

Inquiry into Elder Abuse in Queensland

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Response to Committee Inquiry into Elder Abuse in Queensland

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Made on behalf of Legacy Brisbane

Introduction – Legacy

Legacy is an iconic Australian charity dedicated to supporting the families of our veterans. Our vision is for no spouse or child of a veteran to suffer financial or social disadvantage as a result of their loved one's death or injury from recognised military service. Legacy strives to ensure the families of our veterans can fully realise their potential. In practical terms, Legacy provides long-term social, emotional, developmental and financial support to over 30,000 people. Legacy is the only organisation of its kind in the world and is affectionately known as 'Australia's Biggest Family'.

As one of 44 Legacy Clubs in Australia, Legacy Brisbane supports the wellbeing of more than 3,816 people, including 3,610 widow(er)s, 191 youth, 115 people with a disability and 22 families where the veteran is still alive and medically transitioned across South-East, Central and Western Queensland. Support falls into five main programs:

1. Young families (widows under the age of 65 with children, a grandparent or other kin carer of children who are eligible)
2. Older widows (over the age of 65)
3. Youth (sons, daughters, stepchildren, adopted children who were dependent on a veteran at the time of their death. Services continue until the age of 18 or 25 if they are in tertiary education)
4. People with a disability (son or daughter of a Legacy widow with a disability, aged 18 upwards)
5. Family Assist (family with children where the veteran is still alive but medically transitioned)

Support for these clients consists of Legatees (volunteers who are members of the organisation), staff and volunteers.

We would like to respond to the Inquiry into Elder Abuse in Queensland with our experience as an organisation directly supporting War Widows over the age of 65 throughout a significant part of Queensland. We are in a fortunate position where we can build a trusted relationship with the widow over a period of years and provide services and support as they age and their needs change.

Legacy Brisbane acknowledges that elder abuse happens to both older men and women, however our experience is linked to women as the vast majority of our clients are female (99%).

The Legacy Club of Brisbane Limited
Supporting our veterans' families

Patrons: *Her Excellency the Honourable Dr Jeannette Young AC
PSM, Governor of Queensland and Professor Graeme Nimmo
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Observations

1. a. nature and extent, including for vulnerable cohorts, of:
- ii. relationships where elder abuse occurs, including family and kinship relationships;

Findings from the Australian Institute of Health and Welfare identify that 1 in 2 people who perpetrate elder abuse are a family member (<https://www.aihw.gov.au/family-domestic-and-sexual-violence/population-groups/older-people>) and this corresponds with our experience. One area that we commonly see this occur within is where a son or daughter is the Enduring Power of Attorney (EPOA) for the War Widow. We frequently see decisions made concerning accommodation and finances, where the client's wellbeing is secondary to the Attorney/s wants and needs. Once the EPOA has been enacted, should there be concerns with the actions of an Attorney and the widow has been assessed to no longer have capacity, it can be difficult to change as this requires an application to the Queensland Civil Administrative Tribunal (QCAT). Alternatively, if the widow retains capacity, they remain able to revoke an EPOA and make a new document however this can also be challenging at times pending a suitable alternative Attorney.

One particularly harrowing case was a widow, whose son and daughter (appointed Attorneys) were perpetrators of financial, and emotional abuse. We supported the widow through the QCAT process seeking a declaration of capacity initially and subsequently an application to QCAT seeking the appointment of an administrator and a guardian. Unfortunately, our experience of this was not positive and we observed systematic failures on every level which ultimately impacted the rights of the widow. We believe the QCAT Members missed critical information and were not clear with their communication during the proceedings which meant the widow did not understand her rights and was not even present for the first proceeding which was the application seeking the Declaration of Capacity. Additionally, the Public Trustee did not provide adequate representation, and the residential aged care facility did not pass on the notice of her hearing which meant she could not attend. The impact of the widow's children (Attorneys) and their lawyer attending a subsequent hearing caused significant emotional distress and anxiety, which resulted in the QCAT Member appointing her daughter (alleged perpetrator) as her administrator and guardian.

In further detail, the initial QCAT decision revoked the newly appointed EPOA but did not state in the QCAT Order that this had occurred. This error meant that the widow was without an attorney. Her children assumed they remained her attorneys. QCAT advised Legacy one week before the hearing that they had made an error, and the widow would need legal advice and an application for Administration and Guardianship would have to be lodged. The Public Trustee's Case Manager was away at the time of the hearing, and they sent a representative who was unable to give a statement of how the Public Trust assessed the widow when she had attended their office to make a new will and EPOA. At the time not only did the Public Trustee Senior Officer assess the widow's capacity to make the document but the widow had also taken supporting medical advice to state she was able to understand the process and able to make new documents of this nature. Furthermore, the aged care facility withheld the widows mail and forwarded the mail onto children, hence her not receiving the notice to attend the first hearing. The children were the only attendees at first hearing and a decision was made based on the children's statements. We believe this was a miscarriage of the Tribunal proceedings given the right of the adult to be present and to provide her views and wishes.

The widow was also linked to an Advocate from Aged and Disability Advocate Australia (ADA) who then provided the widow with legal advocacy for the QCAT hearing however we held concerns that sufficient preparation was not undertaken leading up to the hearing by ADA. The Advocate arrived on the morning of the hearing without having read the case, and we believe as a result of this, and the children's (Attorney's) lawyer attending (they need to have consent and permission) that the widow was overwhelmed by this experience and additionally, the ADA Advocate did not sufficiently obtain the widow's views and wishes to fully inform the QCAT hearing and the widow agreed to an outcome she may not have otherwise agreed to.

Based on this example, we believe the process was significantly flawed, not-trauma informed, incredibly stressful for the widow and did not put the human rights of the vulnerable client at the centre of the proceedings in the way we had anticipated would occur. This is despite the support of various systems whom we had anticipated would advocate for the widow, upholding her voice despite the challenging processes she enduring during all of this.

In our experience, often the older widow has a dependent or perceived dependent relationship with their family who are commonly the perpetrators so it can be difficult to separate the relationship from the abuse. The older person frequently wants to retain the relationship and not 'upset the applecart'.

The case study below is an ongoing Legacy Brisbane case with an older War Widow who is experiencing multiple forms of abuse; financial, psychological, and emotional abuse with threats of violence from her daughter. This mirrors elder abuse statistics in Queensland from the Elder Abuse Prevention Unit, that 67.1% of victims experience more than one type of abuse (<https://eapu.com.au/wp-content/uploads/2024/02/EAPU-Year-in-Review-2023.pdf>). The daughter who lives with the widow has tried numerous times to coerce the widow to change her will and leave the family inheritance all to her even though there are a significant number of other family members. Police have attended the home after verbal abuse and threats of violence from the daughter but taken no action.

The daughter has isolated the widow from her support network (local church) and the rest of the family including all grand children and great grandchildren and has cancelled the widow's DVA Veterans Home Care supports. On many occasions the daughter has tried to undermine the widow's capacity, telling her she is mentally ill and needs to increase medication and calling an ambulance to get the widow assessed to have lost her mental capacity.

Legacy was able to support the widow initially and make significant progress and the daughter moved out for a short amount of time. Unfortunately, the widow is adamant that she wants to live with her daughter, so she moved back in, and we see the cycle of abuse starting to recur. While this is extremely difficult for us, we must respect the widow's decisions around her own life. Legacy is in a fortunate position that we can continue to check in with the widow and be on hand should she make a different decision relating to the relationship with her daughter. We can also intervene if the abuse escalates further and the widow consents to this.

Another case we dealt with recently was a widow who had appointed her 2 sons as joint Attorneys on her EPOA. Unbeknownst to them, their sister had taken the widow to sign a new one, appointing her. There were many unexplained cash withdrawals, withdrawals at RSL clubs, and it emerged that

she had a gambling problem. The son then had to regain EPOA, change all the bank accounts etc to ensure the widow was not left destitute.

Recommendation 1 - An appropriately pitched education campaign around factors to be considered when appointing an EPOA, help older people to choose someone (or two people preferably) who will do the right thing by them. Effective education for Principles when signing / witnessing an EPOA – do they intend for it to be effective immediately for finances or upon loss of capacity. We believe many people do not understand that they have a choice with this aspect of making an EPOA.

Recommendation 2 - A central register of EPOAs. This has been talked about for a long time – ensuring that people are using the current EPOA documents. For example, if someone appoints a new EPOA and the old one is not destroyed then the previous EPOA can try to use it, take advantage such as accessing bank accounts.

Recommendation 3 – QCAT staff are trained in trauma informed practice and put vulnerable individuals' wellbeing at the centre of all processes.

Our experience of family and kinship relationship factors contributing to elder abuse:

- Housing

It has been our experience that the cost of living and the housing crisis means that more older people are living with their sons/ daughters / other relatives. Within Legacy, we see various scenarios including the older person cannot afford to rent, and so moves in with the younger person, or vice / versa; or the son / daughters marriage ends, they cannot afford a property and so move back in with a parent. As per the case examples provided, we then see patterns of control between the family member/Attorney and the widow at times socially isolating them and impacting on their right to self-determine. This can include not allowing them to spend time with friends or other family, not allowing them to go to appointments such as Doctors independently and essentially controlling their lives in a variety of ways which only further increases the risk of abuse and limits their access to potential intervention.

- Dependent children who never leave home

Sometimes referred to as “failure to launch” syndrome. We have supported widows where the adult child has never left home, never contributed financially, is not contributing to the household, but the elderly person cannot get them to leave. They are a drain financially, can be emotionally abusive and manipulative and often the older person is fearful of them.

- Financial

“Inheritance impatience” we hear of adult children or grandchildren demanding their inheritance early or not assisting the older person with arrangements when they really need to move into care / or sell the house as they are concerned for the costs involved and the loss of their inheritance they have been depending on.

b. effectiveness and cohesiveness of responses to elder abuse, including Queensland laws, policies, programs and services, in preventing, safeguarding, identifying and responding to elder abuse, including:

i. adult guardianship and violence protection services, other funded services, and community-based interventions;

As we are not a specific elder abuse prevention or response service, we frequently refer clients to services like ADA, Seniors Legal and Support Service (SLASS), Seniors Enquiry Line and Seniors Relationship Mediation Service (SRMS). However, it is often the case that the widow is not aware that their son or daughter's behaviour constitutes abuse.

Recommendation 4 – Strengthening education in the community services sector and more generally about what elder abuse is. This could be targeted in places like GPs, pharmacies, and clubs such as RSL or sporting venues.

Our experience with funded services and community-based interventions have been very mixed. It has been the case on a number of occasions that ADA have been unable to take on client cases if other advocacy organisations like Legacy are involved, possibly due to high workload. This is concerning as Legacy is not a service with specific knowledge around responding to elder abuse. We refer to the experts.

Recommendation 5 – Review capacity and funding of funded services such as ADA

Our experience has also been that when elder abuse has been identified there needs to be a viable alternative for the client who has limited options for an Attorney or capacity is rebutted and a QCAT Order is made appointing a Guardian through Office of the Public Guardian (QLD). Our experience of the Public Guardian is not positive. Staff retention is poor so receiving a good service with clear, frequent communication is difficult. It is difficult for our older widows to build rapport and trust with a Guardian or Case Officer when that person is constantly changing. Many of our trained and experienced CSOs cannot confidently recommend the Public Guardian as a viable option for our widows as a result of these experiences and we feel this increases the risk of the widow as they may feel compelled to make an EPOA if they are still able to do so and appoint someone they may not feel entirely comfortable with or if capacity is rebutted, have an OPG Guardian appointed for them in the absence of anyone else willing or appropriate.

Recommendation 6 – Review the services of the Public Guardian including staff turnover and education / wellbeing. As per Recommendation 5 rationale.

Concluding points

Legacy Brisbane's experience very much mirrors the statistics of who and how elder abuse is perpetrated. The level of complexity is high with family members being the main perpetrators of financial and / or emotional abuse. We frequently see older widows who do not understand what constitutes elder abuse and they do not want to upset or lose the relationship with their sons or daughters, who are often the perpetrator. Also, we have found it difficult to source viable alternative EPOA options for the widows, or confidently recommend using the Public Guardian.



In terms of accessing specific support services, our experience has been extremely variable. Contributing factors include a lack of appropriate resources including funding. This puts our most vulnerable clients at most risk when they need support the most.