

Inquiry into Elder Abuse in Queensland

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LAWYERS

10 April 2025

By online lodgement

BRISBANE

Dear Members of the Education, Arts and Communities Committee (**the Committee**)

Level 8, Waterfront Place
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Brisbane Qld 4000 Australia

Submission to the inquiry into Elder Abuse in Queensland (the Inquiry)

PO Box 7822, Waterfront Place
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Thank you for the opportunity to make this submission.

ABN: 54 105 489 661

In making this submission we acknowledge the traditional custodians of the lands and waters across Queensland and Australia and pay our respects to their Elders past and present.

We acknowledge the disproportionate impact of family and domestic violence (**FDV**) experienced by First Nations peoples, including the financial abuse of older First Nations people, which often occurs in the form of 'humbugging'. Whilst we do not focus specifically on this topic in our submission, we emphasise the importance of its consideration by the Committee, particularly given the high percentage of First Nations people residing in Queensland (i.e. 4.6% of the population, which is above the national percentage of 3.8%).¹

We also acknowledge the unique vulnerabilities of older people at the intersections, for example, women, members of the CALD community, members of LGBTQI+ community and people living with a disability.

In relation to women specifically, our professional experience, and supported by research, we emphasise that elements such as gender roles, generational differences and societal standards often leads to older women being trapped in relationships and unwilling to seek assistance or report abuse due to feelings of shame.

We emphasise that any reform should be balanced and considered through a human-rights based approach. That is, the autonomy and independence of all older people, should be supported, recognised and enacted through any reform, rather than focusing on their potential deficits. **Terms of Reference (TOR) and focus of this submission**

The TOR for this Inquiry call for consideration of the nature and extent of the abuse of older people in Queensland (1a) and the effectiveness and cohesiveness of responses to elder abuse (1b), and opportunities to improve responses to same (1c).

Our recommendations and submissions respond directly to these considerations, with a specific focus on issues we have identified as legal practitioners within the practice areas of estates and succession and FDV. These issues are:

1. Barriers impacting access to justice for elders suffering abuse;
2. Increasing concerns about Enduring Powers of Attorney (**EPOAs**) not being signed freely and voluntarily by older people; and

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¹ Australian Bureau of Statistics (2021), [Aboriginal and Torres Strait Islander people: Census](#), ABS Website, accessed 7 April 2025.



3. The effectiveness of QPS responses to coercive control, as a form of elder abuse.

Recommendations

1. **Recommendation 1: Screening tools for General Practitioners (GPs) and Queensland Police Service (QPS)** – increasing community-based screening tools for GPs, QPS and other front-line professionals to assist with identifying and responding to signs of elder abuse.
2. **Recommendation 2: Introducing an Adult Safeguarding Unit** – the Committee consider South Australia's *Ageing and Adult Safeguarding Act 1995* and consider the introduction of an Adult Safeguarding Unit (or a similarly named body) with statutory responsibility and accountability for receiving and responding to reports of abuse or mistreatment of vulnerable adults in Queensland.
3. **Recommendation 3: Enhanced witnessing requirements of Enduring Powers of Attorney (EPOA)** – through the following means:
 - a. increasing the onus on EPOA witnesses by requiring:
 - i. the witness declaration be expanded to provide that the witness signed the document in the presence of the principal alone and without any other persons present (with emphasis to be placed on no person being appointed as an attorney under the document being present); and
 - ii. the witness certificate be amended to take the form of a statutory declaration requiring the witness to declare on oath their satisfaction of the witnessing requirements;
 - b. ensuring that, any investigatory body (such as the recommended Adult Safeguard Unit) be appropriately authorised to investigate the execution of an EPOA. Investigations might lead to a referral for review of practice to relevant regulatory body; and
 - c. additionally, the Committee must consult with the relevant regulatory bodies to identify risks associated with confidentiality of client material should a witness be asked to provide a statement and/or file notes associated with the execution of an EPOA.
4. **Recommendation 4: More training and resourcing for QPS across all of Queensland to assist with the identification of patterns of behaviour and to more appropriately respond to the coercive control of older people.**
5. **Recommendation 5: Better QPS elder abuse self-help and prevention resources specifically addressing coercive control and patterns of behaviour.**

Elder abuse in Queensland

Elder abuse is a significant issue in Queensland and Australia more broadly. In 2020, 1 in 6 (or 15%) people in Australia experienced elder abuse,² a statistic that is only set to increase as the population ages.³ The decline in physical and mental capacities in people aged over 60, together with the

² Australian Institute of Health and Welfare, 'Older people', Australian Government (Web page, 28 February 2025) <<https://www.aihw.gov.au/family-domestic-and-sexual-violence/population-groups/older-people>>.

³ Queensland Law Society, 'Elder Abuse Joint Issues Paper', (Report February 2022) 9; Western Australia, [Parliamentary Debates](#), Legislative Council, 13 September 2017, 12; Victorian



increased reliance on others, leaves older people particularly susceptible to abuse and with fewer pathways to seek assistance.⁴

In the Queensland Treasury's *"Insights into the abuse of older Queenslanders Crime Research Report"*⁵ it was identified that the abuse of older people is most commonly perpetrated by the adult children of the person, with such abuse predominantly being classified as either emotional / psychological abuse (75.9% of cases reported to Healthline in the 2024 financial year)⁶ or financial abuse (65% of cases).⁷

Elder abuse frequently arises in relationships of caregiving, particularly where adult children care for their elderly parent, and in this sense can often be distinguished from abuse experienced within intimate partner relationships.⁸ In Queensland, 72% of abusers reported to the Elder Abuse Helpline were the survivor's adult children.⁹ Understanding the common relationships between victim-survivors (**Survivors**) and their abuser is particularly important in identifying and responding to complex forms of elder abuse, such as coercive control. Moreover, responses and interventions to elder abuse should be appropriate to a Survivor's stage of life and specific characteristics.¹⁰

Reporting of elder abuse

a) Barriers to the reporting of elder abuse

Based on our practical experience and desktop research, we identify several barriers impacting access to legal protection and support for elders suffering abuse:

1. **Individual and personal barriers** which are generally identified as a Survivor's reluctance to report abuse due to feelings of shame, embarrassment or guilt,¹¹ fear of retribution from the abuser tied closely to a dependence on the abuser and/or desire to protect the abuser from consequences in order to preserve the familial relationship.¹² Additionally, cognitive impairment has also been identified as a significant hinderance where the Survivor might be unable to recognise abuse, articulate their experiences and sufficiently engage legal services.
2. **Societal and systematic barriers** such as a lack of education and awareness in the general community,¹³ and consistency of awareness and training across all of the QPS, a reluctance

Government, 'Data collection standards - Older people', (Web Page, 10 January 2022)

<<https://www.vic.gov.au/victorian-family-violence-data-collection-framework/data-collection-standards-older-people>>.

⁴ Australian Institute of Family Studies, '[What the research evidence tells us about coercive control Survivorisation](#)' (Policy and Practice Paper, February 2024) 39.

⁵ Queensland Government Statistician's Office, '[Queensland Treasury: Insights into the abuse of older Queenslanders](#)' (Report, 2024).

⁶ Uniting Care, '[Elder abuse statistics in Queensland: Year in review 2023–24](#)' (Report, 2024).

⁷ Ibid.

⁸ Christina PolICASTRO, & Mary Finn. (2017). '[Coercive Control in Intimate Relationships: Differences Across Age and Sex](#)'. *Journal of Interpersonal Violence*, 36(3-4), 1520–1543.

⁹ Barbara Blundell, Joe Clare, Emily Moir, Mike Clare, Eileen Webb, '[Review into the Prevalence and Characteristics of Elder Abuse in Queensland](#)', (Report, 2017) 117.

¹⁰ Ibid.

¹¹ Australian Government, '[National Elder Abuse Prevalence Study: Final Report](#)' (Report, December 2021) 28.

¹² (n 6).

¹³ Australian Law Reform Commission, '[Elder Abuse \(Discussion Paper No 83\)](#)' (Discussion Paper, 2016).



from Survivors to engage with legal systems specifically lawyers and/or police officers¹⁴ and limited access to resources and financial constraints inhibiting access to legal services.

3. **Legal and procedural barriers** such as the lack of targeted or specific legislation which defines Elder Abuse as an offence or any nationally recognised definition of the terms “elder” and “elder abuse”, which create a gap in distinguishing elder abuse from other forms of offending behaviour.¹⁵ Moreover, there are limitations in the powers of investigation of relevant bodies like the Office of the Public Guardian (**OPG**) (which is limited only to circumstances where the adult has lost capacity) and the Elder Abuse Prevention Unit (**EAPU**) (which does not have any investigative powers and can only refer any complainants to alternate resources).¹⁶

b) Addressing barriers to reporting elder abuse

Research indicates that there is limited evidence of the prevalence of elder abuse due to lack of reporting of same.¹⁷ This lack of evidence both contributes to, and further compounds, the barriers identified above. The likely causes of under-reporting of elder abuse are:

1. **Self-reporting** - There are several perceived factors contributing to a lack of self-reporting for Survivors, including:
 - a. Dependence on the abuser and fear of losing the care and assistance they may otherwise provide;¹⁸
 - b. Fear of jeopardising the relationship between the Survivor and offender particularly in circumstances of parent / child relationships;
 - c. Inability to report which can be categorised as occurring due to:
 - i. a genuine inability to communicate (i.e.: lack of un-monitored access to phone / internet or appropriate technological literacy to locate available services); or
 - ii. cognitive decline / lack of awareness as to the abuse being perpetrated.
2. **External reporting** - There are several perceived factors contributing to a lack of external reporting of elder abuse to relevant agencies or authorities, including:
 - a. privacy and confidentiality concerns for stakeholders or institutions on the front-line such as general practitioners, banking institutions, aged care facilities or lawyers to report suspected abuse; and
 - b. lack of sufficient mechanisms / tools to appropriately identify abuse.

To address these reporting issues, we recommend increasing community-based education and also screening tools for GPs, QPS and other front-line professionals. Existing tools and education

¹⁴ Queensland Government Statistician's Office, [Insights into the abuse of older Queenslanders](#) (Report, 2023).

¹⁵ Queensland Police Service, Departmental Briefing No A1389772 to Education, Art and Communities Committee, Parliament of Queensland, Inquiry into Elder Abuse in Queensland (29 January 2025)

¹⁶ (n 13)

¹⁷ (n 9) 8.

¹⁸ (n 11) 28.



campaigns should be expanded to assist with the identification of elder abuse behaviours specifically within the context of adult child / parent relationships.

Identification tools and community campaigns should include:

- a. guidance on how to effectively communicate with and support older adults, people with cognitive impairments or other vulnerabilities; and
- b. information about referral pathways for Survivors, including the EAPU Helpline, Seniors Legal and Support Services (SLASS), Relationships Australia Elder Abuse Prevention and Support Service, the OPG, and Aged and Disability Advocacy Australia; and

It is also critical for the Committee to consider privacy concerns of front-line professionals where the professionals suspect elder abuse and where and how they can and should report it.¹⁹ Significantly, the Committee should consult with the following to identify appropriate protocols that can be implemented for health professionals, aged care providers and legal professionals to report concerns of elder abuse whilst balancing their ethical obligations of confidentiality to the Survivor:

1. The Queensland Health Ethical standards unit;
2. The Aged Care Quality Safety Commission; and
3. The Queensland Law Society Ethics Committee.

c) Legal and procedural barriers

In Queensland the following bodies are designated to address reports of elder abuse:

1. The OPG;
2. The QPS; and
3. The EAPU.

The OPG has the power to investigate complaints and allegations about the neglect, exploitation, or abuse (including with respect to the actions of an attorney appointed under an EPOA, guardian or administrator) of older people. The OPG's powers are however limited to adults with impaired capacity for decision-making. Older people who do not have impaired capacity but are still vulnerable to abuse are not protected by the OPG.

Similarly, whilst the EAPU plays a crucial role in Queensland's response to elder abuse through its helpline and data collection, it does not possess any statutory powers to investigate allegations of elder abuse. Its function is primarily to receive reports, offer support and information, and facilitate referrals to appropriate agencies that may have investigative or intervention powers, such as the QPS or the OPG.

We recommend that the Committee consider South Australia's *Ageing and Adult Safeguarding Act 1995*²⁰ with the prospects of introducing an Adult Safeguarding Unit (or a similarly named body) statutory responsibility and accountability for receiving and responding to reports of abuse or

¹⁹ Ries, Nola M and Elise Mansfield, 'Elder abuse: The role of general practitioners in community-based screening and multidisciplinary action' (2018) *Australian Journal of General Practice* 47(4) 235–239.

²⁰ [Ageing and Adult Safeguarding Act 1995 \(SA\)](#).



mistreatment of vulnerable adults in Queensland. The Adult Safeguarding Unit should have a clear mandate to safeguard the rights of adults vulnerable to abuse in Queensland and be appropriately authorised to investigate reports of elder abuse without the limitation of requiring the adult to have impaired decision-making capacity.²¹

Additionally, the Committee should give appropriate consideration as to how an Adult Safeguarding Unit would:

1. address information sharing protocols with state authorities, organisations actioning a referral, and relevant tribunals, while ensuring the confidentiality of personal information;
2. define the powers of authorised officers within the Adult Safeguarding Unit to conduct assessments and investigations. These powers, (per the model in South Australia), could include the ability to request information, inspect premises (with appropriate safeguards and warrants for non-consensual entry), and take recordings, to gather necessary evidence to ensure the safety of the vulnerable adult. It is crucial however that these powers are balanced with the individual's right to autonomy and to refuse intervention.

The establishment of an Adult Safeguarding Unit would need to be accompanied by:

1. Comprehensive community consultation, which is essential to inform the legislative framework and operational procedures. Specifically, consultation with:
 - a. older people;
 - b. older people at the intersections including older women, older people with disabilities; older First Nations people; older people from rural, regional and remote communities and older people who belong to the LGBTIQ+ community and CALD community;
 - c. advocacy groups;
 - d. aged care service providers;
 - e. legal professionals;
 - f. health professionals; and
 - g. the broader community to understand their needs and concerns.
2. Public awareness campaigns necessary to educate the Queensland community about the existence and role of any such unit and how to recognise elder abuse and make a report.
3. Reporting guidelines for professionals to address conflicts with professional ethical obligations of confidentiality.

Elder abuse and Enduring Powers of Attorney

a) Witnessing requirements for Enduring Powers of Attorney

We identified above the implications of financial abuse often being perpetrated by a person of a close relationship with the elder (identified as predominantly being an adult child of the elder). In 2024, a

²¹ (n 13) 40-41.



survey by the Australian Human Rights Commission (**2024 AHRC Survey**) identified misuse of an EPOA as one of the three most common methods of perpetrating financial abuse.²²

The 2024 AHCR Survey identified that only half (52%) of survey respondents sought professional advice before completing an EPOA.²³ The 2024 AHCR Survey report calls for nationally consistent EPOA laws in order to address the significant gaps in the knowledge of Australians around the rights and responsibilities of both principals and attorneys and to implement uniform mechanisms of oversight and governance. For the purposes of these submissions we have not expanded on the proposition for nationally uniform mechanisms and focused instead on the implications that the 2024 AHCR Survey results have on Queensland.

In Queensland, an EPOA can be witnessed by:

- a justice of the peace;
- a commissioner for declarations;
- a lawyer; and
- a notary public.

In signing the document, the witness must declare that they are satisfied that the principal appears to have capacity to make the EPOA, that they understand the nature and effect of the EPOA and that they are capable of making the EPOA freely and voluntarily.²⁴

Whilst often significant focus is placed on the question of capacity from the perspective of whether the principal understands the nature and effect of the document, our practical experience, specifically advising clients on disputes around the validity of EPOAs, shows a growing number of cases are focused on whether the document has been signed freely and voluntarily (in particular where a document has been signed in circumstances where there is evidence of early stages of cognitive decline but where the person would not yet be considered to have lost capacity).

To address this issue, we recommend increasing the onus on EPOA witnesses by the following reforms:

1. Expanding the EPOA witness declaration so that it provides that the witness signed the document in the presence of the principal alone and without any other persons present (with emphasis to be placed on no person being appointed as an attorney under the document to be present);
2. That the witness certificate be amended to take the form of a statutory declaration requiring the witness to declare on oath their satisfaction of the witnessing requirements; and
3. Ensuring that any new investigatory body (such as the recommended Adult Safeguard Unit) be appropriately authorised to investigate the execution of an EPOA in circumstances where they have been satisfied that there is sufficient evidence to support the need for an investigation into the affairs of the adult. Investigations resulting in a finding

²² (n 6).

²³ Australian Human Rights Commission, [Empowering futures: A national survey on the understanding and use of financial enduring powers of attorney](#) (Report 2024).

²⁴ Queensland Government, [Enduring Power of Attorney Explanatory Guide \(Queensland\)](#) (Explanatory Guide, November 2020), which relates to Form 9 under the *Powers of Attorney Act 1998* (Qld).



of unsatisfactory adherence to the witnessing requirements might lead to a referral for review of practice to a relevant regulatory body such as the Legal Services Commissioner, Department of Justice and Attorney General (Justice of the Peace and Commissioner for Declarations Branch) and the Society of Notaries of Queensland.

We also recommended that the Committee consult with the relevant regulatory bodies to identify risks associated with confidentiality of client material should a witness be asked to provide a statement and/or file notes associated with the execution of an enduring power of attorney.

Elder Abuse and Coercive Control

Coercive control is a pattern of behaviour that typically results in abusers controlling the Survivors' daily activities, restricting their financial means and isolating them from family and friends.²⁵ It tends to be found in relationships with power imbalances, where one party is reliant on the other for finances, basic necessities, or care. Abusers will leverage this dynamic to control the Survivor's daily life to devastating effect on the Survivor.²⁶

Unique patterns of coercive control in elder abuse contexts can include falsely convincing a Survivor of their cognitive decline, intentionally not providing medications, threats of neglect, placement in aged care facilities, family alienation, deliberately making the survivor believe they are a burden, or creating social isolation from the older person's family and friends.²⁷

a) Coercive control legislation / policies

The Queensland Government has committed to, and commenced, a system-wide reform to respond to coercive control. These reforms include a coercive control communication framework, which identifies older people as a target audience and addresses specific considerations for engagement with older people,²⁸ as well as the introduction of a standalone criminal offence of coercive control (see the *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024* (Qld)) that extends to domestic relationships.²⁹ Domestic relationships include an intimate personal relationship, a family relationship, or an informal care relationship.³⁰ The criminalisation of coercive control in Queensland will come into effect on 26 May 2025 and will carry a maximum jail sentence of 14 years.³¹ The State's civil protection regime was also recently amended to recognise that domestic violence, including coercive control, may be a pattern of behaviour.³²

²⁵ Justice François Kunc, 'Current Issues: The Rule of Law' (2021) 95(5) Australian Law Journal 311, 315.

²⁶ Leanne Collingburn and Margaret Arthur, [Elder Abuse and Coercive Control Reform in Australia](#), (Report, 2023) 1; Australian Government, [National Elder Abuse Prevalence Study: Final Report](#) (Report, December 2021) 30.

²⁷ Ibid 4; referring to the Caxton Legal Centre, [Submission to Women's Safety and Justice Taskforce, Inquiry into Options for legislating against coercive control and the creation of a standalone domestic violence offence](#) (July 2021) 5.

²⁸ Queensland Government, <https://www.publications.qld.gov.au/dataset/domestic-and-family-violence-prevention/resource/f8d2f303-2cf8-4429-a2f5-9e49064e761f> (6 March 2024), 36.

²⁹ [Criminal Law \(Coercive Control and Affirmative Consent\) and Other Legislation Amendment Act 2024 \(Qld\)](#).

³⁰ Domestic relationship is defined as a 'relevant relationship' under s 13 of the [Domestic and Family Violence Protection Act 2012 \(Qld\)](#).

³¹ (n 29) s 334C.

³² The [Domestic and Family Violence Protection \(Combating Coercive Control\) and Other Legislation Amendment Act 2023 \(Qld\)](#) commenced on 1 August 2023 and amended the definition of 'domestic violence' in the [Domestic and Family Violence Protection Act 2012 \(Qld\)](#), to refer to 'a pattern of



These provisions give Queensland's older Survivors of coercive control options for legal protection and prosecution, irrespective of whether their abuser is an intimate partner, family member or informal carer. As such, these reforms are crucial to ensuring that a legal pathway to justice exists for older people to escape abusive relationships.

b) Queensland Police Service

As mentioned above, the coercive control reforms in Queensland apply to 'domestic relationships', which include broader family relationships and some carer relationships. Whilst this is positive for the protection of older Queenslanders, there remain practical challenges with respect to the implementation of the criminal offence of coercive control and community awareness of same. These challenges include:

1. QPS and patterns of behaviour³³

Rather than relying on single incidents of abuse, the legal concept of coercive control provides a means for Survivors to rely on an accumulation of behaviours that seek to abuse, threaten, coerce, or cause them to be fearful. In practice though, identifying and then proving a 'pattern of behaviour' is often complex and time consuming.

We understand that time and resource constraints impede upon the ability of the QPS to effectively identify patterns of behaviour in the context of coercive control. This is largely because such matters commonly involve significant bodies of evidence (for example, substantial emails and text message records) as well as the reality that they require evidence over a period of time, rather than of one instance of abuse. A further complicating factor is that often Survivors themselves don't readily recognise that the behaviours they are experiencing are coercive control.

Through our practical experience we are also aware that the experience of a Survivor can be different in circumstances where the Survivor is in regional Queensland versus metropolitan Queensland. In one instance we assisted an older client who was unsuccessful in obtaining a police protection notice (**PPN**) in regional Queensland, but on the same facts, was able to obtain a PPN in Brisbane City. Though the client was relieved to have ultimately obtained protection, the angst and additional trauma she experienced in presenting to QPS twice and recounting the same abuse twice was unnecessary.

We recommend that QPS across Queensland receive additional training and increased resourcing to effectively respond to identifying patterns of behaviour in the context of the coercive control of older people.

QPS external resources on elder abuse and coercive control

QPS's elder abuse brochure and elder abuse [webpage](#) do not specifically reference coercive control and patterns of behaviour.³⁴

behaviour'. This change recognises that domestic violence includes behaviours that occur over a period of time and / or where behaviour involves more than one act, or a series of acts.

³³ Charlotte Barlow & Sandra Walklate, '[Learning Lessons from the Criminalisation of Coercive and Controlling Behaviour Ten Years On: The Implementation Journey in England and Wales](#)', (2025) *International Journal for Crime, Justice and Social Democracy*; see also Women's Safety and Justice Taskforce, [Hear Her Voice – Report 1](#) (Report, 2021).

³⁴ Queensland Police Service, [Keeping Older People Safe](#), (Brochure, 2021); Queensland Police, *Elder Abuse* (Web Page, 2022) Accessed 7 April 2025 < <https://www.police.qld.gov.au/domestic-violence/elder-abuse>>.



We recommend QPS invest in and develop elder abuse self-help and prevention resources that specifically address coercive control and patterns of behaviour. This may also include education programs to encourage help-seeking and early intervention.³⁵ In developing these resources, consideration must be given to their accessibility for older people, who are often vulnerable due to their reliance on another person possibly due to cognitive impairments, the 'digital divide' or care needs, and are also likely to be unaware of service systems (for example, DVConnect, and the Elder Abuse Helpline) or restricted from accessing them.³⁶ Other important accessibility factors for developing these resources include the use of appropriate language, terminology and font-sizing, as well as providing audio resources.

About HopgoodGanim Lawyers

HopgoodGanim Lawyers are a leading Australian legal services provider at the forefront of expertise and service delivery in our key client markets. Our teams deliver high levels of client service and exceptional outcomes for our Australian and international clients from our offices in Brisbane and Perth.

Our Estates and Succession team have extensive experience relevant to Elder abuse including financial abuse, Domestic and Family Violence, capacity and guardianship, and administration matters.

We also have a dedicated pro bono legal practice. Our pro bono practice is focused on delivering impact and outcomes under our [Pro Bono Impact Strategy](#) in three priority areas:

- working with First Nations communities so that they can achieve the outcomes they want to achieve;
- mitigating the impact of environmental disasters; and
- reducing family and domestic violence.

You can read about the impact of some of our pro bono work in our [2023 Impact Report](#).

Yours faithfully

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³⁵ Silvia Fraga Dominguez, Jennifer E. Storey & Emily Glorney, '[Help-Seeking Behavior in Survivors of Elder Abuse: A Systematic Review](#)', *Trauma, Violence, & Abuse*, (2019) 22(3).

³⁶ Leanne Collingburn and Margaret Arthur, [Elder Abuse and Coercive Control Reform in Australia](#), (Report, 2023) 5.



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