yes, but more than that. Sometimes we, as workers, have got to do a bit of a better job of sharing that information and talking and not just say that we are overwhelmed. That is coming out in the evidence.

The Hon. SOPHIE COTSIS: Ms Gatfield, I refer to homecare workers. You said you need more time for training and for workforce development. Do home-care workers for culturally and linguistically diverse communities have any type of training about how to identify elder abuse? Do you hear back from your members?

Ms GATFIELD: There definitely is a CALD workforce. It again comes back to there are different agencies providing different care and there is not a consistency across it. There is not a consistent approach. Do providers provide specific training in CALD elder abuse? Not that I have come across in my experience.

The Hon. SOPHIE COTSIS: Obviously there are particular skills for home-care workers. I come from a migrant background and I know many women who have worked in the home-care sector. What do they understand of elder abuse? If it is one hour every three months we have a lot of work to do.

Ms GATFIELD: I really feel that this is the key in the home-care sector and it is the growing sector. I do not exaggerate but often that one hour is about management, downloading information. I might be given a policy on something and walked through it but not an opportunity to communicate with others. There is a lot of informal networks that our members make, and the union provides areas where people can come together, but I think that this is going to be more and more important as the legislation changes. In 2017 individuals will be given the funding, like we have seen in the National Disability Insurance Scheme so then our elderly will get that money and they will decide where to spend it which will mean that it could go in many different directions and will not be for these big providers. How do you mandate that people have the skills and the qualifications to be able to deal with that and know the proper processes? I think it is a really key thing that we are struggling with.

The Hon. SOPHIE COTSIS: Employers will say it will cost them X-amount but it is also about the cost benefits. Is there an analysis in terms of costs?

Ms GATFIELD: We have not done that analysis. I would say that the reason that you are having an inquiry means there is a reason to spend some money on this issue. The fact that there are so many different providers that people do not know what they need to do, and they do not understand how to do it, begs the question that we need to find a better and consistent way. In our submission we have also talked about pre-employment screening and mandatory qualifications. We see that you could actually put those two things together. If someone has to register to make sure that they are an appropriate person to provide care in someone's home, and to do this very personal work that we are talking about, that if they are registered you have got a way of making sure that those qualifications are updated; that people are working through a curriculum and that there are ways. I feel that these things do come together.

The Hon. PAUL GREEN: If a person qualifies for a carer's payment surely one hour or two hours prior to getting that particular payment there could be an intense training on elderly abuse. So you actually have to have a certificate of training even if it is a one hour seminar. It is a gateway to training everyone.

Ms GATFIELD: At the moment the way that the funding happens is that it is block funded to a provider. As that morphs over the next couple of years to an individual that will be more and more important because I might choose to have my cousin look after me, I might choose to have my neighbour, and there needs to be that level—

The Hon. PAUL GREEN: There is already precedence with immunisation—you do not get any more benefits from the Government until you move into that situation. I do not see why that would not also apply to the carer's payment with education on elderly abuse and your rights and responsibilities in achieving those outcomes for your elderly patient.

The Hon. BRONNIE TAYLOR: I want to start looking at some solutions. We have talked about how important education is and we have talked about reporting. Probably the majority of people are doing the right thing and doing a good job but how do we get to the percentage who are not? We can run 12-monthly programs and make people more aware but I am concerned about the smaller group. It is really positive that things have improved. Earlier the professor alluded to that and gave examples in her practice but how we can drill down and get to the people who do not feel they are supported? Is it education?

Mr SHEEHY: It probably encompasses all the recommendations that we have put forward. I think mandatory education is very important because with the deregulation in the RTO sector, members report that new staff starting with a Certificate III in aged care that they have only done on-line have no practical experience. Also in terms of the definition and then the mandatory reporting, as Helen highlighted, once there is mandatory reporting you then have the ability to track where it is occurring. One of our fears is that there is a lot more of it going on than we are aware of. Then once you identify those problems you have the ability to be able

to track them. We do suspect that you have both got variations between metropolitan and regional in terms of challenges, the type of needs being provided and then the providers themselves. We have got some very large well-resourced providers all the way down to very single operator providers. With the increased competition across the sector we are seeing more of them, I suppose, financially struggle.

So we have concerns about that. I think with the combined recommendations we should be able to at least identify the problems. Once we educate people and protect them to raise issues we are also hoping that will bring more of it out into the open to then, like you say, drill down on the specific needs. The resident population is becoming more complex in their needs, as more people stay in home care longer, they are coming into aged care later in their health, and with more complex needs. On the whole the staffing and the pay stays the same, a lot of the qualification requirements stay the same, et cetera.

The Hon. BRONNIE TAYLOR: When you get those results from your survey do you advise these people who are not feeling supported what to do?

Mr SHEEHY: A fair percentage of our inquiries from members are especially around the medical side of care so we provide a lot of advice to members about essentially to not be pressured into taking on levels of care above their job classification and above their training. A lot of our member inquiries are about that. Obviously if anyone raises any concern about elder abuse we obviously encourage them to report it as we will back them 100 per cent, if they do.

CHAIR: Are you saying that theoretically at the moment it would be possible for a person to do a relevant course of caring for the elderly fully online and then apply for a job to do such work without having any direct training per se, person to person?

Mr SHEEHY: There are probably two parts to it. One is that there are some caring roles which do not require any training at all—direct care roles. Typically that is becoming less common but that is one area.

CHAIR: What is a direct care role?

Mr SHEEHY: A carer.

CHAIR: A personal carer?

Mr SHEEHY: A personal carer, yes. The other part of it is our members have reported new staff starting, particularly with certificate III in aged care, and they have done that through a private provider and that it has been entirely online—a three or four week period of time—and that has presented a big danger both to the residents and also to their colleagues in terms of safety and the quality of the care. We know it is an issue and a number of employers have raised with us their concern and that if we become aware of any specific RTO provider who is doing that to let them know. But there are concerns around the standards.

CHAIR: On behalf of the Committee I thank you all for coming along today. Your submissions are very comprehensive and detailed with a number of recommendations for us to to reflect on. On behalf of the Committee I also thank the members you represent for doing the work that they do for some of the most vulnerable in our community and which they continue to do. Hopefully we will produce a report with some recommendations that may assist the elder citizens in our State.

(The witnesses withdrew)

(Luncheon adjournment)

JANE BROCK, Executive Officer, Immigrant Women's Speak Out,

MARY O'SULLIVAN, Older Women's Network and Convenor, Women's Electoral Lobby, Affordable Action Housing Group, and

JANE MEARS, Older Women's Network, Associate Professor, School of Social Sciences, Western Sydney University, affirmed and examined:

CHAIR: I welcome you all this afternoon to what is the second hearing of this inquiry being undertaken by General Purpose Standing Committee No. 2 into elder abuse in New South Wales. We have received your submission. Thank you very much for that; we have all got a copy and it can be taken as read. Will there be an individual or a collective opening statement?

Ms O'SULLIVAN: I think each of us has a specific statement to make.

Ms BROCK: I am the Executive Officer of the Immigrant Women's Speak Out Association of New South Wales Inc. I have been working with older culturally and linguistically diverse women since 1999. We have done research on abuse since that time and it has also been distributed to both government and non-government organisations. I would also like to add that the Immigrant Women's Speak Out Association is a community-based organisation. We have more than 4,000 individual members; our largest member is the Asian Women at Work that has over 2,000 individual members.

CHAIR: Is that in New South Wales?

Ms BROCK: Yes, in New South Wales. We have also an organisation of members. Specifically I would like to mention the Afghan Women's Support Network where many of the older women come to us for assistance. During our English conversation classes many of these women come and most of them are newly arrived because they have been sponsored as a carer or as families who have been separated from them when they were fleeing the conflict in their country, in Afghanistan. As you can see later on, I will be speaking about a case study and I hope that that will give you a picture of how the abuse happens in a set-up where there is a family that has moved here through the refugee pathway.

Ms O'SULLIVAN: I represent specifically the Women's Electoral Lobby [WEL] although I also work closely with and am on the management committee of the Older Women's Network [OWN]. Both organisations—I speak here specifically for WEL—are very pleased that the Committee has invited Immigrant Women's Speak Out to address your proceedings because issues relating to cultural diversity were part of our submission. We are very glad to have Jane Brock here to take those questions on. Our submission was based on wide-ranging discussions across the aged-care sector and also, last but not least, pioneering work undertaken by the Older Women's Network. We have Associate Professor Mears here on violence against older women and women and housing. Associate Professor Mears will talk more about this work from OWN and table some copies for the information of inquiry members. I think you already have those copies with your papers now.

Most submissions to the inquiry, with the distinguished exception of that from the Elder Abuse Hotline taker, are a gender-neutral approach, and that is fine—we are talking about older people, we are talking about seniors. We submit that in seeking solutions to the problem of elder abuse it would be helpful to recognise that older men and women can experience family and intimate partner violence on a continuum with the types of violence against women we are all trying to tackle as governments and as community members. It is also useful to note that the formal aged-care sector as well as the army of voluntary carers is largely comprised of women, and many of these are older women themselves.

As we have heard from the representatives of the care workers union this morning, the aged-care workforce in terms of access to training, status and pay levels does suffer inequities that so often apply more generally to older workers in the Australian economy, and that is obviously a position that is of great concern to governments of all colours, not the least being our current State and Federal governments. WEL and OWN have made a joint submission and my colleague Dr Mears will address—if the Committee wants her too; you may have other questions—the impact of the marginalisation of older women on the abuse and violence that older women can suffer, the impact on those older women; the pioneering work undertaken by OWN; and the possibilities being developed through the model of the OWN wellness centres. Dr Mears herself was one of the

initiators of much of this work up to 10 years ago and has been working on the area and has a deep level of expertise, which we have benefited from.

WEL would particularly like to focus on a process to address elder abuse from a family violence perspective and, in the context of the current initiatives to eliminate violence against women, the limited housing options for elder women as a contributing factor, issues with reporting and examples of community-based and training solutions, including initiatives such as are undertaken by the Immigrant Women's Speak Out and community-driven initiatives—an example is the Waverton Hub—and innovative training programs such as that conducted on a slightly different gender basis by ACON, which raised awareness of the needs of older gay, lesbian and transgender people in community and residential aged-care settings. They are some of the issues that we think have not been raised across the board. Most of the submissions raise issues in common with ours, but there are some fresh takes that our submission might illuminate the Committee on.

Dr MEARS: I am appearing here today on behalf of the Older Women's Network. I am also an associate professor at the University of Western Sydney. I have been researching, teaching, and have been on various policy committees probably since the mid-eighties; I was on the original domestic violence task forces here in New South Wales, then I was on the abuse of older people in their home task force that Sue Kurrle referred to this morning. As Sue said, we have done very well here in New South Wales. We have not built on what we have established; we have got a very good framework that we sorted out in the nineties, but it has slipped off the agenda, which is obviously a concern to the Older Women's Network.

The Older Women's Network has also done a lot of research in this area starting with the late nineties; we started talking to older women about abuse and we published some work in 2000 around that particular issue. Subsequently, as you have in front of you, we researched the disappearing age. The reason we did that was to bring to people's attention the fact that people over—and we are taking the ABS cut-off for older people, and indeed the Human Rights Commission, which is 45—that abuse or violence does not stop at 45 and the arguments are set out very clearly in there. Just to digress very quickly on this, we also discovered that although there seem to be few statistics, when you mine the data, as some of the other people were talking about this morning, you can actually find fairly hideous statistics, and I guess domestic homicide is a very good example. You look at domestic homicide over 45 and a very high percentage of women who are killed in that situation are older women.

We then did the homelessness report because what was coming up in our previous reports was that homelessness was a huge problem—and not just a huge problem but the cause of homelessness, which takes me to the main point that I want to make. I have been working in this sector, as I say, for nearly 30 or so years. Without understanding the dynamics of violence—that is, as Ms O'Sullivan rightly pointed out, there is a power component in here—the research shows us very, very clearly that those that are the most powerless and have the least opportunity to participate in our society—who are not connected into communities, who are very poor—are vulnerable to violence. Indeed, the level of violence perpetrated against marginalised groups is very, very high. That is why we are suggesting very strongly that you adopt a framework that takes that into account.

One of the things that has emerged from the other witnesses is that people are really frightened when they are being abused. Not only are they living in fear but they also have a lot of difficulty speaking about their situation. For some women the consequences of speaking out mean that they are murdered. I teach a course in family violence. This semester I am teaching it to 400 students across the university. In week three last year one of my students was murdered by her partner. We are not talking about something that happens to somebody else. If you have a group of 400 people—thank you, Goddess, that does not happen every semester—certainly during that 12-week period there will always be instances of violence and abuse perpetrated against those students or that they know about.

And they have suddenly opened up this problem. It is everybody's business. It is not an individual problem. It is not Selma's fault that she was stabbed to death. It could have been prevented. It should never have happened. What we are all wanting is for New South Wales to become the absolute lead State in ensuring that all older people, all women and all men from various groups are respected and protected and that they live good quality lives, which is, as Susan Ryan was saying this morning, a human rights approach to the issue. I think it is only by taking that approach that you can think of effective solutions. We certainly have lots of research to back up the effective solutions.

CHAIR: Thank you. That was very good. That provides a very nice entrée for us to ask some questions. We will start with the Hon. Bronnie Taylor.

The Hon. BRONNIE TAYLOR: Dr Mears, thank you for what you just said. We have heard really great evidence today. It is always fantastic to have these hearings. It is important to talk about aged-care facilities and things like that, but there is some type of framework and structure there. It may be letting us down in some instances but, in relation to recommendation 10 in your submission about advocating for the inclusion of a study of the prevalence of abuse amongst non-users of aged-care services, how do we get to those people? Because what strikes me is that we are talking about bringing in mandatory education—that is all stuff that we can actually achieve with recommendations, hopefully. It is never going to be perfect, and I think we all have to acknowledge—

Dr MEARS: It is a big stick.

The Hon. BRONNIE TAYLOR: Yes. But I am worried about all these people that are not accessing these services—the people that you just mentioned that you are advocating for. You talk about a broad approach. You have a great understanding of the issues and great expertise—you are obviously very passionate about it and I really love that. In terms of recommendations that could potentially come out of this Committee, what do you think could effectively start targeting these groups?

Dr MEARS: First of all, we have made progress in the area—there is absolutely no question about that.

The Hon. BRONNIE TAYLOR: And thank you for that too. It is important to acknowledge, isn't it?

Dr MEARS: Yes, it is—it really and truly is. And you are absolutely correct—it is really important that everybody knows about this. Indeed some of the ways that that can happen are education—that is an obvious one and I have a lot of expertise and experience there—but I think even more importantly are community groups such as the Immigrant Women's Speak Out, who have done wonderful work, and, indeed, the Older Women's Network. We have been advocating on this issue now for nearly 20 years. And 20 years ago as a way of indeed pulling in or involving those marginalised people—people who were feeling powerless and unsure of where to go and what to do—we started up the OWN wellness centres.

We have six centres going in Sydney. They are run virtually by volunteers. They have a couple of hundred to several hundred people coming to those centres every week. They are community based. The women running the centres in consultation with the women coming in, with their local communities, work out what programs to run. So that is an opportunity for people to join groups, to talk to each other and to talk about things. I noticed this morning one of the members of the Committee—I think it was from the Government side of the table—asked a question about a mother or a father who wanted to help and the fact that you would not want to talk to a lawyer about that. However, if you have a trusted friend, you will talk to your friend. That is what our research showed really strongly: If you can set up very safe environments for people where they know they are going to be safe, they will talk. If you do not do that, people are too frightened—and for very, very good reason.

It is one of these areas where we clearly have to be really careful, but that does not mean that we take the approach which also came out earlier this morning: "It is too hard. We can't do it." I did some work with the care providers, the Benevolent Society, around this issue and it is really hard—there is no question about it—but there are some really good practices out there. These NGOs, community organisations like ours, we have all been working together for nigh on 15 to 20 years. We have good networks and we can draw people in where they feel safe and comfortable. I had April Pham a few years ago—you probably know her, Ms Brock?

Ms BROCK: Yes. She used to be one of our workers.

Dr MEARS: She ran an art exhibition of older women in Western Sydney and all these older women came to the centre. She had just finished my unit on family violence and she came back to tell me—beautiful. She got a grant, she did a DVD, and that was exactly what happened. The same as Ms Brock describes with the women coming in to learn English—they came to learn English but what they did was they spoke in detail about their lives, the sorts of things that were worrying them and how they could move forward. And of course April knows the sector incredibly well.

The Hon. BRONNIE TAYLOR: So you are saying that a solution is fostering those centres in those communities.

Dr MEARS: Absolutely. Sorry to rabbit on—

The Hon. BRONNIE TAYLOR: Don't apologise.

Dr MEARS: The other thing that comes out of that is the possibility of support groups. All the research shows, whether it be in mental health or in other—

The Hon. BRONNIE TAYLOR: Cancer.

Dr MEARS: Indeed the Older Women's Network through the wellness centres runs quite a number of support groups and they are really effective. They are the things that enable people to talk through the issues, to see what is available, to say, "That Aged Care Assessment Team worker was absolutely fantastic." Indeed I did some research a few years ago with Sue Field on exactly this issue and that was what we found. We went to the country and we collected all our data. Some people were just magnificent. And these cases, as you all know, will often take years to resolve. They hang in there, they keep the people connected, they keep them—

The Hon. BRONNIE TAYLOR: The research also clearly states that if someone goes to see someone and they say, "Gee, that Jan Barham—she is a fantastic worker," then they will be trusted to go and access—

Dr MEARS: That is right.

The Hon. BRONNIE TAYLOR: Sorry, I just needed to use a name and I chose yours—

Ms JAN BARHAM: Thank you.

The Hon. BRONNIE TAYLOR: —my Green friend.

Dr MEARS: But that is what happens, Jan. It is exponential. In my classes the first thing I say is, "We have to create a respectful environment here. We are talking about very difficult issues. We can talk about bad experiences, of course, but what we really want to do is focus on the things that have worked. Let's talk about not necessarily service providers, of course—they can be across the board: friends and so on."

The Hon. BRONNIE TAYLOR: Thank you.

The Hon. PAUL GREEN: What about your other Green friend?

CHAIR: The Hon. Paul Green friend.

The Hon. BRONNIE TAYLOR: My sisterhood sibling.

The Hon. PAUL GREEN: Flip flop, I'm dropped.

Ms JAN BARHAM: I congratulate you because I think you are doing something so important with producing these leaflets. Some older people are not tech savvy. I know there is a big deal about senior tech savvy, but not everyone is there. The other thing is that when leaflets are folded up they are relatively small and if someone has a concern they can grab something like this without anyone noticing and take it home and read it as they need it, and then you have all those access points. Leaflets like the ones you produce are still really important tools for people to gain access. Education and opportunity to spread that information is so important. And they are obviously written by people who understand.

Ms O'SULLIVAN: We are having the leaflets reviewed by the Women's Legal Services at the moment for the accuracy of the information, at the same time knowing that there may be legislation coming out of this inquiry—without making a comment on that, that may mean that we will have to redo them altogether. At the same time I think they provide a useful source of information.

Ms JAN BARHAM: Part of your history is disseminating information to people to empower them, isn't it?

Ms O'SULLIVAN: Yes.

Ms JAN BARHAM: That is what you have always done.

Dr MEARS: We got a grant a few years ago from the Department for Women—thank you—and it came out of the work that we had done speaking to older women about their experiences of violence. As part of the grant we had 2,000 copies of that particular little booklet printed off. That has been reprinted three times since then, so there have literally probably been 10,000 or 20,000 copies. I have not kept a close eye on it; I am not very good at that sort of thing. But, like that resource, it is the same sort of thing—a little booklet of stories that people can just pick up, take home, take to a support group or share with their friends.

Ms JAN BARHAM: Would you still have a copy of that that we could perhaps get scanned?

Dr MEARS: Of course.

Ms O'SULLIVAN: We will get it to you.

Ms JAN BARHAM: The resources that are produced at that sort of community level are great. I would like to ask you about a disturbing issue—I am surprised how often I hear it raised—about sexual abuse against older persons and the fact that there have been some shocking cases in the media. I know it has created a lot of fear, particularly with older women—the thought of not only getting broken into, as if that were not bad enough, but the idea that there would then be sexual abuse by young people associated with that.

Dr MEARS: It is like a lot of issues. You know how child abuse came onto the agenda, then elder abuse and so on. I would have to check my more recent papers but it has probably only been the last five years or so that sexual abuse has become something that people have looked at. I marked a very good thesis out of the University of Queensland very recently looking at sexual abuse and older women. There are a couple of issues there. Number one is the research shows us pretty clearly that indeed it is an issue—that older women are raped, sexually assaulted and abused in various ways that one would never imagine. You sort of assume as you get older that people are going to leave you alone a bit, but that does not happen.

So it is certainly a very important issue, but it is usually a known person. It is very, very rare that someone breaks into your house and rapes you or abuses you. It is far more common for it to be a family member, someone who lives close or someone who has even groomed you in some cases. So it is quite a wide spectrum. The other part of the story is for women over 45, and as we all get older, many of those women have already suffered serious sexual and physical abuse during their lives, so they are still traumatised. So—would you believe—we have no counselling services at all for older women as a result of sexual abuse?

Ms JAN BARHAM: Is that right?

Dr MEARS: Yes. And one of the issues here is that it is very difficult to include older women. When we did the report in the mid-90s I was working at that stage with care workers and I did a quick piece of research just asking them about whether they had come across any abuse in their time. "Oh, yes," said one woman. "We come across it all the time. He has been abusing her for years. She has made her choice. There is nothing we can do about it." And I am thinking, "No. You need to have a much better understanding of what is going on in that situation."

Ms JAN BARHAM: I think it plays on people's minds because of how shocking it is.

Dr MEARS: That is right.

Ms JAN BARHAM: Particularly when it is contrary to the issue of older women becoming invisible and less attractive—that they would then be subjected to that. Do you think it is happening and we are not hearing about it?

Dr MEARS: Yes—without a doubt. And as we all know it goes along a spectrum from being harassed in some way through to very serious criminal offences. Part of that is you have to understand the dynamics and the power of violence to intervene. There is no point, really, calling the police under those circumstances. Indeed, I have very good relationships with the police in Canterbury. The domestic violence teams there are very flexible. They do not want to arrest people. They want to work with the community. They want to be with us. They will arrest and pull the offender out. Sure, they will certainly do that. However, if we can prevent that

happening, pick it up beforehand, or intervene in other ways it is far less traumatic for everybody. As I said, these women are by now highly traumatised.

Ms JAN BARHAM: Are you saying that there are no support services for them?

Dr MEARS: They go along to a women's centre or counselling service. We are working hard to heighten awareness amongst domestic violence workers that older women are also abused. They are often young women and they do not quite get it. We are also telling aged-care workers that there are policies and practices that they can incorporate.

Ms JAN BARHAM: Have you heard about it happening in residential facilities?

Dr MEARS: Yes, and it has been well documented. It is fortunate that I have just read a very good Queensland postdoctoral student's thesis that includes fabulous references. She has quoted information from both Australia and internationally. The international research is also looking good.

Ms JAN BARHAM: Can you make that available?

Dr MEARS: Of course.

The Hon. SOPHIE COTSIS: Thank very much for your very comprehensive submissions. Ms Brock, we need to do a great deal of work in terms of increasing awareness and education, in particular with regard to women from culturally and linguistically diverse backgrounds. We have emerging communities of newly arrived refugee women from the Middle East and Asia, and family reunions involving families bringing over older mums. Then there are migrants who have been here since the 1950s and 1960s. Many of those older women still have language difficulties and abuse is happening in those communities. You have made a number of recommendations. Of course, a lot of this is about money. What are three things that the Committee should push hard on to get the message out there to CALD communities?

Ms BROCK: We need a soft point of entry. That is, we need to have gathering points where women will feel comfortable. We have done many community development activities in the past, and we have difficulty reaching out to those who cannot read and write in English. We have done it through radio stations. We were successful at some point, but then we found out that there are many who have arrived here under the sponsorship of their children and who are on visitor's visas. They come here to look after their grandchildren. We thought that we should reach out to those women as well. They are times when it is the grandfather and the grandmother.

Someone said to me while I was waiting for a train home, "You know that there are many women out where you have your office. They are grandmothers of those children who are studying at the school near your place in Harris Park." I said, "Really? What time do they go there?" The response was, "After they have brought their grandchildren to the school." At the time we had some student placements. I told them that we should get those women to come to our meeting room to see what we can offer them. We started with five women and then 10, and we ended up with 38 women on the premises. All of them wanted to learn to speak English because they needed to speak it with their grandchildren. They also needed to be able to read English so that they could cross the road; they wanted to be able to read road signs. That was a painstaking undertaking because we do not have the staff resources. We also could not follow up with those women. We discussed family violence, and that was tough because many of them had experienced it.

The Hon. SOPHIE COTSIS: Is it basically about increasing funding for specialist officers?

Ms BROCK: Yes, to be able to connect with those communities through many entry points, whether that be through English conversation classes or having workers going to community centres and encouraging other workers to look for those women. You will not get them to come to the entry points right away.

The Hon. SOPHIE COTSIS: I know. It is also a matter of trust. Many of the women probably are not allowed to go to certain places. There might be a taboo or cultural issues. You are right that it is about having soft entry points. There may be knitting groups where people talk while they are knitting. In that way you are able to educate them.

Ms BROCK: There are also events. That is where the New South Wales Government's community building funding is handy. We receive that funding to hold events for all our women across society and from all age brackets. They are able to come to those events. Many women attend our annual mothers' day event. It is free and they can bring food to share. It is an opportunity for them to meet other women. As you said, some of them have been here for many years and some are newly arrived. They can share how they deal with their loneliness, especially if they stay here for a year. Some stay only for three months and then come back for six months and so on.

You mentioned those who have migrated and who want to settle. I know a Greek woman who started working in a factory when she arrived. Her story is inspirational for others. Those are the kinds of stories we want to collect. How do they deal with ageing? She said it is not about simply sitting at home waiting for a pension; it is about being able listen to the radio and telling their stories. She came to an International Women's Day march when she was almost 90 years old. She spoke to a group of young women about her story. She is very inspirational. We want to collect these women's stories about how they have transitioned from being retired to receiving pension money and also doing other activities. It is very rare that we hear this from CALD women. Most often they do not have time for themselves, especially if they still have young grandchildren and they are being asked to look after them most of the time.

The Hon. SOPHIE COTSIS: Thank you for that. Ms O'Sullivan, are you represented on the Government's interagency ageing committee?

Ms O'SULLIVAN: No, neither the Women's Electoral Lobby nor the Older Women's Network are represented. It would be a valuable contribution, particularly given that it is critical that we incorporate pre-emptive measures with regard to elder abuse as much as possible at the pointy end, which is the interdepartmental committee, the elder abuse helpline and all the little bureaucracies that are emerging in a positive way. That is the pointy end, which is the sort of terrible things we have heard about so far during this inquiry's hearings. What Jane Brock is talking about and what our submission talks about is that critical community dimension of engaging older people—particularly older women because once you are 65 and up to 75 the majority are older women. I would be in that category at 66 years old, but I have not rung the helpline yet. The key issue is getting a much more systematic community response. I am talking about a positive pre-emptive dimension. That should be built into things like the New South Wales Government's very good ageing strategy.

Our submission recommends, for example, that all local government authorities should have a much more systematic and planned approach to creating positive social opportunities for older people rather than it being a little bit ad hoc, as it often is. Some councils do well thought-through plans, other councils do not do much, and other councils provide a hall where people play bingo and so on. That is all positive. However, if our ambition is to be as great as the ambition that the New South Wales Government has set itself of eliminating violence against women and family violence then we should seek to eliminate violence and abuse against older people. Part of that approach should be the same level of community building and implementation of positive initiatives as well as catching the catastrophe and having that terrible incidence escalating. We need to do both things at once.

CHAIR: Ms Brock, you mentioned a group of women with whom you have been working, some of whom are grandmothers who have come from overseas. You said they had been exposed to elder abuse or that some instances were reported in the discussions. For the Committee's benefit, and without naming the individuals, can you describe types of abuse that some of these women have experienced?

Ms BROCK: The women we have worked with have said that they were not given enough information about many things they should have known about before they came here. For example, they were not told about the traffic and transport. They also spoke about not being able to speak English with their grandchildren. They are not able to communicate because they cannot access information. For them that is, in a sense, abuse.

CHAIR: This is a general question, were they approached by one of the family members to consider relocating to Australia of their own volition or they decided to come to Australia because there was family and grandchildren in Australia?

Ms BROCK: For this group of women that I have mentioned who we have worked with, they were requested by their families to come here and look after their grandchildren.

CHAIR: It was a specific request could they please come here?

Ms BROCK: Yes, and they are on a visitor's visa.

CHAIR: My second question is, does this whole issue of elder abuse fit in under the broad framework of domestic violence or family violence or should it be considered separately? Whilst it might be related does it fall underneath that broad umbrella of domestic or family violence?

Ms BROCK: The definition of family violence under the immigration law applies to that as well. When a person fears for their security at some point because of lack of information, and the understanding that we have from what was told to us by those women is that there is a systematic intention not to provide them all the information because of the fear that these parents would somehow ask for privileges or maybe they would want to do something else and not only look after their grandchildren.

CHAIR: Or perhaps not come to Australia?

Ms BROCK: That would jeopardise the intention of having the people who look after the children or grandchildren.

Ms O'SULLIVAN: That is really one of the questions that is the nub of this inquiry. On the one hand some of the expert submissions are advocating various forms of legislative intervention, including at one end an actual new form of legislation and a new category of legislation specifically in relation to elder abuse, and then there are all sorts of amendments proposed to current legislation, particularly in relation to financial abuse and power of attorney. You will hear later this afternoon from the Victorian advocate and the Committee has a submission from the Victorian seniors' rights service. Without being a person of legal training myself our submission is that the area of elder abuse needs to be recalibrated more in the direction of the domestic and family violence legislative context as well as the response context of domestic and family violence and the whole infrastructure we have now in New South Wales.

We do not have good data about how police have been responding to issues of domestic and family violence in relation to the upper levels of the demographic. In our submission it says that the NSW Bureau of Crime Statistics and Research, as far as we can see, does not publish data in relation to older people that have been granted apprehended violence orders. It is hard to know. Even though when you speak to our agencies, and as you know they are active in relation to the domestic violence space, they do acknowledge that older people come under the rubric of the domestic violence framework. I have It Stops Here, which is the comprehensive framework we have. But it is hard to know how it is playing out in the field. That is one of the reasons why there is a push amongst some of the peak organisations for a much more explicit legislative response. At the same time the help line submission itself requests much more specific legislation. They suggest there should be a new category of criminal offence, even in that moderate submission in relation to elder abuse.

This is why we have made a recommendation that any legislative response, as the commissioner said this morning, should be considered. It is a temptation to think we will get a law up in New South Wales and it is going to be great, but: (a) the Law Reform Commission; (b) national discussion amongst the attorneys and relevant Ministers; and (c) a critical issue is consistency of definition. It is okay on one hand to say, definitions here and there, but in the end it is action, but in my view if we don't have a consistent definition we don't have an agreement about what we are trying to respond to, and we do not have a basis for reporting. More critically, we don't have a basis for raising public awareness because we don't know what we are talking about. The great success of the domestic violence campaigns at a State and national level has been because of a strict, coherent and consistent definition nationwide in relation to what constitutes domestic and family violence in legislation. We need to look at that in terms of the dimension of family violence we are dealing with here.

Dr MEARS: Ms O'Sullivan mentioned Victoria, and I would add Queensland to that, who are taking the responses of their domestic violence task forces and applying them to older people as well. There is no situation I can think of in terms of abuse of people over 65, or whatever you want, that you cannot deal with from the legislation and programs and policies we already have. Sue Kurrle this morning talked about practice wisdom—you have so much out there, particularly in the domestic violence sector. The Education Centre Against Violence [ECAV] has done a fantastic job over many years. We have lots of things we can build on really easily. That is the way it is going internationally as well. I have just come from Wales and they had an inquiry that brought down its report late last year on domestic and family violence. They have called in January

for an additional consultation with older people and looking at sexual abuse and violence against older people. The recommendation from the Queensland report is this one area we need to look at far more closely.

Ms BROCK: The family violence provisions of the migration law do not apply to those women whom we have worked with who are on visitor visas. What Ms O'Sullivan discussed is important. Somehow there should be protection for those grandparents who come over to look after the grandchildren, to make sure that the law also protects them. They are not permanent residents so they cannot access community services.

CHAIR: The Committee has resolved that any answers to questions on notice be returned within 21 days. There were a couple of questions on notice. If there is anything additional you can include that. Our secretariat will contact you in relation to those questions.

(The witnesses withdrew)

BRENDAN MOORE, General Manager, Policy, Research and Information Alzheimer's Australia NSW, affirmed and examined:

CHAIR: We received your submission number 35 and we appreciate the work that has gone into the preparation of that submission. This is a cross-party Committee, so there are representatives from the Government, Opposition and cross bench. We decided earlier that we will have a fluid exchange of questions. Would you like to make an opening statement or comment?

Mr MOORE: Thank you for the opportunity to appear before you today. To set the scene really clearly our interest in this area is that people with dementia experience a greater level of vulnerability to abuse than people without dementia. That is a result of the neurological condition that impacts on people's decision making, memory, recall, behaviour and the way they interrelate with other people. Whatever form you are talking about, they are in a more vulnerable position to abuse. In terms of the things we would like to see, in a brief form, are changes that result in access to justice. It is seen as one of the things clearly needed. Part of that is our continued advocacy for a public advocate. More local vulnerable community officers in NSW Police Forces and continued and expanded funding of the functions of the elder abuse help line and resource unit.

There is scope for further work to be done in the area of disincentives to prevent abuse occurring in the first place. That would include changes to the enduring power of attorney arrangements and accountability and responsibility that those attorneys hold. We think there is greater scope for convictions and investigation, which would help change the dynamic of elder abuse being an individual issue and firmly position it as a social issue. Making it harder to perpetrate would be a great development in terms of disincentives.

The Hon. Dr PETER PHELPS: In relation to the enduring power of attorney reforms you propose, given the likely powers required over a person as their dementia gets worse, do you see that the powers would change over a period of time or do you believe there needs to be a greater oversight of the power of attorney from the get-go?

Mr MOORE: We work from a perspective that other witnesses have probably mentioned—I know Sue Field talks about the document being both a sword and a shield. We encourage all people, certainly in early-stage dementia, to get their documentation done early, consistent with the work done and message promoted by the NSW Trustee & Guardian. The issue of capacity obviously diminishes over time, hence the need to do it early. Once you get to a point where a person has diminished capacity and that can be proven by a doctor, you enter the period where the document is activated—you become the power of attorney for the person who has lost capacity. At that point you are in the position where there is a need for greater responsibility in education and enforcement of the attorneys exercising their duties as attorneys, both legally and morally. We highlight that issue.

Currently, with a power of attorney you can perpetrate financial abuse and that is purely legal because you have the instrument to allow you to do that. We go back to setting up those instruments and you get to the point of exercising your choice wisely about who you appoint. We agree with others who say it does not necessarily have to be your adult child. You will have heard that the greatest exposure risk for perpetrators of abuse is family members.

The Hon. Dr PETER PHELPS: Because they are more likely to get a financial benefit.

Mr MOORE: Yes.

The Hon. Dr PETER PHELPS: On the matter of mandatory reporting of abuse in nursing homes, we heard an example earlier of two dementia patients with one accidently walking into the room of the other and pushing over that dementia patient. What is your view on mandatory reporting? Do you believe it would negative or positive consequences, or no consequences beyond the current time for patients who specifically suffer from dementia?

Mr MOORE: I believe there is already a mandatory reporting regime in Commonwealth-funded aged-care facilities.

The Hon. Dr PETER PHELPS: Not for peer on peer.

Mr MOORE: No. It is not something that we have looked at so I could not give you an answer. But I suspect that if there is an incident, unless something is done around data capture, how do we know the true extent of it? Another issue you will have heard about is that we have no idea how big this problem is in Australian society. In this scenario you are dealing with one microcosm of the types of people involved in abuse. Also, in many cases where offences are committed by people with dementia, because of the dementia—

The Hon. Dr PETER PHELPS: You do not have mens rea.

Mr MOORE: Yes, that is right.

The Hon. Dr PETER PHELPS: But you would not be averse to the idea of mandatory reporting of violent incidents in facilities?

Mr MOORE: It warrants investigation. What is done with that information and the purpose of its collecting I would want to be more confident about, rather than it becoming another means of saying that people with dementia are problems in aged-care facilities. We would not want that outcome.

The Hon. PAUL GREEN: I do not know that much about the power of attorney. Surely there would be triggers if someone is trying to sign off on more than a certain amount? Surely that should be co-signed by someone, maybe a GP or someone who knows the patient fairly well?

Mr MOORE: No, only if you have written on your documentation that you have joint powers of attorney and then it requires two people. But if you only appoint one power of attorney, they effectively have licence to do what they want.

The Hon. PAUL GREEN: In my experience with money, it is not that people are inherently evil at the beginning but they get a lust for it and that makes them do things they probably would not normally do. One would think that having a trigger point would be good. The good book says the love of money is the root of all evil, not money itself. That love can grow until eventually someone gets to a point of withdrawing a huge amount that should not have been withdrawn. Surely then there should be a co-signature from someone who knows the patient.

Mr MOORE: In my understanding that arrangement is not in place.

The Hon. PAUL GREEN: Is there anything like that?

Mr MOORE: No. If you work through your scenario and the person is suffering from dementia, they have no capacity to understand what is going on and have a single attorney who has made a transaction—for instance, sold the family home and taken the half-million or million dollars—and left mum or dad homeless. There is no secondary measure in that instance to prevent that from happening—it is legal; the attorney is allowed to do that.

The Hon. PAUL GREEN: That is one of the great problems of there being no co-signatory.

Mr MOORE: Only in instances where there is a single person on the power of attorney form. Where there are two, it is different but there is no requirement for an external party to that arrangement.

The Hon. PAUL GREEN: That is right; there is no independent person to check.

The Hon. SOPHIE COTSIS: If someone is diagnosed with dementia and appoints a child or children to be power of attorney, obviously there is no review of the power of attorney at the moment so anything is possible. One of the issues is there is no register.

Mr MOORE: We flagged that there is no register in our submission as well.

The Hon. SOPHIE COTSIS: That is a big concern, that there is no protection of people with dementia. What do you recommend?

Mr MOORE: You can go down the path of registering powers of attorney. That is something we looked at in our publication *Preventing Financial Abuse of People with Dementia* and I will provide a copy for

the Committee. We talk about the pros and cons of a register of powers of attorney. The issue we found is that it would impose a further disincentive to people taking up those instruments. Already the rates of take-up of powers of attorney are quite low, certainly in New South Wales. There is not universal coverage as not everyone has a power of attorney, or even a will. If you were to do that the State would have to impose a cost on people to maintain that register; that will not come for free. How would the New South Wales Government fund such an exercise to create a register? Where would that register sit? Who would have access to it? There are many issues with that as a solution; it is not without fault. We made a direction that the Government should get the NSW Law Reform Commission to look at it, and I believe the commission has previously looked at it. Maybe it is time to look at it again.

The Hon. Dr PETER PHELPS: Would a better position be, in a best possible world, that people well ahead of time give clear consideration to protecting themselves when signing a power of attorney and for their solicitors to make sure that they cast an impartial eye over what is being proposed and perhaps advise the person to think further or not to put all their eggs into one basket? There is a role for professional legal advice.

Mr MOORE: Absolutely. That is also something we touched on in the report and we have done work since then around the Law Society and the ongoing education of solicitors and the role they can play in instructing clients on setting up wills and powers of attorney—the "choose wisely" adage and to choose more than one power of attorney. There are many things individuals can do but there are still potential holes in the current arrangements.

The Hon. BRONNIE TAYLOR: A situation, drawn from person experience, comes to mind of a person diagnosed with dementia but who is still quite with it and is being looked after, perhaps by their spouse. As the dementia progresses—and we know people can sometimes change very rapidly—there might be a situation where the well-intentioned spouse is becoming isolated and starts to isolate the person suffering from dementia because it is easier than taking them out, especially when it is difficult to predict whether the dementia sufferer will be well enough to be taken out. Are you seeing more of that? We rely so much on carers.

Mr MOORE: We do.

The Hon. BRONNIE TAYLOR: Yet things can get so ordinary very quickly.

Mr MOORE: Yes, they can. The life of a carer should not be dismissed or taken lightly. Their contribution to Australian society runs to the billions of dollars that they save the Australian Government. I read publications on this earlier today and we touched on psychologic abuse and neglect at the end of our submission. One difficult thing that we struggle with as an advocacy organisation and a service provider is a lot of our focus has been around educating and supporting carers. Our organisation was founded 34 years ago around a view of supporting carers to do their job and how we can advocate to governments to change their lives and circumstances. At the end of the day you cannot change the fact that they are caring for a loved one with dementia. Sadly, this work touched on the perception that people perpetrate abuse because there is a feeling they have earned it through the work they have done as a carer. I think that is overstated; I believe that is not the primary motivator for people who commit financial abuse.

When talking about neglect or the psychological, as we touched on in our submission, it is probably more due to the fact that they do not have the support to be a carer. They have not been through courses we run, such as Living with Dementia, our carer education courses. These courses provide people with psychosocial educational support and training and a better understanding of what to expect as a carer. They can reach out to our counselling services. We have a helpline they can call at any time. There is a range of supports to respond to those issues and prevent the neglect and psychological abuse from occurring. If they use those supports they are better off and the person with dementia is better off. It happens and our struggle is that we do not get funded enough to deal with the social problem of dementia that we confront. We would love to do more but we cannot reach every carer in Australia.

The Hon. BRONNIE TAYLOR: Every aspect of every type of care involves struggle. If we could give everyone everything we would. Most carers care for someone they deeply love but are in difficult situations. They often find that when they start caring they get frustrated but then it becomes something that they do. Sometimes caring for a person happens over years and years, so my concern is we need to get to these carers. These underreported things need to be covered in our recommendations to make sure we are not missing these people.

Mr MOORE: It happens in the family home. It happens behind closed doors and walls that the rest of society does not see. It is only when that couple goes out in public that you may be privy to it, but then would anyone say anything if they saw it happen?

The Hon. BRONNIE TAYLOR: Also, they stop taking people out because it becomes easier. Then everyone cannot see that, Joe Johns, who has always coped so well and has been the most loving and caring husband—"Oh, did you see the way he spoke?" It is hard stuff. They isolate themselves and the person with the impairment.

The Hon. PAUL GREEN: Spoken like a real nurse.

The Hon. BRONNIE TAYLOR: Thanks, sister.

The Hon. MATTHEW MASON-COX: Spoken with great empathy.

The Hon. PAUL GREEN: That is exactly what it is like.

The Hon. BRONNIE TAYLOR: We feel, do we not?

The Hon. PAUL GREEN: We do.

CHAIR: Please proceed.

The Hon. MATTHEW MASON-COX: Mr Moore, I want to ask you about your recommendation or suggestion that based on your research and evidence from interstate and overseas a public advocate be established in New South Wales. Will you run through some of the detail about that?

Mr MOORE: I believe you have someone coming from Victoria who will give you a very detailed answer about that.

The Hon. Dr PETER PHELPS: Do you think the Victorian model should be adopted here?

Mr MOORE: Yes, there are elements of different States. The situation in Queensland is worth looking into and how it operates. My understanding is that there would need to be a review and change to the Guardianship Act. Coincidentally, the Law Reform Commission—

Ms JAN BARHAM: It is under review at the moment.

Mr MOORE: —is looking at that at the moment. It will not surprise you to learn that we will be writing a submission recommending that that be one of the things that be considered in the review of the Guardianship Act. Through the work we did on financial abuse, we found that the lack of access to justice is a critical thing. The public advocate needs greater investigative powers and the ability to get to the point of restoration of the situation. At the moment we have lightly funded vulnerable community officers in the New South Wales police. To my knowledge there is one of them, and we have the Elder Abuse Helpline, which just a helpline. It cannot take you any further, but not to dismiss the good work that they do just being there. If you work through that continuum, you have got—

The Hon. MATTHEW MASON-COX: Does the Ombudsman help in this area?

Mr MOORE: No. You have a helpline that will take your call and you will get taken through what you can do individually to resolve the issue. If you wanted to take it to that next level, or you have a third party report of abuse being perpetrated, there is no way for that, if you like, investigation to take place outside of a police investigation.

The Hon. MATTHEW MASON-COX: There is a gap in the marketplace, so to speak?

The Hon. Dr PETER PHELPS: Does the Public Guardian not fulfil that?

Mr MOORE: It would need to have its powers increased.

The Hon. Dr PETER PHELPS: It cannot look at something on its own recognisance at the current time?

Mr MOORE: No. The Public Guardian, to my understanding, is the guardian of last resort. If you go through the Guardianship Division and go through its public hearing, you would have the Public Guardian appointed to make your decisions as a guardianship matter. Any financial matters would be NSW Trustee and Guardian.

The Hon. MATTHEW MASON-COX: The events prior that would be left in the dark?

Mr MOORE: You may not even get to that point. It is important to say that with financial abuse you may not get to the Guardianship Division or the Public Guardian. It is investigative, not protective. As I was saying before, you have access to justice, plus the disincentives then you have the protective set-up as well. In the area of abuse there is room to push on all three and the advocates in the access to justice area.

Ms JAN BARHAM: Mr Moore, from your submission and what you are saying, there is enough experience out there that informs us about things that could be done very quickly and very easily to improve the current situation. Is that right?

Mr MOORE: Yes, I believe so.

Ms JAN BARHAM: There is some best practice around.

Mr MOORE: Not to dismiss the difficulty of it in saying that. In policy terms, we talk about wicked problems. We certainly believe that the issue of elder abuse is a wicked problem. It will take more than one thing. You cannot pull one lever as decision-makers in Parliament and say, "That will solve it."

Ms JAN BARHAM: But nothing is like that.

Mr MOORE: No.

Ms JAN BARHAM: Part of the problem that has been highlighted with so many of our submissions—and you have said it—it can happen invisibly because it is behind closed doors, in a house, it is with family members. It is not what most people would expect and it is pretty shocking.

The Hon. Dr PETER PHELPS: Even in that situation, Jan, there are material differences in policy prescriptions for a benign, good-meaning, well-intentioned neglect and a deliberate malfeasance towards the person you are caring for.

Ms JAN BARHAM: That is right, but the experience of the victim is what we have to focus on. If someone is injured and hurt by someone else's actions against them, then that is what we are trying to deal with. I am not saying it all has to be criminalised. Before I raised support services for the perpetrators, who are often the carers. I think it was your submission in our registered nurse inquiry that often the person who is caring for the elderly within a family is probably not the best person, but they are the person who is available.

Mr MOORE: Possibly, yes.

The Hon. PAUL GREEN: It was earlier this session.

Ms JAN BARHAM: No, I raised it earlier because it came from our previous inquiry. Those people often need support and the supports could be enhanced. Your organisation does great work, but I heard you say you could do a lot more if more funds were available.

Mr MOORE: Yes.

Ms JAN BARHAM: It is true. Those people need support and they are often driven to a point where they are frustrated and exhausted and they need the support of others. In your submission you have raised the role of the police, but also where we sit in an international context. On your last page you talk about the opportunity that is available at the moment and Susan Ryan mentioned this morning that the United Nations

periodic review recommendations are due by March this year, so we have only a limited time frame to do something. Is that a position to be taken by the State Government or Commonwealth?

Mr MOORE: I do not know the detail about that. Our suggestion is that the New South Wales Government recommend or advocate to the Australian Government to provide leadership on this issue. Hearing from the previous witnesses what we also have talked a lot about in the working group that I described in our submission, the time for elder abuse has come. We have had domestic violence and violence against women. The changes that we are seeing and that it is socially unacceptable is changing public attitudes. The leadership we have seen from politicians at the Federal and State level on those particular issues has been instrumental. Our view is that we need leadership from our politicians, our elected officials, to take a stand against elder abuse. It is not acceptable. That is the point we have reached with domestic violence and violence against women.

Ms JAN BARHAM: And violence against children and the wrongdoings of the past. It is the maturation of Australia as a country as well to be able to face up to that and to want to do something. The idea that has come up about issues for people in residential care is we know that often the behaviour that is difficult to manage occurs at night, and we have heard about the resident-to-resident abuse that can happen. One point that has been raised is that if there was a higher level of staffing or more people on duty in residential care facilities, then the opportunity would be that they could intervene or be there to protect or support someone if they were agitated or in a difficult state.

Mr MOORE: This is territory we covered in the last hearing about registered nurses in aged care. In respect of understanding people with dementia and their behaviour, it is often presented as behaviours of concern, but what people with dementia have is unmet needs. Those behaviours, as they are labelled, are actually expressions of unmet need. There may be needs for intimacy, which means that someone walks into another person's room and gets into bed with them. Whilst that is not desirable for the person whose room is being entered, there are steps that the facility could have made to address the person's need for intimacy. There are services available that address those needs.

We hear other stories of physical violence from people with dementia. For instance, the one that always seems to get mentioned is the ex-World War II veteran who punches Asian staff. If you track that through and understand his life history, you will understand the context for why that happens, so you can actually take steps to do something about that. So, better skills and abilities in understanding dementia and tracing life histories and understanding triggers for behaviour means you can actually prevent that unmet need being expressed in such ways.

Ms JAN BARHAM: Is there a general perception that something happens for expediency reasons, that they stop being people; that people forget there is a backend story and they are a person with real needs, because dementia is something that frames them narrowly?

Mr MOORE: That people are defined by their dementia?

Ms JAN BARHAM: Yes.

Mr MOORE: Yes, Maybe.

Ms JAN BARHAM: If we are not doing enough, does that mean as a society we do not care enough?

Mr MOORE: I think you can go back to what Bronnie was saying before. There is always more that can be done for any social cause. We are no different. We are an advocacy organisation seeking to improve the care and support of people with dementia and their carers. We will argue until we are blue in the face for more resources, for better care, more support for carers to be able to continue their caring role, whatever form and shape that takes so long as it is evidence based and it makes a difference. That is what we are arguing for.

Ms JAN BARHAM: Your organisation does fantastic work. The production of those research papers is excellent.

Mr MOORE: Thank you.

Ms JAN BARHAM: They continue to provide great guidance about your area.

The Hon. BRONNIE TAYLOR: They give solutions, which is appreciative.

The Hon. PAUL GREEN: In respect of the public advocate in other States, is it good or not? I am thinking of the trigger point of financial of sums with abuse. Why could the public advocate not be like a justice of the peace [JP], who checks the documentation before it is proceeded with, instead of giving one person access to an account?

The Hon. Dr PETER PHELPS: You mean on every transaction or before it starts?

The Hon. PAUL GREEN: No, on trigger amounts.

Ms JAN BARHAM: Over a level.

The Hon. PAUL GREEN: Over and above a certain amount, such as the sale of a house, or $50,000 or $100,000.

The Hon. Dr PETER PHELPS: The trouble is you create an administrative process to fix a tiny portion of the market, if you like, meanwhile providing an administrative burden to everyone else.

The Hon. PAUL GREEN: Not necessarily. If public advocacy is put in to help the system, as the report says, it is already there. It coexists. The JPs are not bothered until someone needs a signature and then they have to check the outcome. It does not always take them hours to do.

Mr MOORE: The original question was about advocates in other States.

The Hon. PAUL GREEN: Yes. I am talking about a concept.

Mr MOORE: Yes. We will start from the point of what is an advocate's function?

The Hon. PAUL GREEN: Investigate financial abuse.

Mr MOORE: What you have described is not investigation. That is a check and a brake. I would not see that sign-off of transactions over a certain threshold as a function for the public advocate.

The Hon. PAUL GREEN: I am trying to be solution driven.

Mr MOORE: I do not think that is a function for a public advocate. That is not investigation. That is checks, brakes.

The Hon. PAUL GREEN: What about a JP signing off on it?

Mr MOORE: I think you are probably better off going to your solicitor. There is an existing arrangement with a solicitor who drew up the documents, so maybe there is a better mechanism to go back to a solicitor who knows the family better than a family advocate, better than a JP.

The Hon. PAUL GREEN: My point is there is a trigger point for a second person to cast their eye over it, because a lot of these seem to be a single gateway to a bank account.

Mr MOORE: Yes.

Ms JAN BARHAM: You refer to the financial abuse of older people working group that has a great list of people on it. I was not able to find—

Mr MOORE: We are a secret society, no, just kidding.

Ms JAN BARHAM: Where are the minutes?

Mr MOORE: We do take minutes. Coincidentally, I think we described there, that group formed as a response to the research paper that we released. We were overwhelmed by the response that we got, including from the public service agencies, the universities. You will notice that many of the people that are actually on

that membership are people who have come and talked to you. If they are not then perhaps they should be people that you talk to.

Ms JAN BARHAM: So you are secret society?

Mr MOORE: No, we are not a secret society but we do work behind closed doors at Alzheimer's Australia NSW offices. We have been meeting now for about nearly two years. We have established what some sort of people would describe as a "BHAG"—a big hairy audacious goal—which is to eliminate financial abuse. Beneath that what we want to do is reduce the severity and the incidence.

Ms JAN BARHAM: Where are you headed?

Mr MOORE: The focus of the group is around sharing information so we all knew what each other was up to in relation to this Committee. Also, major events like World Elder Abuse Awareness Day so we try to coordinate our activities around maximising coordination and efforts around that particular day in June. Then we also talk about our combined advocacy work and our combined research work. So, for instance, Western Sydney University has done research subsequent to ours. We are about to try to seek further funding particularly to look at the issue of an understanding and conceptualisation of financial abuse in culturally and linguistically diverse communities. So we are just trying to evolve the work in that area. As I said, we coordinate our policy efforts so our joint messages to you should be fairly consistent, I would think. Many of us are also presenting at the National Elder Abuse Conference which is on this week.

Ms JAN BARHAM: Are any or all of you on the NSW steering committee?

Mr MOORE: I believe only Ian Day from COTA NSW.

Ms JAN BARHAM: Now that is another secret organisation, is it not?

Mr MOORE: Not being a part of it, I could not comment one way or the other.

CHAIR: The Committee has resolved that any answers to questions on notice should be returned within 21 days.

(The witness withdrew)

(Short adjournment)

SARAH FOGG, Member of the Executive Committee, Australian Association of Gerontology, and

ANTHONY BROWN, President of the Executive Committee, New South Wales Division, Australian Association of Gerontology, affirmed and examined:

JANENE EAGLETON, Member of the Executive Committee, Australian Association of Gerontology, sworn and examined:

CHAIR: We will provide an opportunity for you either individually or collectively to make an opening statement.

Dr BROWN: On behalf of the group I do have a short opening statement that I would like to make. The Australian Association of Gerontology [AAG] is Australia's peak national body that links professionals working across the multidisciplinary fields of ageing. The AAG's goal is to expand knowledge on ageing in order to improve the experience of ageing and for older people. We are here today representing the New South Wales executive of the AAG. That executive is a body that coordinates AAG activities in this State. The AAG also has a national special interest group on elder abuse and that interest group also had input into our written submission.

The AAG considers the abuse of older people to be a serious and neglected issue and we commend General Purpose Standing Committee No. 2 for initiating this inquiry, which has itself raised awareness of the issue. However, in the absence of any agreed definition of elder abuse it is difficult to be certain of the prevalence or incidence of abuse and, whatever the rate, we can be certain that the number of older people experiencing abuse in New South Wales will rise as the population ages.

AAG also commends this and previous New South Wales governments for their work around elder abuse. Recent policy and program initiatives such as the Elder Abuse Helpline have a good and necessary focus on assisting older people once abuse has occurred. While this is welcome, we feel more work is needed to prevent abuse in the first place. There needs to be a focus also on the primary causes of elder abuse, which we see as namely being ageism and isolation. Government and community leaders also need to be aware that public debates around older people as economical social burdens or as bed-blockers, for example, are both inaccurate and derogatory and, more importantly, they reinforce ageist perceptions in the community, in families and older people themselves—the perception that older people are somehow worthless and burdens.

We respectfully remind MPs of all parties that your comments inside and outside of Parliament also influence in positive and negative ways these public debates and public perceptions of older people. We also recommend caution, though, in comparing elder abuse to other forms of abuse and violence and we recommend that responses should be informed by other frameworks but to be aware of the important differences. For example, the equating of elder abuse and child abuse; this is inherently ageist, and there is insignificant evidence that some of the responses that come from a child protection paradigm—for example, mandatory reporting—are effective in preventing or stopping abuse.

Likewise, the equating of elder abuse to domestic violence. There are, of course, instances where abuse of older people is a continuation of abusive and violent spousal relationships. But the intergenerational nature of much of elder abuse means that responses and frameworks that have been developed in a domestic violence context may not in all instances be readily transferable to effectively combating elder abuse. Given these unknowns and complexities, we call for responses that are tailored to meet the individual needs of older people, their families and communities.

CHAIR: Thank you very much. We have received your submission, number 23. We resolved earlier, given that we have got representation on this Committee of the Government, the Opposition and crossbench, to share the opportunity for questions.

The Hon. Dr PETER PHELPS: Dr Brown, in relation to your concerns about mandatory reporting, while it is true that older people are fully grown adults with the full rights and privileges which accrue to that, it is also undeniable, is it not, that there are people who are significantly vulnerable either through social isolation or economic circumstance or through mental incapacity where you cannot directly parallel that to a 25-year-old who is fully capable and independent and financially independent? So why should there not be, not necessarily a

full level, as with a child, of reportability, but certainly a higher burden placed on practitioners to report on the elderly in those situations?

Dr BROWN: I will refer to my colleagues to answer some of that. In our submission and in my opening statement we want to make it clear that we believe that there is a need for more evidence around the effectiveness of that approach. I also feel that while approaches like mandatory reporting are being used in some jurisdictions, we also would caution against seeing such approaches as the only things that will be effective in combating elder abuse. So our concern is two-fold: one, the need for more evidence and, secondly, an understanding that processes like this are, in and of themselves, not the whole solution.

The Hon. Dr PETER PHELPS: But just following on from what we have heard from earlier testimonies, there seems to be a general agreement that we simply do not know the level of peer-on-peer violence within institutions because there is no collection mechanism for that at the current time. Would you be supportive of that sort of if not publication then at least mandatory reporting in that instance?

Dr BROWN: I think anything that is collecting more information, and, as we have said and I am sure other people have said, the evidence and the data around actual incidences, we do not know enough about, we would be supportive of. But I will ask my colleagues also to respond.

Ms FOGG: I understand the attraction, if you like, of mandatory reporting, but I think probably what we would say is really needed is greater clarity and resources. One area in particular is community workers and people that are in touch with older people in one capacity or another, or indeed other concerned family members. We need greater clarity for them as to what their responsibility is and what they can do and should do and to whom they can refer when there are suspicions that abuse may be occurring. That is taking into account all the complexities of abuse and, frankly, the difficulty. It is not always that easy to assess what is happening in a complex family situation and whether something that is occurring that may be signs of abuse is or is not.

We would certainly support—and I am sure others have talked about this—the need for more resources and training for people who work with older people to be able to respond appropriately to abuse. But mandatory reporting is not necessarily going to add to that.

Ms EAGLETON: I think it is also fair to say that it is really an awareness issue too within society where the more conversations society has about elder abuse and its unacceptability the more people start noticing it and take steps to prevent it. The Australian Association of Gerontology is very keen to look at research around the area of prevention because we believe that is where the greatest good will come. I think mandatory reporting is a good tool but I think the bigger issue is one of prevention and societal awareness.

The Hon. PAUL GREEN: In the report, talking about resources and data collection, on page seven it says that funding for research is needed, that there are significant gaps in research, which basically most witnesses have said. Would you suggest that the Government should focus on some funding sources to get the sort of research? How do you think we can boost the data collection? Is there some body that is after grants for this sort of thing or is there an organisation or university?

Dr BROWN: I am sure if you announce some grants, we will find them.

The Hon. BRONNIE TAYLOR: Can I just piggyback—you have said that you have collaborating research centres. Would that be a place to start?

Dr BROWN: Definitely. Through our membership and the collaborative research centres we do have very strong networks and links to many researchers who are very active in the area.

The Hon. PAUL GREEN: Is that Australia wide or New South Wales wide?

Dr BROWN: That is Australia wide.

The Hon. PAUL GREEN: I guess we are interested in New South Wales figures more pertinently.

Dr BROWN: But we can definitely take that on notice and get back to you with specific centres. As you know, the area of elder abuse is so multifaceted, there are researchers working in different areas, be that in

areas around economic issues, social issues—a whole range of different areas, because every aspect of ageing and gerontology is so multifaceted, that could come together and look at this.

The Hon. PAUL GREEN: Are there any hurdles or hindrances? When we did the workers compensation legislation one area was IT stuff where, for example, one agency does not pass the information on, so you cannot really get a good shot at this. Is there that sort of hindrance across the different research bodies?

Dr BROWN: In my experience, not so much across research bodies.

The Hon. Dr PETER PHELPS: But coming out of Government I bet there is.

Dr BROWN: But coming out of Government—

The Hon. Dr PETER PHELPS: And departments.

The Hon. BRONNIE TAYLOR: We are trying to fix that.

The Hon. Dr PETER PHELPS: We have heard that story. It is a familiar refrain.

Dr BROWN: Across the board the data and information that governments collect is extraordinary but I do not think there are enough mechanisms to really interrogate and cross reference that data as well as we could.

The Hon. PAUL GREEN: You say "as well as we could". Could you elaborate on how you think that could be achieved? If we could do it better, how would it be done?

Dr BROWN: For example, at the starting point around the collection of data. One of the Committee members mentioned peer-to-peer violence in residential settings. Well, we do not know why that is happening. With police data, we do not know what incidents the police are involved in that are what we call elder abuse. We have good information around relative age of victims of crime, but that does not tell us anything of the contents of the crime. Not all elder abuse is a criminal matter or ends up as a criminal matter, so there are issues in the data collection.

Linked to that with some of the work that is happening, we know that there are not always sufficient strategies for evaluation and follow-up. So one of the things, for example, coming out of guardianship is that in many instances there may be follow-up—a one-year review or if a decision is disputed or appealed—but in many cases we do not know the results of those interventions. So there are opportunities, I think, for follow-up and evaluation of existing programs; also, as I said, better collection of data and maybe opportunity to name where elder abuse is known or suspected, linked up in a way that we can then follow through and see what the common factors are. Are there risk factors where we can make more definitive statements about that? I think my colleagues may have things to add to that.

Ms EAGLETON: I think data collection is a difficult one wherever you try to start, but there are working groups that are dealing with elder abuse that would probably have the best idea of where to source that data. But, that aside, why not start research that actually highlights societal values around elder abuse, which raises awareness and then gives you material to then extend the research? You have seen the tremendous effort of Rosie Batty on domestic violence and violence against women and the steps taken in such a short time just by raising it to that dialogue level—that is a terrific place to start in terms of data.

The Hon. PAUL GREEN: I think that is something that we are grappling with now: Why should elder abuse not be under that topic of domestic violence? It really would lift it and give us an opportunity. So hopefully we will see that sort of thing come from the Committee.

CHAIR: I think the Hon. Bronnie Taylor had a question.

Ms JAN BARHAM: You were chairing, the Hon. Paul Green.

The Hon. PAUL GREEN: I chair sometimes.

CHAIR: I remind him he is the deputy in this case.

The Hon. BRONNIE TAYLOR: Thank you, Mr Chair, but I must say that the honourable Deputy Chair did pursue my question of research, and I wanted to talk about your special interest group.

CHAIR: Okay. Would you like to ask a supplementary question.

The Hon. BRONNIE TAYLOR: Firstly, thank you so much for what you said, Dr Brown, in your opening statement about using terminology that is not demeaning to elderly people. If I hear the words "bed block", as if elderly people do not have the right to have a bed and a criteria that some people float around, I will get very worked up about it—and that the measure of how successful an aged-care facility is relates to how often it does not send people out. If an elderly person needs care, they absolutely deserve it. I just cannot thank you enough for the way you said that and also about not linking. This is a separate issue on its own.

I think this inquiry really needs to take note of your opening statement and the fact that you cannot just have parts of domestic violence—and you talked about child abuse. This is a really different issue, so I just wanted to thank you for that before the Hon. Paul Green asked the same question. You have a special interest group and I love the fact that you are not just doctors or nurses—you are everybody that cares, which makes you really powerful. Has it come up that this is a really big issue that needs to have more research done and has your special interest group then liaised with your collaborating research centres?

Dr BROWN: It has, because individual people working at the research centres are members of the special interest group. None of us here today are members of the special interest group.

Ms FOGG: Curiously.

Dr BROWN: Unfortunately the members who are New South Wales based could not make it at this time, so there are some things specifically to do with the special interest group that we may have to take on notice. But I do know that there is cross-pollination happening there because members of the research groups are on the—

The Hon. BRONNIE TAYLOR: That would be great if you could take that on notice—if there are some things that this particular group is thinking about in terms of research with their collaborating centres that we might like to know about it to form a recommendation.

CHAIR: We could put that on notice. I am sure you would be prepared to have a look at that.

Ms FOGG: I would just add that the very fact that the Australian Association of Gerontology [AAG] established an interest group on this topic is an indication of the level of interest. We do not have interest groups on every topic—by no means. We have only got four or five.

Ms JAN BARHAM: You have raised the issue of ageism. What can we do about it? Do you have any ideas about how we can address ageism?

CHAIR: And no-one around the table is declaring a personal interest in this question—as members of Parliament, we—

The Hon. Dr PETER PHELPS: I certainly do not need to declare an interest. I am young.

The Hon. PAUL GREEN: Certainly after the previous reference to 45.

The Hon. Dr PETER PHELPS: Yes. 45! I suddenly realised I am old.

Ms JAN BARHAM: Let me add one thing—

Dr BROWN: Certainly.

Ms JAN BARHAM: One part of what could help change this whole issue is in the field of arts and culture—to get more of this issue out there in mainstream media on the television shows or whatever. That sort of spotlight on it is often the way these difficult issues can be recognised by the broader community and

standards set about what is acceptable and what is not. But the issue of ageism still gets to me because I never thought it would happen to me, but it is happening to me. And you think, "It is so weird!"

Dr BROWN: We joke about it, but we do live in an age defying society. None of us likes to be described as old because we see old as a bad thing. So on a really fundamental personal level ageism is overcome when we realise that we are not talking about other people—that it is not "that old man" or "that old woman" but that it could be me and one day probably will be me. That we are talking about ageism and that we have an ageing population are actually some of the great achievements of the last couple of hundred years—that we are living longer and most people are living longer and healthier lives. On a fundamental level it is about challenging our own understanding of ageism and accepting that we are growing older, but also on a societal level it is around challenging those wider debates and discussions.

One of the points that was raised with the previous witness was around the fact that there are so many societal issues that we all want to combat. All of us will be saying there is a need for extra resources—and of course there is and we will always have those debates on an ongoing basis. But for all of these issues—and I think particularly for ageing and ageism—there is a need for a compassionate and informed public discussion. And a compassionate and informed public discussion costs nothing.

Ms JAN BARHAM: That is right.

Dr BROWN: Whereas groups like the AAG and other witnesses that appear before you have a lot to add because of our expertise and knowledge of working with older people, community leaders and again, with respect, parliamentarians do have a role to play in helping set those debates. In terms of policy, and not just policy about older people and policy about elder abuse, Government can look at some of the imbedded ageism that is in some other areas of policy and discussions around older people as a way of shifting the debate. The arts, the performative arts and TV, as you mentioned, are an excellent way to help shift it—there is a whole package of things—but I think starting with a compassionate, informed discussion helps.

Ms EAGLETON: I think there is also the area of education—empowering people as they age to understand what things they will likely need to have in place to protect themselves as they get older. I think there is a general degree of ignorance about what is important to have in place as you age in terms of healthy ageing, making sure you have powers of attorney, your wills, your estate planning—those sorts of things, which often people leave to the very last minute.

The Hon. PAUL GREEN: There is a lot of education on funeral insurance, that is for sure.

Ms JAN BARHAM: No, that is commercialism.

Ms EAGLETON: That is right.

The Hon. PAUL GREEN: But isn't it interesting that education is constantly coming out of the television—"Prepare for your death"—so why not prepare for ageing, which is the step before that?

Dr BROWN: Fair point.

The Hon. Dr PETER PHELPS: Of course death is easier than ageing is.

The Hon. SOPHIE COTSIS: Oh, we love you, Phelpsy.

The Hon. BRONNIE TAYLOR: He is an original.

CHAIR: Please continue.

The Hon. PAUL GREEN: Particularly if you smoke.

Ms JAN BARHAM: Don't go there.

The Hon. Dr PETER PHELPS: We face three choices—

CHAIR: Order!

The Hon. Dr PETER PHELPS: —and Dr Brown will correct me if I am wrong. We can go through dementia, heart disease or cancer. That is essentially the three choices. Take your pick.

Ms JAN BARHAM: You are a bundle of joy today, you are.

CHAIR: Order!

The Hon. PAUL GREEN: First day back.

The Hon. SOPHIE COTSIS: It has only taken us seven hours.

Dr BROWN: That is absolutely correct. For most of us, though, there is a long period of healthy old age. For a minority—it is a significant minority—there is a long period of dependency and unhealthy old age. And I had another point to make.

The Hon. Dr PETER PHELPS: The ironic result of better gerontological services is that relatively rapid deaths from cancer and heart disease are being subsumed by longer and longer periods of dementia. That is something our society will have to face in the future, short of some clinical ability to reverse the effects of dementia.

Ms FOGG: There are lots of debates about that whole issue in research and other areas. Following on from Ms Eagleton's point about education, the elder abuse helpline in this State in its fairly small way, because it is a small unit with limited resources, does some important education work. Frankly, there is room for much more. If you were to look at what is happening in some other States and overseas you would see examples of some quite innovative education campaigns. The sort of thing I am particularly talking about is campaigns directed at older people themselves, or people in contact with older people, highlighting and answering questions about whether what they are seeing is abuse. Is this okay? A lot is not understood in terms of what abuse can look like and, indeed, what one can do.

The Hon. SOPHIE COTSIS: I refer to the last paragraph on page 8 of your submission. You mention data collection and the NSW Civil and Administrative Tribunal. What steps are required to collect that data? You refer to the NSW Civil and Administrative Tribunal Guardianship Division being asked to collect data on suspected and actual abuse.

Ms FOGG: I should add that I am a community member of the NSW Civil and Administrative Tribunal Guardian Division, but I am not speaking here in that capacity. That is probably a question best put to the Guardianship Division if it is appearing to give evidence. To be honest, I do not know what would be involved, but I do not imagine that it would be very onerous.

The Hon. Dr PETER PHELPS: Because surely the very decisions themselves would relate to issues of abuse within a relationship necessitating the intervention.

Ms FOGG: Sometimes.

The Hon. Dr PETER PHELPS: Similarly you could take police statistics, which are now disaggregated, and factor in age, relationship, and the nature of the violence, which would then get at least to having a closer look at the nature of violent abuse of elders. Then we are still left with the big black hole of financial abuse of elders, which remains totally opaque to a large extent, short of civil litigation often launched by aggrieved siblings about what sibling A is doing to mum or dad.

Ms FOGG: I do not know whether the Committee is hearing evidence from, for example, the Australian Bankers' Association.

Ms JAN BARHAM: It should be.

Ms FOGG: It is not a completely new topic to the association. However, I imagine that that would be fertile ground.

Ms JAN BARHAM: The banks should have some responsibilities.

The Hon. BRONNIE TAYLOR: Page 3 of your submission refers to—

Ms JAN BARHAM: The Financial Ombudsman's report.

Ms EAGLETON: The challenges with that are difficult because carers will often accompany the elderly to the bank and it looks like a routine withdrawal. That happens over time and it would only be large sums that would trigger an alert. Much of it happens on a week-by-week basis and collecting data would be difficult.

CHAIR: I refer to page 5 of your submission, and specifically the last paragraph, which states:

> When older people no longer have capacity to make important decisions and/or are no longer able manage their finances, it is important that allegations of financial abuse can be dealt with quickly so that assets are not dissipated irrevocably. Access to guardianship and/or financial management orders through the NCAT Guardianship Division must be timely and quick.

Is the implication that today's procedures before the tribunal are not particularly timely and quick?

Ms FOGG: At times. I stress that I am not speaking in a Guardianship Division capacity. Certainly, it was the view of some of our members who work with older people that it is not always quick enough.

CHAIR: Is that a resourcing issue? Does a lack of resources prevent the tribunal being able to deal with matters in a timely fashion, or are there other obstacles?

Ms FOGG: I do not to know.

CHAIR: Victoria has made changes to its power of attorney provisions. Do you have any comments about those changes or general observations?

Dr BROWN: I must admit that I do not know enough about them.

Ms JAN BARHAM: I want to follow up the references to carers and the stress that they are placed under. That can often mean that the most well-meaning person ends up doing something of which they are thoroughly ashamed. What supports are available for them? Do you believe that some of the focus should be on those people who are perhaps perpetrating abuse because they are under extreme stress?

Ms EAGLETON: We see many carers who do not want to accept help because it is their obligation and duty to look after their spouse or loved one. That prevents their getting help when it could make a difference. Once again, it is that conversation mode. That conversation needs to happen when a general practitioner sees a carer couple because it is the dropping of the crumbs that will eventually be picked up. One of the issues is that those conversations are not had early enough. Often by the time you get to the point where you are able to provide them with care it is almost too late and the carer needs more help than the person being cared for. It is about timely conversations

Ms JAN BARHAM: It is very complex when it comes to the point where you are dealing with two victims, not only one.

Ms EAGLETON: Absolutely.

Dr BROWN: There are many wonderful organisations that do great work in providing support to carers. I know that the Committee has taken evidence from Alzheimers Australia, Carers NSW and other organisations, large and small. Part of it is also about how well those organisations are providing support and information to groups we think of as non-traditional carers. That could be people from different cultural and linguistic communities, from the lesbian, gay, bisexual, transgender and intersex community, and also male carers because of the norms in society around caring. No-one is prepared to be a carer, but male carers feel less resourced. Traditional responses have been very good at providing support for female carers, but they do not do it in a way that is particularly good for male carers.

There are examples of different groups being well cared for and well supported by organisations, but an understanding of how we are supporting additional carers' needs not only to be expanded but we should also look at those different groups and be aware of the diversity of carers. For all carers there is the notion of what is

that thing called "caring"? Why am I a carer? Because decline can happen very slowly many people, particularly couples, compensate and work together. It is usually when there is some sort of catastrophic incident, where both people fall over, that people from the outside, and sometimes even families, see that there is something more going on. It is about having those conversations and making people aware of their carers and providing more education about what that means and where supports can be found.

CHAIR: I refer to the definition of "elder abuse". Given that you deal with various other individuals and other organisations in your research and advocacy, do you think there is sufficient clarity about the definition of "elder abuse"? We know it has many dimensions, but does the average person on the street have a sense of what it is? Or are we still trying to give it a neat definition, particularly in relation to education initiatives? Do we still need to clarify the definition?

Dr BROWN: There are two aspects to that. Shared definitions are useful for researchers, practitioners and other people collecting data. One of the things we did when we started drafting this submission was to look at what to our colleagues have written about elder abuse. In some cases there was no clarity about what was included. In that sense it is important. In terms of the general perception of elder abuse, there is a growing understanding about abuse generally, and definitely in terms of physical and sexual abuse. Some of the more subtle forms of abuse, particularly financial abuse, are not understood. I have a sense—I cannot point to any clear evidence—that that area requires greater understanding. Except in some of the more extreme cases, many families may not even be aware that what they are doing is a form of abuse. It is just the expected way that mum and dad will support them.

The Hon. Dr PETER PHELPS: I think that sounds absolutely plausible. If you went out into the street and asked someone what is elder abuse they would say it is when carers physically assault someone either in a nursing home or in the home of the person concerned. They would never consider ripping off mum for her life savings or forcing her out of her house into a home so they can sell the house to be abuse, although they might say it does not sound right.

Ms EAGLETON: I think that will be further complicated by inheritance and impatience and the boomerang generation. That is an area we must still address. We must understand the implications of the changes in values and expectations in particular. That dialogue will be very important and it is ahead of us.

Ms JAN BARHAM: One of the leaflets from the Older Women's Network was about a granny flat: when the children move in with the grandkids the parents are put into a renovated garage in the back yard that is called a granny flat, but are often substandard conditions. We have had representations about some of the shocking conditions that people will put their loved ones in to gain themselves. They are the stories that need to be explained so they are visual and visible.

Ms EAGLETON: Absolutely, with dialogue around them. No amount of mandatory reporting is going to assist that. That is about people understanding what is acceptable in society and what's not.

Ms JAN BARHAM: What was the campaign "It is not okay"?

The Hon. PAUL GREEN: Domestic violence.

Ms JAN BARHAM: It was a long time ago. It was naming without shaming, it was just naming and saying, no.

Ms EAGLETON: Awareness raising.

CHAIR: Thank you for coming along this afternoon. It has been a great opportunity for us to direct specific questions to you and for you to elaborate on your submission. The Committee resolved earlier that if there are answers to questions on notice there will be a 21 day period to respond. We will check *Hansard* and liaise with you if there are questions. Thank you for the important work your organisation does on behalf of seniors and the elderly in this State and nationwide.

(The witnesses withdrew)

JOHN CHESTERMAN, Director of Strategy, Office of the Public Advocate, Victoria, sworn and examined:

CHAIR: Thank you for participating in this inquiry. We appreciate that you have decided to come to us from Victoria. That is an impost on your time and work of the organisation you represent. Would you like to commence by making a short opening statement?

Dr CHESTERMAN: Thank you for having me and the opportunity to address the Committee. I will make some brief introductory comments and I would be pleased to answer any questions and engage in conversation on this important topic. The Victorian Office of the Public Advocate [OPA] is an independent statutory office empowered with a broad range of functions under the Guardianship Administration Act 1986 and other pieces of legislation. LOPA works to protect and promote the rights, interests and dignity of people with disabilities in Victoria. We provide a number of services to work towards these goals including provision of advocacy, investigation and guardianship services to people with cognitive impairments or mental ill health.

In the financial year 2014 to 2015 we were involved in over 1,500 guardianship matters, over 400 investigations and over 300 cases requiring advocacy. We, unusually for an organisation of our type, host five volunteer programs with over 900 volunteers associated with our organisation. At the Office of the Public Advocate 58 per cent of new guardianship clients in the last financial year were aged 65 or older and dementia is the biggest disability category of new guardianship clients at 34 per cent, around one in three. As you know, in New South Wales the equivalent body to OPA in terms of the provision of last resort guardianship is the public guardian, from whom you will be hearing on 7 March. There are some differences between the two bodies, as indicated by the names.

The Office of the Public Guardian does not have the same volunteer involvement and has narrower advocacy powers and functions. I am pleased to have this opportunity to address the Committee. In terms of the work of the Committee I will take the liberty of suggesting what I consider to be the five major reform possibilities and needs concerning elder abuse. These reform suggestions are drawn, among other things, from some Churchill fellowship research I was fortunate enough to undertake and from the research I undertook for an article published in the *Journal of Australian Social Work*. I will list those five categories. There is the need for five developments in the field of elder abuse: Firstly, a prevalence study so we know the extent of the problem we are seeking to address.

Secondly, more ambitious State and Territory prevention and response strategies that have a preventive element in terms of community education and response development. I will talk about that in a moment. Thirdly, stronger State and Territory elder abuse units to drive and manage the prevention and response strategies. Fourthly, the filling of what I call the investigations gap whereby a statutory authority is empowered to investigate the well-being of at risk adults in the general community where there is no obvious medical emergency or crime. I can elaborate on that later if you like. Fifthly, the last item would be greater policing expertise on financial abuse in particular. They are the five headline matters I suggest with respect to the Committee could be engaged in a broader elder abuse reform agenda.

CHAIR: We have received your submission and attached to that is the article you referred to from the *Journal of Australian Social Work*. This is a cross party inquiry, we have members of Government, Opposition and cross bench. We resolved earlier to have a free flowing range of questioning in terms of first in best dressed, so to speak.

The Hon. Dr PETER PHELPS: I have two questions: some of those recommendations seem reactive, especially in the case of elder abuse and the attribution of guardianship, is there a better way or prophylactic method? Is there a better way of stopping the potential of abuse up front at that first instance of the creation of guardianship, either State guardianship or de facto guardianship, by saying I want my son to take over my affairs?

Dr CHESTERMAN: At a broad level I would be talking about a community education strategy that tackles ageism whereby a range of activities are not seen as appropriate that currently, by some people in the community, are seen as appropriate. In terms of the legal mechanisms, one can utilise the facility of an enduring power of attorney to empower someone to make decisions should you no longer have the ability to make those decisions. That can be fraught because we know that particularly in the financial realm enduring powers of attorney can be instruments of abuse. We are the lead educator oN enduring powers of attorney in Victoria. We say if there is someone you can trust to make these decisions you are better off having that mechanism in place.

If there is not someone you can trust you are better off not having that mechanism in place. That is particularly the case in the financial realm. We are wary of saying to people you must have an enduring power of attorney with financial powers to protect yourself because that depends on the person who is your attorney or representative.

The Hon. Dr PETER PHELPS: One of the things raised by the deputy chair earlier was the situation where you may have absolute trust in one of your children but over a period of time that trust will be shown to be mistaken and that, if you like, perhaps there should be some sort of external party to evaluate the decisions which are being made by that person. What is your view of that and does that have administrative implications for the administration of any trusteeship scheme?

Dr CHESTERMAN: In Victoria we had a 2010 law reform committee parliamentary law reform committee inquiry into powers of attorney. One possibility—this is in place in some places in the world—you can have monitors appointed under the instrument who have to be advised of any significant developments.

The Hon. Dr PETER PHELPS: It would not be a standard arrangement but where there is a belief that something funny is going on? I am not sure "something funny" is a strict legal term.

The Hon. PAUL GREEN: What are the trigger points for a monitor to be embraced?

Dr CHESTERMAN: That is the big question. Anyone can go to the guardianship tribunal and seek to have a situation where someone is acting under the enduring power of attorney overturned. The question is why and when would they do that. It is hard administratively to set that up. You can talk of a sale of the substantial asset for instance, but short of having every sale of a substantial asset subject to review it is difficult to articulate what those trigger points would be. Another possibility is to have someone exercising a monitoring function where they can, for instance, be given a report, would be one way of doing it, where they look over the report and if they have no concerns, so be it, but if they do have concerns that might be a trigger to bring it to the guardianship tribunal.

The Hon. Dr PETER PHELPS: The second question concerns vexatious children. The power of attorney might be with one particular person and other children, for good or bad reasons, may seek to have that overturned. What processes do you go through and what sort of length of time and level of analysis and investigation are you able to do to assess the relative merits of the claims being made in that circumstance?

Dr CHESTERMAN: That does happen frequently. In the end that is up to the tribunal member to work out the extent to which they are satisfied by the claims of the aggrieved party. We will sometimes be asked to investigate. We have an investigative role for the tribunal, which is different to your tribunal, which has its own investigative staff. In a situation where there is a fairly clear breach of duty the matter can be resolved quickly by the appointment of a financial administrator.

The Hon. Dr PETER PHELPS: It is often not a clear breach of duty because: I believe that this should be happening to Mum and my sibling is not doing that. And then the sibling says: Mum does not want that anyway. How much can you investigate before it just becomes a he said she said situation?

Dr CHESTERMAN: It does become a he said she said and it is ultimately up to the tribunal member to say is there enough evidence to cause that tribunal member concern, so much so that they replace the appointed person.

The Hon. Dr PETER PHELPS: Are these situations done with the person who has given the enduring power present or are they done outside of that influence and do you have the ability to speak with that person in isolation free from any potentially subtle or not so subtle coercive behaviour towards that person to assess what that person does like?

Dr CHESTERMAN: It is the preference for the tribunal to have the person there. The person is often not there for one or other reason. Certainly there is the capability of the investigator to attempt to speak to the person alone. Often times that will prove not to yield substantive information, especially when the person has a significant cognitive impairment.

The Hon. SOPHIE COTSIS: There were reports from the Victorian Royal Commission into Family Violence covering evidence given about elder abuse, including your evidence. I do not know whether elder abuse was part of the terms of reference. Where is the commission up to now?

Dr CHESTERMAN: The final report is now due at the end of March, I think 29 March. It was going to be the end of this month. We and others—for instance Seniors Rights Victoria—have argued strongly that elder abuse be within the scope. Indeed depending on the definition one uses of "elder abuse" it will very often fall within that—especially in the Victorian statutory definition of family violence, which covers economic abuse. Often elder abuse will be family violence. We have to be careful in using the term "elder abuse" as regards to what kind of service response will be appropriate because we are talking about a particular social phenomenon that is a bit different to other forms of family violence. I believe the commission will be looking at elder abuse in its recommendations.

The Hon. SOPHIE COTSIS: What were you seeking in that inquiry?

Dr CHESTERMAN: We and others are seeking recognition that elder abuse is often family violence and quite specifically geared responses to situations of elder abuse. We have been advocating for this, which includes the investigations gap I spoke of earlier on, the empowerment of an authority to investigate situations of concern where there is no obvious crime or medical emergency.

Ms JAN BARHAM: Do you think there would be an advantage in having a uniform national definition and moving to a national approach, such as the education helpline?

Dr CHESTERMAN: Yes, there would be. It is an unusual area because, to my knowledge, there is no statutory definition as such. We are talking about situations of trust—I was present for the last witnesses and heard evidence that what the general population thinks constitutes elder abuse will often be abuse of older people. When we use the term "elder abuse" we are talking about the breach of a position of trust, which has relevance to the responses and the preventive mechanisms we might put in place. We are not just talking about random acts of theft or violence against an older person.

Ms JAN BARHAM: Are you aware of the situation with the UN periodic review?

Dr CHESTERMAN: Please refresh my memory.

Ms JAN BARHAM: The Alzheimer's Australia submission states:

> Alzheimer's Australia NSW also notes that the Australian Government must respond to the *United Nations Universal Periodic Review* recommendations by March 2016.

Would your role draw you into this review?

Dr CHESTERMAN: Not for this particular one, no. We have not been asked; that may still happen, but we have not been asked.

Ms JAN BARHAM: I return to the issue of data collection. We have been told we need to do better in that regard. Why are we not doing better when we have the technology to collect the data? It seems that there is a problem with collation. The Productivity Commission has made the point that governments collect but do not collate and analyse. It is possible it just requires pressing another button.

The Hon. Dr PETER PHELPS: In fact, Victoria does it quite well.

Ms JAN BARHAM: I have heard that as well. Why does Victoria do it better? Why are we not all doing it better when the technology has improved? We can now do things with data that we thought were not possible 20 years ago.

Dr CHESTERMAN: I would not say Victoria is doing it better.

Ms JAN BARHAM: Better than others, we are saying.

Dr CHESTERMAN: One of the challenges is around the definition of "elder abuse". When we include things like psychological abuse it becomes quite difficult to capture the data. The reason I have been pushing to

have a prevalence study is that we do not know amongst the general population who are the silent victims. If we are talking about devoting considerable resources to prevention and response strategies we need to have an evidence base for the areas that most need to be addressed. To do that is methodologically quite difficult, partly because we are often—not always—dealing with people with some degree of cognitive decline in which case conducting a general population survey through, for instance, a cold telephone interview is problematic. You are right that we capture a lot of data in a range of areas.

We could do a lot better at pooling the information from police about crimes committed against older people, together with their knowledge of alleged perpetrators, along with other datasets about admissions to hospital and so on. The Australian Institute of Family Studies has significant expertise in this area. You would be aware the institute has been asked to provide a scoping study on this topic to the Federal Attorney General, which is not yet publicly available.

Ms JAN BARHAM: It is important work for anyone operating in that field to know the prevalence of something compared with another State, for resources to be allocated towards prevention or support.

Dr CHESTERMAN: That is right. Sometimes people are of the view that a prevalence study will simply tell us what we already know. I think it would throw up some surprising results about the prevalence of elder abuse, particularly financial abuse.

The Hon. Dr PETER PHELPS: Would you recommend that the Public Guardian move more towards the Victorian model? Would you like to do more in the Victorian model or do you think you have been given too much responsibility in some areas? If we were to suggest adopting wholly or substantially the Victorian model for the New South Wales Public Guardian, what pitfalls should we avoid?

Dr CHESTERMAN: I am familiar with some of the history of recommendations for the Public Guardian's role to move to one of a public advocate. Our office would support that development. The investigations gap I mentioned before is one area where we have had a Law Reform Commission report in 2012 advocate that the Office of the Public Advocate be given broader investigation powers. At the moment our investigation powers in the general community are seriously circumscribed by the need to be about situations of guardianship or potential guardianship. It would be ideal to provide broader investigation powers so that at-risk adults in the general community, where there is cause for concern, might be visited by someone from our office who could make a call as to whether police, medical or other services are required.

The Hon. Dr PETER PHELPS: Do you have a formal or informal relationship with Victoria Police to assist in investigations?

Dr CHESTERMAN: We would need to develop very clear referral protocols. That is a very good point because—

The Hon. Dr PETER PHELPS: Do you have that at the moment or is it something that a memorandum of understanding [MOU] might deal with?

Dr CHESTERMAN: Not as such. We do not have that power, but it is something that would need to be developed because we need to be careful in moving down that path not to say there is one law for people in that situation and another law for those who are not at risk. We do not want to be a de facto police force, but there must be clear lines of referral that would need to be made. It is worth commenting that as the conversation turns to guardianship, in some ways guardianship is an odd response to elder abuse. Especially in the financial realm our response to someone making inappropriate use of a financial power of attorney to access their parent's bank account can be to strip the victim of decision-making authority rather than focusing on the wrongdoing and policing. That is an argument made in the social work article saying that we need to treat crimes as crimes rather than using the guardianship system as a de facto policing mechanism, which it is not really.

The Hon. MATTHEW MASON-COX: Do you have a helpline for elder abuse in Victoria?

Dr CHESTERMAN: We do not have a helpline as such. We have Seniors Rights Victoria, which is funded by government and government instrumentalities. It provides advice to around 2,000 people a year on the telephone and it provides some casework. It is not a helpline as such—I know you have something different in New South Wales.

The Hon. MATTHEW MASON-COX: Do you have an elder abuse unit as part of that?

Dr CHESTERMAN: No, we have an advisory group that has more of a policy focus but it is not a standalone unit. Indeed, that is one of the things I have been advocating.

The Hon. MATTHEW MASON-COX: I noticed your website focuses on disability services and the guardianship role as more of a last resort but there is no investigation unit or support line relating to elder abuse per se. That is the gap you were saying you need to fill?

Dr CHESTERMAN: That is correct.

The Hon. MATTHEW MASON-COX: I presume that is what you are recommending to this Committee, that we consider holistically filling those gaps?

Dr CHESTERMAN: Yes. The argument around an elder abuse unit would be that it would have referral functions but it could also with more energy seek to drive service innovation and require collaboration amongst service providers and be responsible for that collaboration. We know from the family violence sector that service collaboration is crucial. When I was overseas on my Churchill Fellowship, Scotland stood out because it has adult protection committees. I think there are 29 adult protection committees in Scotland, with a population of around 5 million. On these committees a range of service providers meet to talk about individuals in the local community and responses that need to be provided for the at-risk individuals. That seems to be an ideal scenario for elder abuse.

The Hon. MATTHEW MASON-COX: It seems that the Victorian Public Advocate is an amalgam of what we have in relation to guardianship and some of the Ombudsman's role in relation to disability services. We are striving towards understanding how they connect, best practice and the gaps.

Dr CHESTERMAN: If the Victorian Ombudsman or our State Disability Services Commissioner were listening they would want to make clear that they have significant roles in relation to disability services.

The Hon. MATTHEW MASON-COX: Of course, but it is ensuring that when you walk through the different options you find the best option to drive the best outcomes, particularly in coordinating the different agencies. Police is an important part of that, particularly in relation to the financial side of elder abuse, which is often the most destructive.

Dr CHESTERMAN: Yes, I think you are right. I do not think that what we offer at the Office of the Public Advocate is terrific on that score. We need a proper unit with the role of both referral and service collaboration and response.

The Hon. MATTHEW MASON-COX: In a perfect world, describe your unit.

Dr CHESTERMAN: It would be at State and Territory level, not national, because of the need to link with services that are often provided at that level. It would need to have sufficient independence from other government departments because often there might be problems with service provision by those government departments. It could sit within the Department of Justice or the Department of Health and Human Services but it would need some operational independence. Then it could have the role of implementing rigorous strategies that have been developed and obviously that would be the Government's call.

The Hon. MATTHEW MASON-COX: An ageing strategy?

Dr CHESTERMAN: That is right and then it would have the responsibility for delivering on the goals of the strategy. I would be arguing the strategies should be very outcome oriented and the unit would have carriage of implementing those strategies. They would have collaborative functions. We hear about service innovation in lots of discrete areas. We had examples in Victoria of hospitals having elder abuse knowledge, so for the people who present at hospital, there is a unit that can identify an elder abuse problem and then start calling in the appropriate service provisions—police, if necessary. We have had lawyers engage with community health centres so they can identify situations of elder abuse. I am sure in New South Wales, and no doubt there is innovation happening here, a unit could drive those innovative responses, learn from the best ones and promote them, so they would have that function as well.

The Hon. MATTHEW MASON-COX: An education function. Would you have a helpline?

Dr CHESTERMAN: Yes, I think the helpline would be important.

The Hon. MATTHEW MASON-COX: And you would have an investigation role as well?

Dr CHESTERMAN: Yes. The question then would be whether that unit itself does investigations or whether it refers investigations to another statutory authority. That could be us or it could be somebody else.

The Hon. MATTHEW MASON-COX: Anything else?

Dr CHESTERMAN: No, that is the grab bag, I think, of what would be beneficial. These units have existed to varying degrees in the past, not quite so empowered as I am suggesting. I am not entirely sure what the prevalence rate of elder abuse is. We know it is not going to get better. From the demographic data that we are aware of this seems to be an appropriate response.

The Hon. Dr PETER PHELPS: One of the first responses is a prevalence study.

Dr CHESTERMAN: That is right.

The Hon. Dr PETER PHELPS: Which is exactly what Susan Ryan said.

Dr CHESTERMAN: That is the very first.

The Hon. Dr PETER PHELPS: Without an indication of the level of the problem, how can we actually tailor policy solutions to address what the problem is?

Dr CHESTERMAN: Absolutely and that comes before everything.

Ms JAN BARHAM: I beg to differ. There are some things we know already and we could make changes now. I am often hesitant about this idea that we cannot do anything until we know everything. There are some things that are obvious. There is a provision. In New South Wales, a helpline operates nine to five, and that is it. We know that a lot of elderly people are nocturnal in nature, and that might be when they can get a quiet moment, so a service available to them at a time that suits them. We can provide better education, government services and some legislative stuff, but some real outreach things. I think some of them are obvious already. I am getting too old to keep watching things deferred until we have got more information.

The Hon. BRONNIE TAYLOR: Do not be ageist.

The Hon. MATTHEW MASON-COX: Yes, do not be ageist.

Ms JAN BARHAM: Towards myself I am allowed.

The Hon. MATTHEW MASON-COX: You are not too old. You are never too old.

Ms JAN BARHAM: I find this place to be ageist, which surprises me.

The Hon. BRONNIE TAYLOR: I feel quite young here.

Ms JAN BARHAM: Do you think that that issue is real? There are things that could be done because we have enough knowledge about the risks and the problems?

Dr CHESTERMAN: Yes, absolutely. I would not say we do not do anything now. If I had to put in a hierarchy, what needs to happen, I would say that we have to put the prevalence study high up so we know what we are dealing with. There are things that can be done while that prevalence study is under way.

CHAIR: In your submission at page 2, specifically halfway down, point number 3 is the relatively new Powers of Attorney Act in Victoria. You detail some of those measures which are incorporated into the new legislation. Will you provide us with an overview of the lead-up to the creation of what was a new Act or amendment of the old Act? What ultimately was incorporated, what did not quite get there, which perhaps

would have been good to have got there or, alternatively, what got there that perhaps might have been useful if not achieved. I appreciate it only came into force on 1 September 2015.

Dr CHESTERMAN: We used to have three different types of enduring powers of attorney, enduring meaning they endure aftersomeone has lost their decision-making capacity. They have been replaced. We still have an enduring power of attorney medical treatment, which remains untouched. Put that to one side. This new Act replaced the enduring power of attorney, financial, under our Instruments Act and the enduring power of guardianship under the guardianship legislation. It now enables you to appoint an attorney for financial and/or for personal matters in the one document. You can choose to give your attorney financial powers and/or personal powers and make any qualifications you like. So personal powers are things captured ordinarily by guardianship, such as where you live and what medical treatment you might receive. Those are the new powers. The benefit is you can put them in one document. We have online forms available on our website, so they can be completed. They still have to be printed out and signed.

CHAIR: Yes.

Dr CHESTERMAN: We have some elevated protections in the new legislation, including witnessing requirements. At our 2010 parliamentary inquiry into this topic, at which I gave evidence, we heard about some of the authorised witnesses of powers of attorney simply signing because they were witnessing a person's signature rather than attesting to their capacity to complete the document. Now two witnesses are required, one of whom has to be either a person able to take affidavits or a medical practitioner. That has now been elevated. There are some new criminal offences contained in the legislation, including dishonestly obtaining or using an enduring power of attorney. There is more clear articulation of the duties of attorneys so that we can know when a person has breached those duties. As I said before, the Office of Public Advocate is the lead educator on this topic, so we have a guide—I am sorry I have only one copy, but I will hand that around.

CHAIR: Thank you.

The Hon. Dr PETER PHELPS: Have you done any statistical analysis of litigations following on from having multiple powers of attorney as opposed to a single power of attorney? In other words, does increasing the number of people who have the authority to make decisions over people's lives reduce the litigation, or increase the litigation, or have no effect?

Dr CHESTERMAN: It is too early to call on that. That would be a matter for the tribunal.

The Hon. Dr PETER PHELPS: It would be something you would look into?

Dr CHESTERMAN: It would be quite hard to look into it because there is no registration of instruments, but by looking at the matters that come before the tribunal, you could extrapolate from that whether we are seeing a lot of people with multiple enduring powers of attorney.

Ms JAN BARHAM: You do not have registration either?

Dr CHESTERMAN: No.

Ms JAN BARHAM: Would you want it?

Dr CHESTERMAN: It has been recommended by the Victorian parliamentary committee and indeed the Victorian Law Reform Commission under its guardianship review. They both recommended mandatory registration of the documents. There are lots of reasons. You would be familiar with why that would be the case. You would want to know that a document is what it purports to be, that it is the most recent one. Registration itself provides a threshold that would in some ways counter abuse. There is a question about what registration would mean. There are different levels of registration. You could simply have "This is registered". You could have some vetting mechanism. That would be a higher level of registration.

The Hon. Dr PETER PHELPS: Would there be a cost for registration?

Dr CHESTERMAN: There would have to be. I imagine there would have to be. In the United Kingdom the Office of the Public Guardian operates on a full cost recovery basis through the cost of registering their equivalent of the enduring power of attorney.

The Hon. Dr PETER PHELPS: Do you know what that is?

Dr CHESTERMAN: Off the top of my head it is something like £110, but I am not entirely sure that is right.

The Hon. Dr PETER PHELPS: That is about $300.

Ms JAN BARHAM: I would have thought that is something you could do with the aid of technology. You could upload the information. It would not take staff time. Those sorts of things can be done in that fashion. Do you see a difference in these issues across different groups? I am particularly interested whether there is anything distinctive or peculiar in the statistics or prevalence of elder abuse in Aboriginal and Torres Strait Islander people.

Dr CHESTERMAN: I am not in a position of authority on that. I would say that we need, in Victoria, much greater information on that topic. We suspect there is a big problem there, both in terms of lack of utilisation of the guardianship system generally and, I am not sure, but in all likelihood, powers of attorney. We are indeed looking at how we can better serve the interests of our Indigenous community. I am not able to provide you with much on that. The other point I was going to say about the new powers of attorney legislation is that it incorporated an Australian first, a supported decision-making mechanism whereby you can appoint a supportive attorney who can assist you to make decisions but where you retain the decision-making authority. That is a new area and that is a whole separate part of the legislation. I have a guide to that aspect of the legislation as well that you might be interested in.

The Hon. Dr PETER PHELPS: Will you go through that a little bit. How would that work in practice?

Dr CHESTERMAN: A person can appoint someone to be their supportive attorney, which enables that supportive attorney to collect information that they might not otherwise be able to collect, communicate information and to put decisions into effect. There are some protections.

The Hon. Dr PETER PHELPS: It is a lower ranking power of attorney?

Dr CHESTERMAN: That is right.

The Hon. Dr PETER PHELPS: I hate to say unimportant decisions but more routine matters would be done by that person on your behalf?

Dr CHESTERMAN: They could be reasonably significant, but the idea is that you retain the decision-making authority yourself. Your supportive attorney simply has access to information and can communicate. There is a protection there that significant financial transactions cannot be undertaken in that manner.

The Hon. MATTHEW MASON-COX: Could that be the area in which you have a monitoring role as a power of attorney?

Dr CHESTERMAN: Probably not directly through this mechanism, but one area where we have thought this type of facility could be useful is for someone who is experiencing cognitive decline who, early on, could have a supportive attorney. They continue to make decisions and later on an enduring power of attorney might be activated where the person no longer had the decision-making capacity, so then the attorney would make decisions for them.

The Hon. Dr PETER PHELPS: Presumably only on the basis of certification by a medical practitioner that that person had reached that threshold stage, or would they have to go through a new process?

Dr CHESTERMAN: No, they would not have to go through a new process. It is a question of when does someone lose their decision-making capacity. Ultimately it is a legal question that is informed by medical opinion about whether the person understands the effect of what it is that they are doing. I will hand that guide around as well.

Ms JAN BARHAM: Is there something else you have for us as well?

Dr CHESTERMAN: I have an annual report.

The Hon. Dr PETER PHELPS: Goodies.

Dr CHESTERMAN: I do not think that would be of great interest.

Ms JAN BARHAM: It might.

CHAIR: Do you have any further questions?

Ms JAN BARHAM: Yes. We are asking all these questions of someone from another State who is doing it at a different level to us. Is there an all-jurisdictions collaboration process with your counterparts in each State?

Dr CHESTERMAN: We certainly meet up at the Australian Guardianship and Administration Council meetings, but in terms of developments happening in particular States and Territories, the article that I referred to before involved me reviewing all the policies in place in Australia. I would say none of them was particularly adventurous or particularly all-encompassing or even positive. They are far more reactive documents that seek to draw attention to existing service provision rather than drive reform.

Ms JAN BARHAM: Internationally, who is doing the best?

Dr CHESTERMAN: Interestingly, this week we have the National Elder Abuse Conference. We are hearing from Canada. I might be in a better position to answer that question in a week's time.

The Hon. MATTHEW MASON-COX: A supplementary submission, perhaps.

The Hon. SOPHIE COTSIS: I second that.

Ms JAN BARHAM: We were made aware of it but unfortunately we are sitting this week and it is our first week back so the timing is not good for us.

The Hon. PAUL GREEN: You can go. We will send you.

CHAIR: Order!

Dr CHESTERMAN: There are some particular pockets of good practice but I am not aware of any jurisdiction where you would say that jurisdiction does it excellently. I know the World Health Organization knows this is a growing problem. It estimates that one in 10 people suffer elder abuse every month.

The Hon. MATTHEW MASON-COX: We do not want to ask them for help.

CHAIR: If there are any questions taken on notice would you provide an answer within 21 days after being notified by the Secretariat. The documents you tabled will be formally incorporated as part of the proceedings before the inquiry.

(The witness withdrew)

(The Committee adjourned at 5.00 p.m.)