EDUCATION, ARTS AND COMMUNITIES COMMITTEE

Members present:
Mr NG Hutton MP—Chair
Ms W Bourne MP
Mr N Dametto MP
Mr RD Field MP
Mr JM Krause MP (via teleconference)
Ms CP McMillan MP

Staff present:
Ms L Pretty—Committee Secretary
Dr A Lilley—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO ELDER ABUSE IN QUEENSLAND

TRANSCRIPT OF PROCEEDINGS

Monday, 25 August 2025

Brisbane

MONDAY, 25 AUGUST 2025

The committee met at 8.30 am.

CHAIR: Good morning, ladies and gentlemen. I declare open this public hearing for the committee's inquiry into elder abuse in Queensland. My name is Nigel Hutton. I am the member for Keppel and chair of the Education, Arts and Communities Committee. I would like to respectfully acknowledge the traditional custodians of the lands upon which we meet today and pay our respects to elders past, present and emerging. With me today are the members of the committee: Corrine McMillan, the member for Mansfield and deputy chair; Wendy Bourne, the member for Ipswich West; Nick Dametto, the member for Hinchinbrook; Jon Krause, the member for Scenic Rim, who is joining us via telephone; and Russell Field, the member for Capalaba, who is substituting today for Ariana Doolan, the member for Pumicestone.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind all witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. Please remember to press your microphones on before you start speaking and off when you finish, and please turn your mobile phones off or to silent mode.

Ladies and gentlemen, the content of which we speak today can be challenging and troubling for some. We wish to encourage those who need help to seek help. It is brave. If you find something that we talk about today confronting, we want to make sure you have support. Our wonderful committee secretary, Lynda, has some available support agencies that we can provide for anyone who would require that support.

GUYOMAR, Ms Florence, Acting Manager, Public Policy, Queensland Human Rights Commission

McDOUGALL, Mr Scott, Commissioner, Queensland Human Rights Commission

CHAIR: Good morning, Commissioner, Would you like to make an opening statement before we start with any questions from the committee?

Mr McDougall: Thank you, Chair, and good morning, committee. My name is Scott McDougall. I am the Queensland Human Rights Commissioner. I would like to begin by acknowledging the traditional owners of the country we are on, the Turrbal and Yagara people, and pay my respects to their elders past and present. I thank the committee for the opportunity to attend today. This is a really important inquiry and I hope it leads to some lasting outcomes in Queensland for older people.

People aged 65 and older are the fastest growing population in Queensland. They are a group who have made immense contributions to our society and who deserve to feel connected to their families and communities every day. Older people are entitled to enjoy the same human rights as everyone else but, despite this, they are a group whose rights are often overlooked.

Older people are at heightened risk of abuse, neglect and isolation as well as domestic violence and coercive control. They experience discrimination and inequality in a broad range of settings including health care and employment and in accessing essential goods and services. As we have heard throughout this inquiry, the abuse of older Queenslanders is shamefully common. It is particularly common for certain groups including women, First Nations people and people with disability. This is because the compounding impacts of structural inequality experienced by these groups leave them particularly vulnerable to abuse.

Elder abuse is a human rights issue. The development of an international human rights framework to protect the rights of older persons is long overdue. The United Nations has recently committed to drafting a convention on the rights of older people to address the gaps in existing

frameworks that often overlook the specific needs of this group. The commission welcomes this groundbreaking development, and I wish to acknowledge the outstanding advocacy of Queensland lawyer Bill Mitchell, who has played a critical role in achieving this outcome. I think Townsville, Queensland and indeed Australia should be proud of his work. A convention will provide a solid foundation from which Queensland's law and policies can continue to develop to meet the needs of our aging population.

Queensland Human Rights Act protects the rights of older people by requiring public entities to consider older people's rights when making decisions and requiring them to make decisions that are compatible with human rights. The Anti-Discrimination Act prohibits discrimination on the basis of age, in particular in the areas of work, education and the provision of goods and services. Many of the existing protections in the Human Rights Act and Anti-Discrimination Act, if strengthened, could better protect Queensland's older people.

It is well established that ageism, which sits at the heart of age discrimination, is the key driver of elder abuse. In 2024 the Queensland parliament passed the respect at work act, which included provisions to expand the attributes protected from vilification by adding age, amongst others. In March, the Queensland government announced that the commencement of the respect at work act would be paused pending further consultation. In seeking to improve responses to elder abuse in Queensland, the committee should recommend that the government commence these provisions in the respect at work act that seek to protect vulnerable groups.

The commission conducts community outreach initiatives to hear about human rights issues impacting older people. We consistently hear that elder abuse is a significant issue, and we hear of observations that the autonomy of older people is undermined in aged-care services for members of marginalised communities. Many service providers do not consistently engage professional interpreters when working with older people from culturally diverse backgrounds, instead relying on family members for complex decision-making. We also hear about older people who live with adult children in shared living arrangements that are not suitable to keep them safe. Issues that have been raised many times with our Yirmba First Nations unit include allegations of inappropriate exploitation of cultural obligations against the interests of elders. The term 'humbug' is used, and the Yirmba unit reports that these issues are well known in community.

Any approach to resolving issues of elder abuse in Queensland should place human rights at its centre, prioritising principles such as fairness, dignity and agency. Older people have rights to health, to family and to keep or distribute their assets as they see fit. However, we know that the exercise of these rights can be impacted by complex power dynamics within increasingly complex family structures. It is the commission's view that having a specialised, trusted body to help with these issues, such as the adult safeguarding model put forward by the Public Advocate, would be a positive development. Additionally, where an older person's ability to make decisions about their life is impacted, it should not mean that they must surrender all agency over decisions that affect them. The focus on substituted decision-making should shift to supported decision-making to better assist older people to make decisions for themselves and to exercise their legal capacity.

Safeguarding the rights of older Queenslanders ultimately benefits all Queenslanders. I commend the committee for the important work it is doing to elevate the voices of older people and ensure their interests are protected. Thank you again. I am happy to take any questions.

CHAIR: Thank you very much, Commissioner, and thank you for the submission you have provided for our hearing and our inquiry here today. One of the items our committee has heard a lot about is the complexity of capacity as we reflect on older Queenslanders and diminishing capacity, or 'sundowners' as a form of capacity reduction associated with dementia. You spoke really strongly about supported decision-making and the framework there. With the supported decision-making framework there is a tension between medical capacity and having medical officers making judgements around capacity versus social or emotional capacity. Do you have any advice or suggestions that you would like to provide to the committee in this space as to where the balance lies between the medical capacity and the social and emotional frame? How does that then support us in supported decision-making?

Mr McDougall: I should say at the outset that, whilst I was the director of Caxton Legal Centre for many years that ran the elder abuse service, I note that Cybele Koning will be appearing before you and I would defer to her most recent experience and expertise. This is a very complex area. From the material I have read before the committee, you have evidence before you that the guardianship system has been overused—and it is—and the system is at risk of being clogged up for those who genuinely need it. There is also, obviously, an issue of the availability of the expertise required in making those difficult capacity decisions that do rely on expert medical evidence.

It is important that we operate a system that supports the autonomy of adults to the greatest extent possible and does not clog up our systems. I know that since the Convention on the Rights of Persons with Disabilities there has been a push in that shift from substituted decision-making to supported decision-making. The challenge is in implementing that. I think the strategy that the Queensland government ultimately comes up with has to have a whole suite of options that are going to suit the individual needs of particular adults to make that shift, where their autonomy is supported and they are able to express their best will and preferences in making decisions, because that is their right. Just because you lose capacity does not mean you lose your right to participate in decisions.

Ms McMILLAN: Thank you very much, Commissioner, for coming in today and for your time, as always. During your presentation you spoke about the pausing of the anti-discrimination policy. Over the weekend we heard that this policy would be ceased under the current government. Could you talk to the committee about the incongruence of that policy and the inquiry we are conducting at this point? What are the risks for older Queenslanders?

Mr McDougall: Yes. The RAW act amendments included the introduction of a positive duty for entities to take positive steps toward eliminating discrimination. I guess in answering that question I would probably point to the submission of the Council on the Ageing Queensland, which I thought was a very good submission that I would commend to the committee. I think its first recommendation was establishing an action plan to tackle ageism. It specifically recommended that audits be conducted in various providers of services, including health and aged-care services. I guess I would say that the positive duty and the machinery that was built around that and the role of the commission would have enabled the commission to undertake those kinds of audits to ensure that systems are not perpetuating ageism against the interests of older people. It is the sort of work the commission recently did with Queensland Police Service. Those sorts of pieces of work would be opened up and available if those laws were commenced.

Ms BOURNE: Commissioner, your submission highlights the issue of abuse in aged-care facilities. What practical steps do you believe should be made to address this, both by government and by the community?

Mr McDougall: There are 16 state-run aged-care facilities that fall within the jurisdiction of the Human Rights Act. To my knowledge, we have not received a complaint about any of those services under the Human Rights Act. I note that in our submission we flagged the potential for aged-care services to also be included within the jurisdiction of the Human Rights Act. That is obviously something that would have to be discussed with the Aged Care Quality and Safety Commission.

From my seven years now as commissioner, I am wary of parliaments feeling a haste to respond to emerging issues in the community by passing new laws without necessarily thinking through all of the consequences of implementation. I would urge this committee to think very carefully about the recommendations and the recommended action that you take. There are only so many legislative levers you can pull. I think a much greater focus needs to be put on how the government and community service providers organise themselves to respond most effectively to these issues. I think that is where the greatest value could be added by this committee. There are so many issues out there that you could grapple with. My advice would be to pick the ones that are going to have the biggest impact and try to make sure the government organises itself to deliver on those.

Mr DAMETTO: Thank you, Florence and Scott, for coming in today to talk to the committee, as well as for your very detailed submission; it has been very well received. Earlier you were making some commentary around strengthening the Human Rights Act, and I really appreciated your answer just now—basically saying that we have to be careful with what we do when it comes to legislative changes here in Queensland. You also made some comments a little earlier around the complexity of the family unit these days. Can you give us some commentary with regard to perhaps the breakdown of the family unit and how that has affected elder abuse across Queensland?

Mr McDougall: We live in a world where there are many more blended families than there used to be. Drawing on my experience with Caxton Legal Centre, it was not uncommon to see very old patterns of sibling rivalry play out very sadly at the latter stages of a parent's life, and that really does make it very difficult for those service providers who are just trying to provide the best care for an adult. I think that is inevitable.

It is really important that this inquiry has been conducted at this moment because, as I am sure you have heard and will hear, the demographics are moving to the point where, as I think Bernard Salt calls it, the greatest redistribution of wealth in Australia probably since the Aboriginal people were dispossessed of their land is upon us, and it is really important that we address these issues because of the potential and the risk of elder abuse occurring. Obviously, financial abuse is just so high when

there is a whole generation of younger people who are effectively locked out of the housing market. It is an incredibly important time to get these laws right and have the services in place to protect older people.

CHAIR: Commissioner, your report speaks very strongly around the use of restrictive practices, and I know that there has been substantial work done in the past. Could you highlight your greatest concern in that space, recognising that we have a minute left for your contribution today?

Mr McDougall: That is another area that needs much more attention. There was a bill that has now lapsed that would have created a regime with a senior practitioner overseeing the use of restrictive practices. It is a serious issue in various settings. I was reviewing the material over the weekend and noted some of the submissions around the national insurance scheme of Queensland which has a small cohort of people. I think that is an area where it may require some scrutiny as to the restrictive practices that are being applied in that area. Again, I think it comes back to that legislation. That is something that needs to happen in Queensland: we need proper supervision over those decisions.

CHAIR: Thank you very much for your attendance here today.

BOTS, Ms Colette, Legal Practice Director, Family, Domestic Violence and Elder Law, Caxton Legal Centre

KONING, Ms Cybele, Chief Executive Officer, Caxton Legal Centre

CHAIR: Good morning. I invite you to make an opening statement prior to any questions that the committee may have.

Ms Koning: Good morning. We will keep our opening statement quite brief. We would like to pay our respects to traditional owners, particularly in the respect of older First Nations persons with whom we work who experience intergenerational trauma and the effects of colonisation which plays out in circumstances of the abuse of older First Nations people.

I would like to state that our service has been working in the area of elder abuse for close to three decades. Therefore, we have worked with tens of thousands of older people and community members to assist them to understand what elder abuse looks like in their circumstances and to understand how they can become safe and respected. Our service last financial year assisted close to 6,000 older people and community members with legal information, advice, representation, advocacy and social supports. We have engaged in sector-led reform initiatives over these years where we have discussed some of the key priorities for reform.

I have certainly listened to a lot of the hearings that have taken place and read a lot of the submissions, and it has not changed our mind that the two priorities we need to see in terms of reform in Queensland are a road map and a framework. We are not going to get this work done without that. The sector has tried to come together to coordinate its efforts over the years, but we are not going to make the ground that we need to make without that road map for the prevention of, response to, and recovery and healing of older Queenslanders who have experienced elder abuse.

Secondly, I agree that we need an independent adult safeguarding agency. This could take the form of one which is accountable for and responsible for a range of initiatives that we need to see happen in Queensland but also to be that one open door for people to make inquiries and to report their concerns. That agency would work with specialist services, as we already have in Queensland a rich environment and footprint of services that already work with older people, and we need to see those coordinated and integrated in ways that assist in these complex matters. We are ready to take questions.

CHAIR: Thank you so much. Once again, I would like to acknowledge the effort that Caxton Legal Centre has put into providing such a thorough submission to this body and the recommendations you have provided. I would like to take you to recommendation No. 17 with regard to capacity. This is of particular interest for me. I recognise that in the prior aspects we had from the Human Rights Commission I asked how we balance legal capacity versus what often is made into almost like a medical capacity decision-making process. I recognise that your recommendation No. 17 is that any person who engages in capacity assessments should have the training about the legal aspects of capacity, how to assess for domain-specific decisions and how to assess broadly and thoroughly a strength-based perspective, rather than relying solely on medical concepts. I know that you have a wonderful case study in here of Fiona, I think it was. Would you like to elaborate, for the benefit of the inquiry, on why you believe a strength-based perspective, rather than a solely medical concept, should be how we consider decisions around capacity and how that might link into the supported decision-making framework that I believe has been proposed as one of the options for the committee to consider into the future?

Ms Koning: I will talk about the framework and then my colleague can talk about the specific case. Capacity for decision-making is a legal concept, and I think that is something we need to understand up-front. That means that medical evidence about capacity is one aspect of our understanding about a person's capacity for a particular decision. A person's capacity encapsulates the whole person—in their environment, where they live, who they are friends with and who they are supported by. It encapsulates what supports they can have in their lives. It also encapsulates what their health may or may not be at the time, what the state of that is and their age. What we need to understand is that it requires that comprehensive assessment. It also requires, at the time the decision actually has to be made, what the decision is. Is it deciding that I want to give my child a $20 Christmas present? Is it that I am transacting a million dollar property? We need to be very specific about what the decision is at that time and whether or not supports need to be in place to make that particular decision at that particular time. What are the specific supports for this specific person?

We also need some systems reform around that, obviously, because we know that what we all want to work towards—and there are similar recommendations made out of the disability royal commission—is a supported decision-making framework, but that will take some systemic reform. It is not that the work has already begun. The Office of the Public Guardian introduced their supported decision-making framework. The Queensland Public Trustee has been taking initiatives more recently to introduce ways of supporting people to make decisions and actually to, for want of a better expression, remove them from an order in order that they can exercise their decision-making capacity more freely in the space of financial matters.

We need to see this systems reform, though, throughout all of the sectors and all of the services and systems that interact with older people when the decision needs to be made—for that particular decision. If it is a health decision, what does it look like introducing reforms there? If it is a financial decision, what does that look like in the banking space, if it is an interaction with banking?

Training is going to have to be a significant part of this, because we see in our work that the capacity assessments that are provided are lacking. We have referenced, from page 36 onwards, how we see the capacity assessments that are blanket, one-liners from GPs that say, 'This person does not have capacity for decision-making.' What? When? What decision? What supports could be introduced? This is extremely lacking in our capacity to actually talk about what the decision needs to be, what the capacity is for that decision and what supports could be put in place. It is a deficit model because we talk about what the person lacks instead of what their strengths are to make this and what supports they need to add to actually exercise that strength.

Turning to one of the biggest areas that is going to be most difficult, we are talking about the professionalising of capacity—the understanding of it. Really, a lot of this is done in the informal caring space—the daily decisions that need to be made with and for an older person, depending upon what decisions have to be made. We find that the interaction between informal caring and GPs is probably one of the strongest areas where we can make some gains on this.

Ms Bots: I would like to briefly talk you through what Ms Koning describes at the frontline level and provide more details in relation to the case study of Fiona that we have included in our submission. Fiona was a client of mine. As a starting point, we presume that the client has capacity. You will see that it was mentioned in the case study that Fiona was given one of those one-liner medical certificates from her GP stating that she did not have any capacity—a blanket statement.

When commencing our service to her, it was our intention to explore to what extent she did and did not have capacity to provide legal instructions and to make legal decisions in relation to the various legal issues that she faced. She had a variety of legal issues. She was experiencing domestic and family violence from her husband, who was also her attorney and her enduring power of attorney. She was living in an aged-care facility. At the time that we met her, she was not sure whether or not she wanted to separate from her husband. We knew from the conversations we had with her that there were some capacity red flags, so the approach we took was that we visited her multiple times over weeks and then over months. We made sure to visit her at different times of the day so that we could explore to what extent she could make decisions.

To cut a long story short, ultimately what we had determined through our interactions with her was that she was not in a position to make complex financial decisions like whether or not she would be able to go through a property settlement, but what became very clear is that she understood and she was able to clearly communicate that all she wanted was to be able to have an allowance from her husband so that she could have some financial freedom to make some purchases for herself, and that was what we were able to achieve for her through that supported decision-making framework.

CHAIR: Thank you so much for your elaborations but also for the support you provided to Fiona. It was a very powerful case study.

Ms McMILLAN: Thank you to the team at Caxton for all of the work you do to support especially our most vulnerable in our communities. Ms Koning, in light of the current government's intent to pause and now cease any revised Anti-Discrimination Act in Queensland, how will that put older people further at risk, impacting their safety and wellbeing?

CHAIR: I ask the deputy chair to consider whether her question contains imputation or inference and to rephrase her question to get the information that she is seeking without including that.

Ms McMILLAN: Ms Koning, could you guide the committee as to how changes to the anti-discrimination legislation in Queensland will impact elder people and their safety and wellbeing?

Ms Koning: People who experience disproportionately particular forms of abuse whose rights to life and safety are challenged in more particular circumstances than others because of vulnerability need safeguarding and protections that are different and that are stronger for their experiences. It is always our desire on behalf of older people who experience elder abuse or who are at risk of it, given all of the different causes, that there be a more expansive suite of provisions that allow us and older people to advocate for their safety, their rights to life, their rights to culture, their rights to family. To that extent, we will always be supportive of more expansive ways in which that can be introduced into legislation.

Ms BOURNE: I thank Caxton Community Legal Centre for their submission. It was an incredible submission, particularly the case studies. They put a lot of things into perspective for me. I am going to combine two questions into one, if you do not mind, given the shortage of time. In your submission you talk about red flag training, but you also talk about the fact that a 90-minute one-off training session for senior QPS staff is not sufficient training and that training needs to be built on and delivered more broadly. That is a huge question, I know.

Ms Koning: I will talk about the framework and, again, my colleague who actually delivers the training will talk specifically to that. Training for staff who work across all response areas is critical. We have trained over 5,000 health professionals. We have trained nearly 500 police officers. The training needs to be one that helps them see the issues and know how to respond in practice. I was going to make the point earlier around capacity that what we do provide is a community of practice that helps people who work in the space understand how they can use supported decision-making skills and approaches in their daily practice, which is what we need to see more of.

I would say to the point of training that we are going to need to see additional training roll out across various spaces. We have done training with justices of the peace. We have done training with, as I have said, health professionals. We can develop this even further. To the point of training with police, I will hand over to my colleague.

Ms Bots: We have the privilege of providing elder abuse training to the QPS which has a strong focus on coercive control as experienced by older people, which is something that we do not hear as much about in the media, as well as a strong focus on how we can better collaborate with the QPS—and by 'we' I mean specialist domestic and family violence elder abuse services such as Caxton's—in order to engage in a co-response. Whilst we are grateful to have the opportunity to provide that education, at the end of the day it is only one session that those police officers are experiencing. That is what we mean when we say it takes a lot more than one discussion to actually get that change on the ground. We meet a number of really impressive staff at the QPS who are champions, and they work with us to help to start to implement this co-response model, which is an informal one at the moment, but we still have a really long way to go with the force.

Mr DAMETTO: Thank you very much to the Caxton Community Legal Centre for coming in today and for giving a very detailed submission. I think it is absolutely disgusting how we have ended up in a society where we devalue our elderly to the point where we are in this position of having to have an inquiry into elder abuse here in Queensland. There is a real problem with our society, if you ask me—all the way from people devaluing the way we look after our people in aged care right through to siblings squabbling over who gets what when mum and dad pass away. You made a comment earlier around having a road map and a framework moving forward, and I was very interested to hear those comments. What does that look like, from your point of view?

Ms Koning: I have outlined what that could potentially look like on page 54. It could be a plan. It could be a plan with the components of prevention, response, recovery and healing that is aligned with the national plan, which is soon to be released. I understand from the recent SCAG communique that that national plan for the same purpose, for the whole of Australia, with two five-year action plans, is to be released. We will see that national plan come out firstly and then we will see the action plan.

I would say that in Queensland we need a similar framework. We need to take up those different elements of what needs to be done across communities and across the whole of government, because there is no way we can get this done without a plan that is cross-government, particularly drawing in health, housing, disability and seniors. We need to see that all come together. That kind of framework can then link to the other strategies that we have in Queensland—our carers strategy, and carers are a significant cohort who need to be engaged and not alienated in this space. It can link to our Housing Strategy, better aging strategies and our disability strategy. We really need to see this kind of road map. In terms of the other particular dot points on page 54, would you like me to expand upon those or is that sufficient?

Mr DAMETTO: That is sufficient for now. Thank you so much. I really appreciate your answer.

CHAIR: I take this opportunity to thank the members of the Caxton Community Legal Centre for their time in joining us for the hearing, for the very substantial efforts that were put into their submission and for all of the recommendations they have provided to the committee. Thank you very much for your time today.

BARRETT, Dr Catherine, Chief Executive Officer, Celebrate Ageing Ltd (via videoconference)

ROWE, Mr Geoff, Chief Executive Officer, ADA Australia

CHAIR: Good morning, Dr Barrett and Mr Rowe. Thank you so much for your time and for your participation. Thank you for the joint submission that you have made to the inquiry. I invite Mr Rowe to make an opening statement, after which the committee members may have some questions for you.

Mr Rowe: Thank you for the opportunity to address the committee. I know that ADA did do a witness presentation back in June. I was overseas at the time, so I appreciate the opportunity to talk a little bit about the work that Celebrate Ageing has been doing. I think Catherine has been a temporary Queenslander for about the last two weeks, doing a series of projects right across the state—from Cairns to Winton to Brisbane.

I start by acknowledging the traditional owners of the land and pay respects to elders past, present and emerging. We had a staff training and development event in Brisbane where we brought all of our staff down—about 145 staff from across Queensland. We had Stan Grant do our opening presentation. Stan focused on what he was finding within the Indigenous community and particularly talked from his personal experience where there is now this cohort of older Aboriginal and Torres Strait Islander people who have never made that level of old age before. We are talking people in their mid-eighties. You will know that many of the systems that are about supporting people in the aged-care sense start at 50 for Aboriginal and Torres Strait Islander people versus 65 for the mainstream population, and that reflects the different life spans.

I will take the two submissions that we have put in—the joint one with Celebrate Ageing and the ADA one—as read. For someone like me who has been around a little while, this feels—well, maybe I will come at it from a different point. I was really delighted to see the Crisafulli government actually identify this as a first-term priority. Dealing with elder abuse, as no doubt you have heard many times, is a very challenging task. I did a Churchill Fellowship in 2019 to look at the prevention of and response to elder abuse in aged care in the community. That came out of a frustration where, time and time again, we saw that our response to elder abuse as a society and as a government was 20 years behind the response to domestic and family violence. None of us thinks we do domestic and family violence brilliantly, but when you line it up against elder abuse it is so far ahead. It is an important issue. Leadership is needed to address it.

One of my opening statements is that I really want to see you not just talk about it but come up with a very clear set of actions that are implementable so that we get some immediate action. In time gone by, because of that interface between Commonwealth and state, there has been a bit of a hesitance—to sit back and wait to see what the Commonwealth is doing. I think there is an opportunity for Queensland, as it does in many areas, to be a leader in the response to elder abuse. There are things we can do around enduring powers of attorney, about the way our health systems work and about how decision-making works, and we can show the rest of Australia how to do it.

Action will require investment, but I see some correlation with the work the Productivity Commission did in 2012, if I think back far enough. When they were looking at the viability of establishing the NDIS, they found that it would cost government more to do nothing than to invest in providing services, because when people are not supported appropriately they end up being supported inappropriately, often at a much greater cost and with a pretty poor outcome for the individual concerned, particularly in terms of financial abuse. Where financial abuse happens, older people who have saved for their old age—saved to cover housing, their transport, their health care, their aged care—have nothing and end up falling back on the public system to support them. Do not think, 'This is going to cost us money.' It is going to cost us money not to do it.

After listening to some of the presenters thus far today, I would also encourage you as a committee to look at the new Aged Care Act, which is due for rollout on 1 November. Issues around decision-making, supported decision-making, choice and restrictive practices are all things that ADA and other organisations like ourselves have been providing input into. Fingers crossed we have got it right, but there has been a lot of thinking done so build on that. Do not reinvent the wheel. Catherine, do you have any comment you want to make?

Dr Barrett: The work I have been doing with ADA Australia has been combating ageism. It really comes from this place of understanding that I do not think we will ever be able to put enough resources in to respond to and catch and heal and support older people who are experiencing elder abuse. The need is just growing and growing. We have to go upstream and look at what is happening and how we stop elder abuse from happening in the first place.

The World Health Organization is acknowledging that one of the key drivers of elder abuse is ageism. That is the work we have been doing with ADA. I think the thing we need to understand about ageism is that it is not those 'bad people' out there in the street. It is not just families behaving badly. It is not 'other'. Ageism is each and every one of us. There are very few of us who are immune from ageism. There are so many ageist messages in society. We are bombarded with it every day. That does not affect just older people; it affects all of us as individuals who then make up families and communities and services and government and policy. The gist of our submission is that we have to look at ageism. Ageism affects the policies that we make in our responses to elder abuse. A gender lens is one part of that, but recognising loneliness and recognising ageism is incredibly important if we are going to stop this from happening in the first place.

CHAIR: Thank you very much to both of you. My first question is with regard to ageism. In the committee's hearings we have travelled the breadth of the state—from the Gold Coast to Cooktown and beyond. One of the issues that was raised was just how different ageism looked in not only cultural context but also regional context. I see your #OldisBeautiful project. From your work travelling across the state to do that project in the different locations, do you have any anecdotes you can share about how it may look different and needs to be considered in terms of our response to it?

Dr Barrett: That is a really astute point to pick up on. There is a tendency to have a one-size-fits-all approach to ageism. The focus of our Embolden festival this year is 'Same, Same—But Different Ageism'. The ageism a 65-year-old experiences is not the same as a 95-year-old and is not the same as an Aboriginal and Torres Strait Islander and not the same as a person in Winton or a person in Cairns. We have to recognise that ageism is different across all of those contexts—geography, age, gender. It is experienced very differently in terms of gender and in terms of the context—the way we have lived our lives. For the work we are coming up with in October, Geoff's organisation is coming up with a framework for people to understand the nuances of ageism.

Most certainly what we noticed in the workshops is that it is experienced very differently. In Winton we noticed that there is a real sense of community, that people see each other as humans first, if you like, and that age is not a factor like it might be in Brisbane, where you do not know someone and what you see first is their age. In Winton they are saying to us, 'I see this person and I know who that is. I know their grandchildren and where they live.' People know a lot about them. Seeing people as humans first makes a big difference. We are coming up with a framework for that. It will be the end of October. I do not know if that is too late for you. We can certainly provide some information to you beforehand.

CHAIR: The committee would really appreciate that. Thank you very much for your offer.

Ms McMILLAN: Thank you very much to both of you for making your time available to us today. Dr Barrett, you spoke about understandings about ageism and it being perpetuated in everything we do and say, in messages we receive. How do we as leaders in our society further challenge the discourse that surrounds ageism? How do we challenge that actively?

Dr Barrett: Thinking of your roles, it needs to be a focus of the research, the policy, the funding. It needs to be a focus of the work we do on prevention. Responding to elder abuse is one thing we need to do, but having projects, programs and initiatives that look at combating ageism is another one.

The #OldisBeautiful project is an interesting example, because I think probably what people see are the beautiful images of older people. We call that the icing on the cake, but there is very definitely cake there as well. That was the workshops with older people where we brought them in and really explored internalised ageism. We gave older people strategies to protect themselves against ageism. We linked them to information about elder abuse services. In a pre/post survey for those workshops there was a 20 per cent reduction in internalised ageism and improved expectations on aging, which is associated with better health and wellbeing. That was 20 people in one workshop. Then the photos go out to community to engage the community in not just thinking about older people differently but also thinking about ourselves differently.

I think this is the work we need to do en masse—finding really innovative ways of engaging the community in thinking about ageism as not being just older people but being also something that is important to each and every one of us. I draw people to a longitudinal study in the US that showed that a strategy to protect older people against internalised ageism increased their life expectancy by 7½ years. This is really serious business. The data in the US is saying $850 billion a year in lost GDP, so there are really serious consequences. The solution is not protecting older people or challenging the ageism directed towards older people; it is recognising that our own aging is a privilege and that

we are not less useful, beautiful or intelligent as we age—that aging is not only a gift but also a process of evolving in very positive ways. That may sound really a bit lofty and fairy floss, but it is a really critical shift.

Ms BOURNE: Thank you both so much for your submission. Having faced ageism in politics myself, I found your submission very informative. It is nice to see you again, Mr Rowe. ADA Australia recommends that Queensland introduce an adult safeguarding commissioner. In your view, what should be the primary functions of the commission? What should it be responsible to achieve?

Mr Rowe: I guess it is in the name. We need to see a range of safeguards being available for older people—for older people to know where they can go to get support. We talk about the aged-care system being complex, but only a very small number of older people actually access the aged-care system at any point in time. I think the ability to navigate across the various sectors that older people interface with is incredibly important.

I did not say this in my opening comment so I will say it now. One of the things we are seeing with people's interaction with the aged-care system is that the expectations of older people are changing. One of the mistakes we can make is to assume that old people are the same. Catherine has talked about location, gender, ethnicity et cetera. Also, we are moving from what I suppose we have traditionally called the grateful generation to the baby boomer generation. No-one has ever described the baby boomer generation as grateful. For this cohort, if there is a system that does not work for them they change it. The example I often use is of childbirth. When I was born, my dad was not there. When my sons were born, I was there. When my sons' children were born, they were there and others were there. How did that happen? It is because people demanded change. Again, it is that opportunity for us to be proactive—to put in place systems that support people and that can call out abuse, particularly systemic abuse.

I know that you have heard numerous times about the enduring power of attorney What we see at ADA is, time and time again, the current systems that have been put in place to protect people are weaponised against them and are used to deliver abuse. The concept the Public Advocate has come up with is not new. It operates in other jurisdictions. I think we can learn from that as well.

Mr DAMETTO: Mr Rowe and Dr Barrett, thank you very much for your submission and also for fronting the committee this morning. Dr Barrett, I think this committee has done a good job so far of seeing how elder abuse affects people in Queensland. Looking more broadly, are there other jurisdictions worldwide that value their elders better than Australia? Could you give us some commentary on other countries or other cultures that are maybe doing this better?

Dr Barrett: That is a terrific question, again. I think we have a lot to learn from Aboriginal and Torres Strait Islander people about respect for our elders. I find it really interesting that some of my Aboriginal friends say, 'When we get together, we talk about aging.' They are not frightened to age, like we are in western cultures, because they talk about being valued as they age. They have different roles and more value. I think we have so much to learn from Aboriginal and Torres Strait Islander people. I think in a lot of Asian cultures and European cultures people talk about respect for older people. Just about every cultural group I have ever spoken to says that the process of their families being westernised, if you like, means that they feel like they are losing that focus on the valuing of their older people.

I think we have to do a sort of consciousness raising—a mindfulness, a values reset—that says, 'What are our values in relation to older people?' and, like your question, say, 'Who can we learn from?'—from Aboriginal and Torres Strait Islander people, from Muslim folk, from Vietnamese—and take these lessons and then build a sense of 'this is who we are and this is who we want to be in relation to our older people'. The information is there. There are certainly models, even in families and in some communities. We talked about Winton, where there is great respect. We can learn from them. We need to.

CHAIR: Thank you very much, Mr Rowe and Dr Barrett, for your time and participation in our inquiry today.

MITCHELL, Ms Nicky, Member, Elder Law Committee, Queensland Law Society

SMITH, Ms Sonia, Special Counsel, Legal Policy, Queensland Law Society

WILLIAMS, Ms Karen, Chair, Health and Disability Committee, Queensland Law Society

CHAIR: Good morning. Thank you so much to the representatives of the Queensland Law Society for joining us this morning. I now invite you to make an opening statement prior to the committee asking any questions they may have from your submission or your statement.

Ms Smith: Thank you for inviting the Queensland Law Society to appear today. In opening, I would like to respectfully recognise the traditional owners and custodians of the land on which we meet. As the committee may be aware, the Queensland Law Society is the peak professional body for the state's legal practitioners. We are an independent, apolitical representative body that promotes good, evidence-based law and policy. The society welcomes the committee's inquiry into elder abuse in Queensland. The society is committed to advocating for rigorous, evidence-based services and policies to assist the victims of elder abuse and prevent further elder abuse within the community. In recent years, there have been significant advances in our understanding of elder abuse and in developing responses to elder abuse. However, as the prevalence of elder abuse continues to rise, there are still many opportunities for reform, both in relation to preventing elder abuse and in responding to elder abuse that has occurred. In this respect, I refer you to our written submission, dated 10 April, which outlines several areas for reform.

As elder abuse is an Australia-wide issue, a whole-of-government approach involving federal, state, territory and local government is required. Within Queensland, elder abuse is relevant to a number of ministerial portfolios that span issues such as access to justice, powers of attorney, advocacy and support services, housing security, criminal law, domestic and family violence, health and disability practices and ageism. To be most effective, responses to elder abuse should be coordinated across Queensland departments and agencies.

Our members have reported that the misuse or abuse of enduring powers of attorney are contributing to elder abuse. The society has identified several areas for reform of enduring power of attorney laws in our submission. One important reform proposal is to develop nationally consistent enduring powers of attorney laws across Australian states and territories. This is an opportunity for the Queensland government to take the lead on this important reform proposal.

Further, our submission notes there is significant knowledge gap in understanding issues relevant to elder abuse such as impaired capacity, the limits on an attorney's powers, and the difference between supported decision-making and substitute decision-making. Developing general community education programs, as well as education targeted at attorneys and service providers, is an initiative the government can start on immediately.

Today, I am joined by Karen Williams, the chair of the society's Health and Disability Law Committee, and Nicky Mitchell, a member of the society's Elder Law Committee. Both Ms Williams and Ms Mitchell have significant experience working with older people and with people with impaired capacity. We welcome any questions you may have.

CHAIR: Thank you very much. An important part of what we have been hearing is in regards to enduring power of attorney, and one of the points of interest for the committee has been around the act of being an attorney may be something that, for most of us, may only occur once in a lifetime for an elderly parent. I note in your submission in regards to education being something you believe would be beneficial for the attorneys not only prior to being enacted but also as they are actually undertaking those duties. What would that look like? How do you think we could implement some education for enduring powers of attorney, the implementation as well as for those who are appointing them?

Ms Smith: In our submission, we have identified two points in time where you could provide education to attorneys which is, one, when the power of attorney is signed—currently there is no requirement for attorneys to have any sort of education or training in what they are actually agreeing to do—and the other point in time would be at the point where the power of attorney is actually implemented or enacted which could be years down the track. The person who agreed to be an attorney five years ago, 10 years ago, may not have known then what they were signing up for, but when the power of attorney is actually invoked they may still not know what their obligations are. There are two points in time there when we think education would be really helpful.

CHAIR: Thank you very much. I will go to the deputy chair. Committee members, I will give you the heads-up that after the deputy chair, I will defer to one of the government members, recognising the challenge we have had in balancing out the questions so far.

Ms McMILLAN: Thank you very much for your submission today. You spoke about the training or the support for JPs and commissioners of declarations. Firstly, do you believe that they are the most appropriate community-based system to enact or deliver that enduring power of attorney? If so, what sort of training and how would that be coordinated and managed? What are your thoughts in terms of rolling out that professional development?

Ms Smith: Do you mean training for the JPs? I do believe there is currently some training for them. That could be enhanced. I have not really looked into what a model would look like in creating additional training. Do you have any thoughts on that?

Ms Mitchell: Thank you for the opportunity to appear today. In my time when I am not on the Law Society's Elder Law Committee, I am a managing senior lawyer of Caxton's Seniors Legal and Support Service and have provided that training directly to JPs. I can indicate they are a great cohort that are wanting to learn and are wanting to do the right thing in the community. They are a key touchpoint in identification and response to elder abuse and, in the prevention space, are one of the strategic cohorts that we have prioritised at Caxton in our work. I think that capacity building in understanding the nature of the role of an attorney needs to expand further to capability building within the legal profession, and that needs to be in key touchpoints when lawyers are engaging with older people. Quite often an enduring power of attorney might be assisted by a legal practitioner, in addition to another transaction that that lawyer might be assisting the older person with, and those key touchpoints are transfer or purchase of property, assets, gifts et cetera. I think the capacity building needs to extend to JPs, of course, but other key touchpoints including legal practitioners.

Ms Williams: If I could also add in regards to JPs that often you will see signs up in hospitals, 'JPs available here', so they are often at really vulnerable points of a person's journey, and the more skilled they are, the better safeguards will be available.

Ms McMILLAN: Thank you, Ms Mitchell and Ms Williams. That answered my question perfectly as to there is a real opportunity there.

Mr FIELD: We have heard all throughout this morning in regards to the liabilities or the assets of individuals, elders, where the siblings get involved and it is always a protracted thing and it always happens at the last minute before they actually get to have any say, and in most cases there is conflict between those siblings. Is there an opportunity or a situation where you have a sibling being the power of attorney and another professional body, also joint power of attorney, to ensure there is no rivalry, if you would like to call it, for whatever reason, and what recommendations would you like to see the committee make regarding those enduring powers of attorney?

Ms Williams: I might start. I have not seen a lot of those dual appointments. I can see where you are coming from, from a safeguarding perspective. Often they are not welcomed by agencies or other bodies because trying to work in lockstep and having those joint arrangements is very difficult. Where I have seen them work is where older people, or people as they approach their senior years, consider that there may be no-one in their family that they think are up to the task or do not have many people whom they can reach out to, and they approach other bodies, be they public or private trustees or the Public Guardian. In Queensland, we are lucky that there are mechanisms for that to happen. However, doing it jointly, I think organisations have often said that is very difficult in practice.

Mr KRAUSE: I have a question in relation to EPOAs. There has been a lot of talk over many years about a national register. I know you know that the question was coming. There are two parts to it, but I will ask the harder one first, probably, and that is can you tell us how a national register or reforms in the EPOA space, like a harmonised system, could address some of the EPOA issues that have been identified through this inquiry in relation to elder abuse, while also maintaining efficiency at a business level? A lot of us would be aware that powers of attorney are quite useful in business transactions as well. That is the first part. Also, how do you think the national register would operate?

Ms Williams: I will start on that triple-barrelled question. Having been part of discussions over many years around all these reform issues, when they started to look at a register without harmonisation, it did not make any sense because we did not know what were apples and what were pears because there was so much disparity. There is a need for sufficient uniformity to understand what each other is talking about. How it may address elder abuse is through clarification. A lot of people assert they are an attorney without actually being an attorney, or there has been some other document name such as 'nominees'. Nominees and attorneys are all interchangeable in the general community's minds. So, there is a need to be able to verify that someone is who they say they are. If

documents were done 10 or 20 years ago, the actual original document may not be available. For health professionals and various government departments and agencies to verify someone is actually the attorney, I think, would be useful. Is it the first thing that you do? Maybe not in terms of all the things we talked about, but that is how I see it would be very useful in terms of other services. You cannot really say it is a misuse of an enduring power of attorney if there is not actually an enduring power of attorney in place.

Ms Mitchell: Or there was and it has been revoked and the service requirements have not been complied with.

Mr KRAUSE: And the second part?

Ms Williams: You will have to remind me of the second part of the question.

Mr KRAUSE: In terms of dealing with some of those issues but also trying to maintain efficiency, especially in the commercial world where sometimes powers of attorney are utilised in transactions.

Ms Williams: I would draw the distinction between power of attorney and enduring power of attorney and encourage focus on enduring powers of attorney knowing that they can be used for interchangeable purposes. I think we should focus on enduring powers of attorney and encouraging professionals in the business world to work with powers of attorney.

Mr KRAUSE: And perhaps make it more distinctive legislatively if necessary?

Ms Williams: Yes, and education amongst JPs and the legal profession and that type of thing. I would think that that would have a lot of utility.

Ms BOURNE: Thanks so much for your submission. You recommend greater funding be allocated to the Seniors Legal and Support Service program so that complex cases can be seen through to conclusion. Would you mind telling us a little bit about that thanks?

Ms Mitchell: I can speak to that, and, Karen, please do jump in. The Seniors Legal and Support Service has been going since 1997 and has been integrated since that time. I am conscious that in appearing today I am standing on the shoulders of three decades of practitioners who have come before me and done a lot of hard work, but it is a model where there are significant service gaps for older Queenslanders. The Brisbane Seniors Legal and Support Service, by virtue of its higher resources and funding, has been backfilling significant areas in Queensland, particularly regional and remote Queensland, to fill a service gap, and that service gap needs to be filled because we heard earlier in relation to the different nuances of elder abuse in regional and remote communities and we need to make sure that there is community-led and controlled services that are accessible to older people, no matter where they live. All Queenslanders have that right, so there does need to be an increase in funding and required upskilling of legal practitioners who are out there on the ground doing the work. That training needs to be supported by people like the Brisbane Seniors Legal and Support Service and the people who are already part of the regional footprint.

CHAIR: Early on in our inquiry we heard about the ACT model where they have provided a criminal offence in terms of elder abuse itself. Your submission speaks to both perspectives—both for and against—and the effectiveness of such laws. Would you like to elaborate for the committee on your thoughts in that space?

Ms Smith: There are obviously arguments for and against a criminal offence. The Queensland Law Society does not currently have a formal position on yes or no. What we think should happen is probably an inquiry just looking at that issue as a standalone issue. If, for example, a paper is prepared with some sort of model or options, then it can go out to stakeholders and we can comment more fully on what is proposed, but definitely even within our own membership there are people who would support a standalone criminal offence and there are some who would not and who think that the current criminal law is adequate. That is something that we would want to go out to our members about and reach a position on.

CHAIR: As there are no further questions, thank you so much for your time today. We appreciate the submission put in by the Queensland Law Society and also the time that you have given to speak to us. Thank you.

GREENALGH, Mr Rodney, Executive General Manager, Product and Services, Australian Retirement Trust

HOPKINS, Ms Mandy, Member Guardian and Resolutions Lead, Australian Retirement Trust

CHAIR: I now welcome representatives from Australian Retirement Trust. On behalf of members here, I thank you so much for your time and for the submission that Australian Retirement Trust has provided. I invite you to make an opening address, after which committee members may have some questions they may wish to ask.

Mr Greenalgh: Thank you, Chair, and members of the committee for the opportunity to appear before you today on behalf of Australian Retirement Trust. Australian Retirement Trust, or ART, is one of the largest superannuation funds in the country headquartered right here in Brisbane. We proudly represent 2.4 million members—65 per cent of whom are Queenslanders—and are entrusted with safeguarding more than $350 billion of their retirement savings. Among our membership, approximately 280,000 are Queenslanders over the age of 60. Superannuation represents a lifetime of savings—money that members have diligently set aside to support themselves in retirement. For many Australians, it is one of the largest financial assets they hold, often second only to the family home. These funds are not just numbers on a statement; they are the foundation of financial independence, dignity and security in later life.

As custodians of these retirement savings, we have a profound responsibility to ensure that members are supported in protecting their superannuation from misuse, exploitation or abuse. As a superannuation fund, we have an obligation to remain vigilant to the risks of elder abuse, particularly elder financial abuse. This can include unauthorised access to funds, coercion to release savings, misuse of powers of attorney and scams and fraud. A major challenge we find is that elder abuse or elder financial abuse is often difficult to detect and is tragically frequently perpetrated by those closest to the victim. While access to superannuation may only occur if a strict condition of release is met, from our experience we know that older people may be more vulnerable to financial abuse when they rely on others for technology or financial decision-making, experience cognitive decline or face conflict over guardianship arrangements. These vulnerabilities are often compounded for older women and those living with disability.

At ART we have implemented a range of controls to help detect, prevent and respond to elder financial abuse such as staff training in escalation protocols supported by our partnership with DVConnect to help frontline teams identify red flags and refer concerns to our financial crimes team; transaction monitoring to detect serious or suspicious patterns or unusually large transfers; a vulnerable members policy that guides staff in recognising and responding to situations involving domestic and family violence or financial exploitation; having multiple service channels including phone, mail and in-person support to ensure members who are less digitally engaged can still access secure and trusted services; and education and outreach, including ART's education team addressing elder abuse in member seminars and having partnerships with community organisations to ensure vulnerable members are aware of financial abuse and can access information and tools to improve financial resilience. We believe there are further opportunities to strengthen protections for older Queenslanders such as enhancing financial literacy programs, particularly for women and those who are separated or widowed; establishing nationally consistent enduring power of attorney laws; expanding community education, especially in regional areas; providing culturally relevant financial education; and closing the superannuation gap for women to improve long-term economic security.

We are committed to supporting our members and working collaboratively with all stakeholders to address elder abuse. We thank the committee for the opportunity to contribute to this inquiry and we look forward to your questions on this critically important issue. Thank you.

CHAIR: Thank you very much. The first question is a challenge that has been identified by the committee throughout our hearing process with regard to the accessibility and availability of data in terms of elder abuse. You reference in your submission that you identify red flags or warning signs and then take action amongst your own staff and have a procedure there. Do you have the capacity to speak at all around the prevalence amongst your membership of elder abuse or identified elder abuse and willingness to share with the committee? This evidence may be taken on notice so that we can continue to collect and build on our dataset of what we know as to who is the victim of elder abuse in Queensland.

Mr Greenalgh: I might start and then I will hand across to Mandy. You talk about the difficulty in identifying, so largely it would be anecdotal, to be fair, because when we identify financial elder abuse it is not able to be detected generally through the data that comes in. If you think about our members who have satisfied a condition of release, they are relying on this money and are making lumpy purchases, so it is not that easy to identify through the data. It is often one or two other flags that enable us to hone in on where the abuse might have arisen. Mandy deals with this every day, so I will pass across to her.

Ms Hopkins: I want to thank the committee for having us here today to help gain an understanding of our submission. My role at ART is the member guardian and all that I do is about supporting vulnerable members. I have had the privilege of being at the fund for over 20 years, and I say it is a privilege because at Australian Retirement Trust we do truly understand that we are entrusted with Australians' retirement savings. The money that we hold belongs to those members and it is our role to support them to grow that money and then support them to and through retirement. As people age, their capacity to earn money has reduced. We become their income or a very large component of it.

My entire role is about member vulnerability—making sure we have a vulnerable member policy for the enterprise, as we have the insurance arms with us as well. I run a vulnerable member reference group which is made up of representatives from across the business and our whole drive is to implement initiatives that are going to make our products and services more accessible to all of our members. Probably the biggest part of my role is to be that escalation point when people are caught in those vulnerable situations. It could be the fact that they are facing a barrier to accessing our services or it could be that they are caught in a situation of disadvantage and they are needing that additional support, like an elder abuse case.

At work it is very hard. There are so many factors that could drive someone being taken advantage of, and age is one of them. The biggest thing that we can do to find elder abuse is look at what we have within our training programs. Engagement with the fund is going to be the first point that they are likely going to know about elder abuse and having financial control processes in place to support where we find those situations. When we train our staff, so many factors cause vulnerability and disadvantage. If people are caught in an elder abuse situation, they are generally going to be affected by another vulnerable factor, whether that is a psychological or a physical impairment or they are digitally or financially illiterate and are relying on others for support. What we do with our staff is train them in vulnerable factors and trying to understand the situation that a person might be in. If you get triggers, you can train indicators. You can get them to be aware of things, but it is about asking the extra question. It is about trying to fully understand the situation that person is in and what they are doing. It is not stickybeaking; it is called care sometimes.

I am happy to tell you what we do if we have those situations, if it would help. A lot of times because I am the escalation point they are going to come to me. With regard to having someone say to you, 'I'm being financially abused right now,' that is a financial request straight in the system for financial crimes. It is a united approach where we step in and we support the member from there, so stopping and engaging with that member, understanding what they are doing and questioning what is happening with those funds. Honestly, we want to make time between that payment request coming in and that payment being made so that allows us to do our due diligence and do the checks that we want to do. It also allows us to give that member a bit of thinking time too so that when we are talking to them they can have clarity about, 'Do you know what actions you're taking and what they're for?' We can put benefit flags in the system so we do not do straight-through processing if we think that is going to be required. If we feel someone is accessing their information online—as Rodney said, scams are a big thing—we can block the member's online access for those people as well. We will put those steps in place until we confirm that we are in an appropriate situation. Honestly, if we see fraud, it is going to be a police matter that is lodged at that stage and an encouragement of the person to be doing the same thing as well.

CHAIR: As a percentage of your membership, how many members would you identify? The service you are providing is obviously very highly valued and important. What percentage of your membership would be accessing the services of the member guardian in any given year?

Ms Hopkins: In my role currently I deal with about 90 escalations a month. Honestly that can be anything. We are about to expand that and drive that awareness back out through the fund. Mine are to do with anything that could be an inaccessibility or a disadvantage issue. I would honestly say that, when we are looking at the domestic and family violence space, I mainly see it with spouses, but we do have elder abuse situations as well.

Ms McMILLAN: Thank you so much, Ms Hopkins. That is really quite interesting. I really had not given too much thought to the processes behind the scenes to support our most elderly. During the process of changes to federal government policy around access to superannuation, did you see a greater incline in prospective abuse, whether it was DV or elder abuse?

Ms Hopkins: Not really with any of the changes to legislation but it is something that we absolutely see. We definitely can see those situations of disadvantage and people taking advantage of people. It can be through power of attorney processes if they actually have an attorney and they are acting for that person. A lot of times it capacity concern that we see as the first trigger. You are actually concerned about someone's capacity.

Ms BOURNE: We have talked on this committee before about some people having more and more money in their superannuation accounts now than ever before. I know you have just covered off on the misuse. Can you tell us about the misuse of EPOAs regarding superannuation and how this misuse plays out?

Ms Hopkins: We strongly support the alignment of power of attorneys across jurisdictions. It is only recently that we have had people wanting to revoke it. I did not have a procedure 12 months ago to be able to revoke a power of attorney but those questions are asked now. That is probably the beauty of my role. As you learn and grow, you build the knowledge that you gain into your tools and into your processes so that you are able to support the members.

Probably one of the biggest issues and risk factors I see with power of attorneys is rejection reasons. To be able to align these across the jurisdictions is a fantastic thing to do. This just needs to be a robust process that provides nothing but clarity for these people who have bothered to fill one out and believe they have the right person acting for them when they are ready to invoke it. What happens though is that they are rejected for a lot of reasons.

There is nothing more heartbreaking than getting an escalation come through and someone has done a power of attorney five years ago. They do not give that to the fund. You do not get to review that a lot of times until that point that they want to invoke it. They will send a document in and you will have a look at it and go, 'That's an invalid document. We're actually not able to accept that.' Generally you are caught then. The person is incapacitated so they actually cannot go and re-do a power of attorney. Then you are relying on guardianship acts to step in and provide that power to somebody to act.

We can reject them for a volume of reasons. Honestly the biggest rejection reason that we see is that they complete invalid documents. We have situations where they download forms from a legal website somewhere and they complete it, yet you will look at the date and the document has been superseded. You can have a power of attorney form or you can draft your own power of attorney. If they use the standard form and that form gets superseded, you will have a JAG reference fact sheet telling you that you can no longer use that if it was completed, signed and dated after that form has been superseded. You will get a power of attorney document, they have pulled it off a website, they have sent it in and that document is not valid.

It can be completing documents that are actually invalid but then it can be completing documents invalidly, so you will find that you can be missing some information which is a mandatory requirement of that document. It can come down to the witnessing—who can witness those documents and whether they have done the appropriate thing as well. You can even see it come through. It can slow the processes down. As I said, you will be getting these documents right at the end when they are trying to claim money.

Then there can be delay reasons—for example, it is not certified appropriately. I love who was talking earlier about getting the JP and the comm dec training and really making sure we embed that. Sometimes you will look at the document and you cannot receive it because the JP has not put their seal on it or they have not put their registration number on it. Then you are at the point that the document is valid only that it has not been certified. That one is okay. We can get it recertified and given to us, but it is the invalid documents that cause the biggest problem.

As I said, getting documents revoked is something that is definitely happening now. I have even had one where they want to revoke it but we have had medical evidence to say they are incapacitated. In those situations people can go and get doctor's information that they do have capacity now. There are situations where they could have been incapacitated for a period, now they are not and they are wanting to revoke those documents.

CHAIR: I will go to government members.

Mr KRAUSE: It has been a pretty comprehensive contribution already.

Ms Hopkins: I could talk about form filling forever!

CHAIR: I was told that Ms Hopkins would be the star performer of the day.

Mr DAMETTO: Thank you both for coming today to represent Australian Retirement Trust. Ms Hopkins, you are a breath of fresh air. Hopefully when I get a chance to access my super there will be someone just like you working as a member guardian and resolution lead. Thank you very much for your contributions so far today.

Without trying to turn this into an ad for superannuation, my opinion is that the more financial freedom and financial stability we can give our elderly the more stability we can give them in their aging process and in becoming less vulnerable, I think, in many cases. Can you give us an example where having a good superannuation does open you up to 'humbugging', which is a turn of phrase that is used—that is, pressure from family members to provide for them in their retirement?

Ms Hopkins: Yes, death benefit processes are definitely one of our processes as well where you would see vulnerability and elder abuse step in. To use the word 'humbugging' is of interest to me because we deal with a lot of First Nations support as well in my team. Humbugging is something that we need to be very careful of when paying death benefits into communities. A lot of the time we will work with local elders within that community or we will discuss with police within that community. If you give them a lump sum of money, you can put someone's life in extreme danger. We may actually be instructed by elders or the police, 'You are better off paying a pension.' We will liaise with that person and look at paying a pension for that person. That way the money is dribbling out and we are not giving a large sum into that community.

We heard it when COVID hit. Because people could take lump sums out of their superannuation and it was happening willy-nilly, we actually got feedback that—we were QSuper back in those days—people were looking for our QSuper envelopes popping up in their mailboxes. You know that if you have a QSuper envelope you have money. We started going into non-branded envelopes. When we heard that, we decided to send plain envelopes with the news that we have funds for them here.

Mr FIELD: When individuals access their super, is there any particular amount that raises a flag where you think, 'That seems to be a large lump sum that this individual is taking out'?

Ms Hopkins: It will not be with a lump sum like that. What they would look for in our risk and compliance areas in our fraud teams are patterns. You can see what people would be doing. They might be taking a standard pension payment. Taking a large payment is not necessarily a trigger. People do purchase things when they are in retirement as well. It might spark a phone call. They might say, 'Can you give this lady a call and check what she is doing,' but one large expense is not likely to trigger anything through that process.

Mr FIELD: What do you mean by a 'large expense'? Are you talking about $10,000 or $50,000 or $100,000? Would that trigger anything in particular?

Ms Hopkins: You could buy a caravan. Where it would be a trigger is if something changed within that. If we were paying you a standard pension and we were paying that into your bank account on an ongoing basis but then you wanted to claim $100,000 and you were putting that into another bank account, we are going to stop, we are going to ask for your identification and we are going to want to confirm those bank details because in our mind that is not regular. By taking a lump sum, we probably would not but if you were taking $20,000 over a few weeks we probably would start to go, 'Hey, we need to give you a call and work out what is happening.'

Probably the biggest problem with super and something we need to note is that, once your money is unrestricted, as Rodney spoke of earlier, and you are telling us to pay your money into your bank account, we cannot stop that. At the end of the day, if that is your instruction we can pause it, we can pull time, we can warn, we can investigate but, unless you have been determined incapacitated, it is our role to supply you your money.

CHAIR: I would like to take this moment on behalf of the committee to thank you both for you time here today and for the investment that you are making in supporting our understanding of how super is playing such an interesting role in the elder abuse space. Thank you so much. We really appreciate the contributions you have both made. If you could provide any data that you have to the committee, we would really appreciate it.

O'SULLIVAN, Dr Rob, Immediate Past President, Australian and New Zealand Society for Geriatric Medicine

CHAIR: I welcome Dr Rob O'Sullivan, the Immediate Past President of the Australian and New Zealand Society for Geriatric Medicine.

Dr O'Sullivan: Thank you very much to the committee for the opportunity to provide evidence to this very important hearing. My name is Robert O'Sullivan. I am a specialist geriatrician. I am the Immediate Past President of the Australian and New Zealand Society for Geriatric Medicine, which is a professional organisation that represents approximately 1,500 members across Australia and New Zealand who are all medical practitioners whose primary professional interest is in the medical care of older people—so predominantly geriatricians and younger doctors undertaking training in geriatric medicine. I would like to read my opening statement, if I may.

Elder abuse is a relatively prevalent problem within the Australian community, with the numbers of affected people likely to increase as the proportion of older people in society expands due to population aging. The National Elder Abuse Prevalence Study released in 2021 estimated a prevalence of 14.8 per cent of older Australians experiencing elder abuse. In that study psychological abuse was the most common form of elder abuse, followed by neglect, financial abuse, physical abuse and sexual abuse. A small proportion of victims experience multiple forms of abuse.

Most authorities believe that elder abuse is under-recognised. Abuse may occur in the setting of individual familial and carer relationships or within the setting of institutionalised care. Beyond the distress experienced by the victim of abuse, the abused older person may suffer from a range of harms including physical injury, worsening of health conditions, malnutrition, financial deprivation and social isolation. Any of those harms may contribute to increased utilisation of health resources, premature entry to residential care and premature mortality.

The factors that lead to elder abuse are complex. For older people, increased functional dependence arising from cognitive, mental health or physical impairments is the greatest contributing factor. Of relevance here is the prevalence of dementia in older people, which not only leads to cognitive impairment but may also be associated with various behavioural and psychological symptoms that increase carer stress and burden.

From the abuser's point of view, risk factors include poor mental health, gambling or substance abuse and dependence, social isolation, dependence on the victim, and poverty. Carer stress is a commonly recognised contributor. Some cases are characterised by longstanding family and relationship dysfunction, including circumstances in which the perpetrator of elder abuse suffered abuse at the hands of the victim earlier in life. In institutional environments, abuse occurs when standards of care are low, staff are poorly trained or underpaid and overworked, and policies are geared toward benefiting the institution instead of the resident.

Medical practitioners and other health professionals are usually at the front line of elder abuse detection and intervention but need training and education in this issue. Geriatricians are ideally placed within multidisciplinary teams to be involved in both assessment and intervention for elder abuse. Geriatricians are physicians who specialise in the holistic assessment and management of complex problems in older people and routinely work closely with a range of other health professionals. In the case of elder abuse, social workers are likely to be involved in the response.

Intervention depends on the type of abuse and the circumstances but must always respect the older person's autonomy and their right to make decisions for themselves. In cases where the older person's decision-making capacity is questioned, this must be properly assessed. In instances of physical abuse where there is imminent danger or a crime has been observed, police and ambulance services should be contacted. Where carer stress is a significant factor and in cases of neglect and psychological abuse, provision of community care services is usually indicated. Financial abuse may require a review of enduring powers of attorney, legal intervention or application to the Queensland Civil and Administrative Tribunal for financial administration where the person lacks financial capacity. Counselling may be beneficial to the victim and may help to address dysfunctional family dynamics.

It is critical that services and programs that address elder abuse are adequately resourced and that social conditions that contribute to the risk of elder abuse are addressed. For example, limited access to community services and respite care for older people can increase carer stress. The ANZSGM advocates for timely assessment processes and immediate availability of community aged-care services sufficient to meet need as well as improved availability of residential respite care for older people. I am happy to take questions.

CHAIR: Doctor, I have a very short question and very long question, so I will go with the very short question first, hoping that I might get leave of the table at some point to ask my further question. In your position statement on behalf of the geriatric medicine collective, you speak about the fact that there have been no large, high-quality, randomised controlled trials on specific inventions for elder abuse. Is that something your group would be encouraging this committee to put forward as a recommendation—for investment in that research and trials of that nature?

Dr O'Sullivan: In general terms, research is a very useful tool to help understand complex issues. Yes, we would be advocating for more research in this area.

CHAIR: Your report, in the earlier section, speaks to the prevalence in rural settings, suggesting that in China there is evidence that in rural settings there is a higher prevalence of elder abuse, or at least the reporting of elder abuse is occurring. Earlier today we heard that the regional risk profile seems to be slightly different in Queensland. Would that be reflected in the anecdotal data that your group has experienced, or do you believe that potentially it is horses for courses in locations?

Dr O'Sullivan: I think there is frequently going to be variation across different demographics with these sorts of issues. I cannot speak specifically to the difference between rural and remote areas in Queensland and more metropolitan areas in Queensland, I am sorry.

Ms McMILLAN: Dr O'Sullivan, you speak about a whole range of issues which were absolutely fascinating, particularly around ethical dilemmas. We also have a context in Queensland where we have a mandatory reporting process for young people. What position does your organisation take on the notion of mandatory reporting of those elderly who are most vulnerable?

Dr O'Sullivan: We do not have an official position on that particular question. I suppose anecdotally, talking to my geriatric medicine colleagues, the themes that have come through are that an attitude of paternalism does not go over well with older people. Older people do not like to be treated like children. It is an ethical dilemma. We do have a duty of care to make sure that people do not suffer adverse outcomes and that elder abuse is recognised and acted upon, but the clearly consistent anecdotal themes that I can relate are that older people like to maintain agency over those decisions.

Mr KRAUSE: In relation to balancing the rights of older people and your duty of care, is there anything you would like to elaborate on—any further dilemmas that you see as a geriatrician?

Dr O'Sullivan: I guess the elephant in the room in that regard is when we are dealing with older people with dementia. Dementia is a common problem in older people. The question of capacity has been raised multiple times during this morning's hearing and is particularly relevant to people with dementia. That becomes a particular issue when questions of abuse arise. We have a very strong duty of care towards all of our patients but particularly the most vulnerable patients, and patients with dementia are amongst our most vulnerable patients. The people whom we would usually rely upon as substitute decision-makers or who provide supported decision-making for older people with dementia are frequently the ones who are implicated in abuse allegations, so that is a very difficult problem. I suppose that is the major ethical dilemma that we often face.

Ms BOURNE: Dr O'Sullivan, do you believe that geriatricians are sufficiently trained to recognise and respond to elder abuse? What about the medical profession more broadly?

Dr O'Sullivan: Yes. Geriatricians are often called in in the most complex cases that present to healthcare providers. Questions of elder abuse are frequently very complex and fraught and frequently come to the attention of geriatricians. The training program in geriatric medicine is very rigorous and covers the kinds of issues that are involved in the detection and addressing of elder abuse. I think for other medical professionals it is a little more difficult. Medical practice is so broad and subspecialised now. There are so many different groups with different interests who want to get their foot in the door in terms of medical training, and that reduces the amount of time available for any individual specialty to provide very in-depth training as part of a general medical curriculum. Our society definitely supports a greater contribution of geriatric medicine training and education for medical practitioners.

Mr DAMETTO: Thank you, Dr O'Sullivan, for your submission but also for fronting the committee today. A key theme in your submission is that there needs to be robust research supporting specific interventions. Given this, is there any immediate response that you would recommend in relation to elder abuse?

Dr O'Sullivan: I referred earlier to social workers being involved in the response to elder abuse, particularly in hospital environments but across other healthcare settings as well. I think staffing in our public hospital system is under a tremendous deal of pressure, and that includes social

work services. Ensuring we have adequate resourcing within our public health system, particularly with social workers as well as all frontline staff, is really important in terms of the detection and addressing of elder abuse.

CHAIR: Doctor, we have heard not only today but also in our previous sessions quite a few case studies reference the isolation of decision-making or the decision-maker, especially when it comes to medical capacity: 'They just didn't know Fiona', 'They didn't know Steve, so they didn't understand that he has his good times and his bad times' et cetera. Obviously, as you have referenced in your earlier statement, capacity is something that has been a very big focus in terms of diminishing capacity providing autonomy to values in decision-making. What is the effect, in your mind, of having the isolation of the decision-maker in making that decision around capacity? Are we better off having an isolated decision-maker or is it someone who has had long-term engagement with the 'victim'? I am using the word very loosely, because I recognise it is probably not the right context. Do you think there is a way forward for us to have a supported decision-making framework which balances the social and the medical?

Dr O'Sullivan: That is a very complex question.

CHAIR: I did say that I had an easy one at the start and a longer one that I wanted to get to at the end!

Dr O'Sullivan: As a general rule, I think it is always desirable for a person who is making decisions on another's behalf to have a fairly in-depth knowledge of that person, particularly because there is an ethical obligation for the substitute decision-maker to make decisions that are not only in that person's best interest but also congruent with that person's longstanding wishes and belief systems. I think it is very difficult to have someone who is completely detached from the person making decisions on another person's behalf. How to best balance that in a practical setting is difficult. I think the proposal to have some kind of oversight body for substituted decision-making, including enduring powers of attorney and guardianship, is a potentially good suggestion.

CHAIR: Thank you very much. I do appreciate that that was a very substantial question to ask you to try to pull down into a small amount of information.

Mr FIELD: Does your organisation have a position or whether there should be stronger legislative protections governing powers of attorney or guardianship?

Dr O'Sullivan: We do not have a formal position on that. One proposal that has been raised by previous contributors to today's discussion is harmonisation of the legal frameworks around substituted decision-making, enduring powers of attorney and guardianship across Australia. I think, again, that is an idea that has substantial merit. No, we do not as an organisation have an official position on that.

CHAIR: Thank you very much, Doctor, and thank you for your attendance here today. Ladies and gentlemen, that concludes this hearing. Thank you to everyone who has participated. Thank you to our committee members. Thank you to our wonderful Hansard reporters as well as our committee secretariat. A transcript of these proceedings will be available on the committee's webpage in due course. I now declare this public hearing closed.

The committee adjourned at 10.27 am.