

25 August 2016

Ms Sabina Wynn
Executive Director
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001

By email: tina.obrien@alrc.gov.au

Dear Ms Wynn

AUSTRALIAN LAW REFORM COMMISSION'S INQUIRY INTO ELDER ABUSE

The Law Society of Western Australia is grateful for the opportunity to contribute to the Australian Law Reform Commissions' Inquiry into Elder Abuse.

The Law Society notes the ALRC law reform process relies on stakeholder participation and, as the representative body of the legal profession in Western Australia, the Law Society offers the following examples of elder abuse provided by the Law Society's Elder Law and Succession Committee and from my own practice:

1. A 90 year old wealthy professional man once in care; former female friend tried to prevent him from seeing his family and to establish that he was in a de facto relationship with her. The children were successful in being appointed his guardian. The man's lawyer who had been told by the man that the friendship with the woman had come to an end once his health had deteriorated filed a statement in the SAT proceedings.
2. An elderly Asian woman was physically abused by a family member when living with that family member. SAT proceedings were brought. Family members arranged for their mother to return to Asia and she did not come back to Perth. SAT was not able to serve her with notice of the proceedings and no orders could be made to protect her.
3. A daughter looking after her elderly mother had no help from brothers or any respite or assistance and being exhausted hit her mother. Proceedings were commenced in SAT as the doctor saw the bruising. The mother wanted to stay at home. The daughter was very upset. Brothers and adult granddaughter intervened resulting in family members being appointed as guardians and administrators and assisted in accessing services so the mother was able to attend regular activities and respite care was arranged so the daughter could have a holiday. This was considered a good outcome as the mother was able to stay in her own home and the daughter happily cared for her for a long period of time.
4. This example involves a second marriage. The younger wife would not care for her elderly husband as he had become frail but she would not let his children see him or help look after him as he was very wealthy. The wife wanted to be appointed guardian and administrator notwithstanding she had commenced divorce proceedings. The children intervened.

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5. A young man befriended an older wealthy homosexual man when the latter's partner had died. The older man gave money to the younger man and assisted him with investments but when the older man became frail the younger man threatened him physically and asked for more money. The older man's family intervened and at his request prevented the younger man from making future contact.
6. The daughter of an elderly woman with no family in Perth was given notice that an administrator had been appointed because her mother had dementia. When the daughter arrived in Perth she was able to show that her mother did not have dementia but was profoundly deaf and being ashamed of not hearing would give inappropriate answers rather than admit she was deaf.
7. An elderly man was taken from Perth to the north west of the State by his 'carer' without informing the man's children. The 'carer' tried to prevent the children from contacting their father and was using the man's money for his own purposes. The children eventually had to take SAT proceedings to protect their father.
8. A woman in care was believed to have been sexually abused by her son, but as the woman had suffered a stroke and was unable to speak, she was unable to give evidence as to what had occurred to support either the criminal or violence restraining order proceedings. The care facility took steps to ban the son from attending unsupervised. The Public Trustee was appointed her guardian.

The Society hopes that these examples are of assistance to the ALRC in its inquiry into Elder Abuse. Should you have any questions please do not hesitate to contact me.

Yours sincerely



Elizabeth Needham
President