

Inquiry into Elder Abuse in Queensland

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ELDER ABUSE SUBMISSION

INTRODUCTION

Thankyou for the opportunity to provide some supplementary information to the Inquiry following my in-person statement made recently in [REDACTED]. I have reviewed all other submissions to the Inquiry and now understand how wide-spread elder abuse is in our society and that the circumstances of which I spoke about are sadly not unique. In this written submission I wish to focus on actions that I hope could be considered as being reasonable in helping to address the identified problems. I have also thought about a marketing campaign that would highlight the threat of elder abuse in families and for action to be taken before it becomes too late. I would be happy to detail these to the Inquiry or to Department staff if required. I would also be willing to provide further information regarding my views on elder abuse which I witnessed in my own family over an extended period. As mentioned in my statement made in person, I do not want any other person or family to have to go through the ordeal inflicted upon myself and other good family members due to the elder abuse of my mother by a sibling.

FOCUS ON THE ABUSED

Broad community awareness and the taking of preventative actions are the keys to addressing elder abuse. The damage done to so many abused older people is a blight on our society. We need a societal and cultural awakening now, where elder abuse will be broadly understood, recognised and no longer tolerated.

It is critical to talk openly and regularly with older family members about their needs as they age and to check on the key 3 legal instruments that can have a significant impact on their lives, these being the appointment of an Enduring Power of Attorney (EPOA), an Executor of their estate and the completion of their Advanced Health Care Directive. The aim is to make sure that no family member or friend has been abusing their relationship with the older person(s) to their own advantage, to prevent ongoing abuse and to ensure that all estate matters are absolutely in line with the real wishes of the older person. Where there is a clear and unexpected bias in the EPOA or Will then discussions need to be held with the older person and independent help requested to address the situation before it gets worse. From experience, it is essential to address matters of concern whilst older people are still living and have sound mind rather than entering the minefield of legal challenges that will otherwise eventuate. The impacts of elder abuse go past the stage of the death of the abused older person and can have significant impacts on family members and family relationships for generations.

I believe that more funding needs to be allocated to develop a marketing campaign that focusses on:

1. Challenging the belief of many older Australians that they won't fall victim to elder abuse and to clearly show them and all Australians that evidence shows it absolutely can and does happen. Statistics show that elder abuse happens to both older men and women and is most likely perpetrated by someone they love or trust with the perpetrators most likely to be one of the children and the abuse escalating over an extended period.
2. Better coordination of supportive structures and support services for older Australians before it is too late.
3. Don't opt out, don't give up on life, don't think that there is no way out. Follow the steps **TAKE THE TIME to TALK ABOUT IT and THINK IT OVER** for your own sake and for the sake of other family members who love and care for you. Don't punish yourself and others by making poor decisions.
4. Older Australians need to know that they have the right to stand up and speak out and should seek the support of their own "My Care Team" consisting of family, friends and social support workers. This should be either an opt-in or opt-out system for Australians aged over 60 with details being registered online for the purpose of helping to prevent coercion and control and to put potential abusers on notice that they are being monitored with the knowledge that they could be challenged by multiple supporters of the older person that they are abusing.
5. Promoting clear reporting options for anyone witnessing elder abuse and the mandatory reporting of elder abuse and protection of whistleblowers from being sued for defamation, supported by Qld law
6. Education Campaign for older Australians and their families
 - a. How to write a Will
 - b. How to choose your Enduring Power of Attorney
 - c. How to choose the Executor of your estate
 - d. How to spot elder abuse by your own family members and friends
 - e. How to stick with your decisions with the support of your care team and avoid coercion from potential abusers
 - f. Understanding narcissism and other mental disorders in people who have little to no moral compass and will abuse you should you not be aware
 - g. Be careful "gifting" money and other items to family members and friends. Don't give into their demands.
 - h. Never allow someone to coerce you into mortgaging your house for their benefit
 - i. Avoid "Right to Reside" clauses in your Will or any other clauses that may unnecessarily delay the execution of your Will and closure of your estate
 - j. How to seek help and speak up for your own safety and continued dignity in life.

ACTIONS

1. Compulsory registration when Wills are lodged and changed
 - Identify multiple changes to Wills for people over the age of 60, and for those diagnosed with mental illness
2. Establish tighter legal checks on who can qualify as an acceptable Enduring Power of Attorney and Executor of a Will
3. Establishment of an elder abuse register when details of perpetrators are kept and where this information can be used by supporters of older Australians in legal challenges to existing Enduring Powers of Attorney, Advanced Health Care Directives and appointment of estate Executors
4. Consider changes to privacy laws so that family members included in the deceased person's Will can request access to financial and health information of the deceased where it has been identified that there have been legally acknowledged concerns about the character of the executor or where the executor has been diagnosed as not being of sound mind.
5. Establish and maintain registers of current Enduring Powers of Attorney and Executors listed in Wills. Family members do not always know if and when there has been a change to an EPOA or Executor in a person's Will.
6. Promoting a health campaign aimed at those aged over 60 with greater scrutiny of the mental health condition of elderly people to identify those that may be at higher risk of suffering from elder abuse

FOCUS ON THE PERPETRATOR(S)

Perpetrators need help to get them to understand the damage that they are doing and have done to other family members. They need to accept that they have destroyed family relationships through their own selfish actions and admit to their failings and faults. They are the ones that are in most need to make changes to their lives before it is too late. Their lives will remain a misery even after the death of the older person unless they can admit fault and attempt to reconcile with those suffering from their actions.

Most perpetrators will not seek assistance and may not even accept that they are abusive. Some will have narcissistic or other mental disorders and may not be receptive to making any change to their life. For some it will exacerbate problems within the family if challenged. Work also needs to be progressed to stop some perpetrators moving onto their next victim following the death of an older person.

Where possible, perpetrators need to be moved away from the abused person(s) via a domestic and family violence order. Where there is no behavioural change with the perpetrator then punishment and consequences must ensue. They must face justice and punishment and feel the force of the law as the consequence for their criminal behaviour.

ACTIONS

1. Expanded professional medical help for abusers to get their lives in order in cases where there is evident substance abuse
2. Expanded professional psychiatric counselling to get abusers to recognise and address the issues that have led them to causing harm
3. Expanded professional financial counselling to get abusers to own their predicament and plan a way back to living a happy and simple life
4. More scrutiny of rogue legal practitioners and legal firms preying on vulnerable older people for their own personal benefit. Whistleblowers need to be empowered to raise concerns with relevant legal administrative bodies without fear of reprisal.

FOCUS ON THE BENEFICIARIES FOLLOWING DEATH

Perpetrators often win. They get away with financial, psychological and other forms of abuse and often get rewarded for their efforts by receiving some or all of the proceeds of the deceased person's estate. There must be allowance made now for retrospective investigations into elder abuse if the matter is raised with the police. It is currently too costly to challenge perpetrators (including perpetrator executors) in court, too time consuming, too uncertain and the chances of having success against a rogue executor as appointed by the deceased are minimal.

There needs to be an easier way to challenge Wills and the removal of the executor or the setting of legally enforceable requirements on a rogue executor who does not abide by the wishes of the deceased person or who takes actions not in accordance with the Will for their own personal benefit. Consideration needs to be given to using available evidence associated with maladministration of the estate or elder abuse through sources including:

- My Care Team input
- Elder Abuse Register
- Legal challenges made to EPOA or Executor prior to death
- Number of Will changes made prior to death

Application by concerned persons or parties should be able to be made to a designated tribunal for consideration prior to any application for lodgement with the Qld Supreme Court. When maladministration of the estate or concerns with elder abuse by the Executor of the estate then the legal powers of the Executor need to be removed following finalisation of estate matters. This should occur whether there is no court challenge made or where legal advice is given to monitor the executors action through to estate finalisation. This may require changes to the Privacy Act and would allow authorised persons (eg beneficiaries) to access the financial and health records of a deceased person for the purpose of either simply knowing the state of affairs of the deceased person over the period when elder abuse was occurring or to use as evidence to take to the police in case where evidence of fraud is found. Currently, only Executors and applications by the Police are considered by financial and health institutions for release. Any other person or party is restricted from accessing this information, even through Freedom of Information requests due to provisions set out in the Privacy Act. It is understood that any action by the Police may not be possible under current laws as the involved person is now deceased. It is also understood that this would potentially open up a range of legal challenges, potentially by others not included in the deceased person's Will. Maybe there could be a section in a person's Will that allows investigation by legally approved authorities following their death where elder abuse has been suspected and evidenced to a point where investigations can be completed.

CONCLUSION

There is so much more I would like to write but it takes time and a lot of thorough consideration. I do understand how difficult it will be to make changes, particularly legally, to derive a better and fairer system for older Australians and their families.

Thank you again for the opportunity to provide my thoughts on this matter that will stay with me all my days. I never thought I would be required to stand up for the rights of the elderly and those that truly love and care for them. They aren't the problem. The first problem lies with cultural and societal acceptance and we have let our community standards slip. The second problem lies with greed, perceived power and the diminishing mental health conditions of abusers. Using a long regarded Union slogan, Australians need to "stand up and fight back". We need strong marketing campaigns that capture the attention of the nation, all of us, young and old.

I commend the members of the Inquiry and the public servants for tackling the scourge of elder abuse.