

Inquiry into Elder Abuse in Queensland

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Subject: Submission to the Queensland Elder Abuse Inquiry By Chris Jenkinson – Brisbane, Queensland
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Submission to the Elder Abuse Inquiry

By Chris Jenkinson – Brisbane, Queensland

Objective of Inquiry:

“The Committee seeks to understand the nature and extent of elder abuse and to evaluate how well current systems support older Queenslanders.”

I make this submission in a personal capacity and not on behalf of any organization. I consent to my name and comments being published on the Inquiry webpage.

I have posed several questions within this submission in the hope that they bring clarity to significant issues that are too often ignored.

Definition and Scope of Elder Abuse

A widely accepted definition of elder abuse is:

“Any action or inaction that harms, endangers, or causes distress to a person over the age of 60 or 65 and is done intentionally by someone who is known to the victim and in a position of trust.”

The Committee has expressed a desire to hear from Queenslanders who have experienced elder abuse in order to help prevent and better respond to it.

Yet, there is a crucial and often overlooked issue: **Queensland’s substitute decision-making laws and gag provisions actively prevent victims placed under public guardianship or administration—and their families—from speaking out.** These victims are excluded from Court protections and can be forced into institutional care against their wishes, with serious consequences for their wellbeing and rights.

Key Concerns and Questions for the Committee

1. **How does the Committee intend to seek input from those under public guardianship and administration?** These “protected persons” form a uniquely silenced group of citizens, stripped of legal agency and legislatively gagged from sharing their experiences.

2. **Will the Inquiry address the systemic and long-standing financial exploitation facilitated by the Queensland Public Trustee, and enabled by the Queensland Civil and Administrative Tribunal (QCAT)?** This is not incidental abuse—it is systemically designed and government-sanctioned.
3. **Is the Committee prepared to examine financial documentation and legislation that show intent rather than mere error in government-enabled elder abuse?** A comparison with what would be acceptable in systems that respect individual autonomy would be revealing. As always, following the money trail is key.

The Australian Government acknowledges elder abuse as a serious and complex issue, often perpetrated by someone in a position of trust—such as family, friends, or caregivers—and typically occurring in private settings like the victim’s home. It affects individuals across all demographics, with both victims and perpetrators sometimes unaware that abuse is occurring. With 16% of the population aged 65 and over as of June 2020 (around 4.2 million people), and this figure expected to rise to 23% by 2060–61, the government emphasises the growing importance of addressing elder abuse.

However, while government campaigns raise awareness and encourage reporting, they consistently direct victims into state-run tribunals, where many find their rights further diminished. There is little to no acknowledgment in public campaigns or official literature of abuse perpetrated by State Government bodies themselves—particularly through guardianship, administration, or public trustee frameworks. **Where, in any government materials or advertisements, is State-sanctioned elder abuse addressed?** Without recognition of this form of abuse, calls for accountability remain incomplete and protections remain inaccessible to those most affected.

Personal Experience

I was appointed by QCAT as a Guardian for my mother while she resided in Queensland. What I witnessed firsthand was:

- **Elder abuse passed from one entity to another across State lines.**
- **QCAT decisions prioritizing the protection of state counterparts and abusers over the wellbeing and rights of a vulnerable Queensland resident.**
- **A complete lack of accountability.**

Despite the principle that guardianship should be a last resort, **QCAT excessively and inappropriately applies it.** It is an administrative body—not a court of law—and

routinely denies legal representation and procedural fairness.

“How many flawed or unfair decisions by QCAT are considered acceptable? And why is a self-reviewing body allowed to make permanent life-altering decisions behind closed doors?”

Financial Elder Abuse by Design

For decades, the Queensland Government has sanctioned and legislated a system of financial exploitation targeting vulnerable citizens—facilitated through the Public Trustee’s operations as a 'business enterprise.' Rather than risk political backlash by introducing death duties, successive governments have instead relied on public administration mechanisms that enable a form of hidden, legalized generational asset stripping. As highlighted by the ABC, Australia’s baby boomer generation—its wealthiest to date—is expected to pass on approximately \$3.5 trillion in inheritance over the coming decades. The current system enables the State to capture a significant portion of this wealth under the guise of protection and administration.

The financial exploitation of older Queenslanders is particularly blatant in how the Public Trustee handles clients’ assets. Consider:

- Citizens are forced under Public Guardianship and Administration, and their assets (homes, savings, estates) are liquidated.
- These funds are then pooled into a Public Trustee **“Common Fund”** with sub-market interest rates and extensive fees.
- **In 2023, interest payable was set at 0.8%, despite banks offering around 5%.**

This practice reduces the value of clients’ life savings and directly benefits government revenue. It meets the definition of **financial elder abuse** by:

“Misusing an elder’s money or belongings for personal gain, often by someone in a position of trust.”

Government justification for these practices, as per the **Human Rights Certificate** attached to legislation, openly admits to limiting human rights—but claims it is “reasonable and demonstrably justified.” Many would strongly disagree.

Questions for the Committee

- **Does the Committee recognize that elder abuse can and does occur within government agencies?**

- **Is self-regulation by the Attorney-General's Department sufficient protection for those who have lost control of their lives under its QCAT Tribunal and Offices of Public Guardian and Public Trustee?**
 - **Is there a conflict of interest when that Department that oversees QCAT also benefits financially from the decisions it enables through the Public Trustee?**
 - **Why is there no independent scrutiny or recourse for victims when rights are violated under this system?**
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Government Immunity and Lack of Legal Recourse

Victims of government elder abuse:

- Are silenced by gag laws.
- Are denied the right to legal representation.
- Are placed under financial control that benefits the State.
- Have no accessible/viable or funded legal pathway to challenge these abuses.

“Why should these government perpetrators be exempt from accountability when every other form of elder abuse is rightly condemned?”

A Broken System in Urgent Need of Reform

The Public Guardianship and Administration system is fundamentally broken—and in Queensland, the core of the problem begins with QCAT. As an administrative tribunal, QCAT has repeatedly shown itself unfit for the life-altering decisions it is tasked with. It operates outside the safeguards of a proper court of law, where established Court Rules and procedural fairness are mandatory.

Even the Office of the Public Advocate (Qld) has acknowledged serious concerns. In its submission, it referenced Article 12 of the UN Convention on the Rights of Persons with Disabilities (CRPD), noting that while guardianship is meant to be an intervention of last resort, it is in fact **"excessively used and misapplied."**

This raises urgent questions: **How many breaches of procedural fairness against Queenslanders are considered acceptable? And how can QCAT's system of self-review and self-monitoring possibly be appropriate for decisions that permanently strip individuals of their rights, autonomy, and control over their own lives?**

It is time to replace the current **substitute decision-making regime** with **supported decision-making** aligned with Article 12 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD). The current system protects government power and revenue—not vulnerable citizens.

Government inquiries and public campaigns around elder abuse often point the finger at families, carers, or institutions—but conveniently leave out systemic government abuse.

This submission calls for:

- Guardianship and Administration systems should be replaced by Supported Decision-Making, with all such matters determined in a Federal Court of Law—ensuring equal treatment and protection for all Australians, regardless of their state or territory of residence.
- Independent oversight of QCAT and Public Trustee operations.
- Transparency in decision-making and financial management.
- Recognition of **government-inflicted elder abuse** as real, measurable, and preventable.

Final Note

Financial elder abuse is not abstract. It is quantifiable, and it is being inflicted under the banner of State protection.

"ABC News Feb 2021 - Queensland's Public Trustee accused of profiting off people who lack capacity to manage own affairs - "They've then gone under the control of the Public Trustee, and due to the fees and charges, they've ended up with no resources, with no savings."

Key Points - Queensland Public Trustee has been accused of fee-gouging vulnerable people. Advocates have suggested asset-rich clients could be left destitute. Public Trustee says it has a mandate for the structure of its operations." What has changed?

“What level of government-inflicted elder abuse will this Committee tolerate before it makes recommendations for real action?”

Finally, financial elder abuse is often more measurable and less subjective than other forms of abuse. Forbes defines it as “the misuse of an elder’s money or belongings for personal gain, often by someone in a position of trust.” Given this, why is government exploitation or profiteering excluded from the definition of 'misuse'?

And why does the requirement of 'personal gain' seem to exempt government institutions from accountability, even when their actions mirror those of private abusers—just under the cover of legislation?

Thank you for considering this submission. I am available at any time to provide further information or detailed documentation.

Chris Jenkinson

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