I am currently in my final year of studies towards a Bachelor of Legal Studies from Murdoch University, Western Australia. To date I have completed a range of units in both legal and criminological fields. In response to the Australian Law Reform Commission report on Elder Abuse, I would like to explore question forty-seven; *How should victim services and court processes be improved to support victims of elder abuse.* Throughout my studies, one aspect of the legal system I personally found interesting yet underestimated is Alternative Dispute Resolution (ADR) processes and its associated benefits. Specifically to question forty-seven; I feel that the ADR process of Mediation would provide greater benefits and outcomes for victims of elder abuse, opposed to traditional court processes. Find below my exploration of the benefits of this style of dispute resolution as well as possible challenges that may be apparent with recommendations to overcome them.

**The Mediation Process:**   
As individuals age, naturally they feel heightened vulnerability and exposure to opportunities where they are taken advantage of. It is in these situations that mediation can assist with the realization that elder abuse has occurred. The ALRC Issue Paper acknowledges ‘*the court process can be very stressful for victims of crime, especially when a person must give evidence against a family member or carer[[1]](#footnote-1)”.* The mediation process is still a legal framework but offers a flexible alternative to the structured court system, which may not be as daunting to the elder. With the assistance of an experienced mediator, the elder is encouraged to discuss their issues in a safe monitored environment. Enabling each party to express all of their thoughts, values and emotions, that otherwise may have been concealed throughout the controlled court process. Due to its ‘storytelling’ nature, mediation provides all parties with much greater emotional support/relief. Particularly for elder abuse cases involving family members, majority of familial relationships do want to be preserved and maintained, which is not a core value evident in traditional court process. The legal system is essentially focused on justice alone; mediation focuses on justice, but with emphasis on preserving relationships and being psychologically satisfied/relieved. It enables people to have difficult conversations with the support of a trained mediator in a confidential environment. It is stated on the Federal Court of Australia government website that mediation is beneficial when there is need for parties to preserve their relationship. Additional benefits of mediation include lower costs, time efficiency and higher satisfaction levels[[2]](#footnote-2). As an elder, the importance of family relationships would be a core value and factor to their wellbeing.

**Challenges of Mediation for Elder Abuse:**The use of mediation for elder abuse cases inevitably exposes some challenges; power imbalance between parties, capacity and suitability of older participants in the process, financial decisions and disputes regarding aged care[[3]](#footnote-3). Like other areas of law that deal with these sensitive issues, such as domestic or sexual abuse, if proper safeguards are in place and the mediator is educated, the elder’s legal rights and wellbeing can be protected. Possible safeguards specific to elder abuse that could be implemented are *‘research based policies, procedures and best practices for situations where there is abuse or diminished capacity, effective training for elder mediators about abuse and diminished capacity, practice tools such as checklists and step by step guides[[4]](#footnote-4)’.* If elder mediators receive appropriate training in specific areas of imbalance and capacity, they will be able to protect and safeguard the legal rights of the elder. Some suggested specialised training requirements that are directly linked to elder mediators according to the Association for Conflict Resolution Training Objectives include the topics; family dynamics, power imbalance, effects of ageing, capacity, elder abuse, adult guardianship law, to name a few[[5]](#footnote-5). Like other areas of law that utilise mediation (family, cooperation disputes), I feel there could be more emphasis on a specialised framework for elder mediation as well as training requirements, clear ethical codes of conduct, and ongoing professional development for elder mediators, specific to their expertise in elder abuse. If the mediator is knowledgeable in the area of elder abuse they will be able to recognize these issues and acclimatize the session in order to protect the elder’s wellbeing and interests, and therefore allowing all parties to benefit from the mediation process.

**Summary**: ADR is utilised so parties can have more involvement in exploring the issues and subsequent decisions. Therefore wherever and as often as possible ADR should be used in preference to courts in order to provide elder’s with greater involvement. Although they are defined by law as an elder, it should not automatically presume they are incapable/unfit to express their wishes and concerns. If specialised safeguards regarding elder mediation can be developed, mediation benefits can be more widely experienced, and mediators can be fully equipped to deal with the associated issues through these specialised safeguards.

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