Elder Abuse Discussion Paper. Australian Law Reform Commission.

To: The Commissioner

CC: Tony Nicholson CEO, The Brotherhood of St Laurence

Prof Shelley Mallett, Director, Research & Policy Centre, The Brotherhood of St Laurence

From: Simon Biggs. Brotherhood of St Laurence Chair of Gerontology and Social Policy at the University of Melbourne.

First, let me say how warmly I welcome this initiative by The Commission on what is a growing social problem. Responding to Elder Abuse has been cast as the poor relation to other services such as child and family protection. It is underdeveloped in the understanding of the problem, a secure evidence base, agreed service responses and in sophisticated forms of staff training. The Discussion paper is particularly valuable in setting out a legal framework to take a serious response to elder mistreatment forward. These firm foundations need to be balanced by a reliable evidence base and effective service responding.

Elder abuse is generally seen as a component of Elder Mistreatment which refers to a combination of active abuse and passive neglect. It is currently thought to consist of five major categories: Neglect, Financial abuse, Psychological abuse, Physical abuse, and Sexual harassment / abuse. While proportions vary between studies, neglect has often been found to be the most common form of mistreatment, followed by the order indicated above. The UK prevalence data ranks them in this descending order of frequency, figures which are also often used in Australia. Elder Abuse is therefore wider in scope than family violence, although there is a stream within research that indicates it can also be ‘family violence grown old’. One of the problems with placing elder mistreatment exclusively within this frame is that abuse is not necessarily violent. Neither is it predominantly spousal. Financial abuse is almost exclusively undertaken by adult children, for example. The question is made thornier still because when asked, members of the public appear to assume, not only that the frequency of abuse follows that of child or family violence (in fact the order is almost an exact reversal- with sexual or violent forms being less common than financial, for example). A common finding is that residential care and mistreatment are almost synonymous in the public mind. Members of the public also tend to assume the ‘carer stress’ explanation of abuse, although there is very little evidence to support this. Rather, abuse, when it appears, is more likely to be longstanding and systematic in nature, rather than a lashing out under extreme pressure. Each form of abuse has its own dynamic and there is an argument that each requires specialist expertise in any response made.

In terms of the proposals I would like to make the following comments:

**Proposal 2.1 A National Plan.** I think a national plan would be essential in providing an effective and efficient response to elder mistreatment. It might include the following:

1. Any national plan should encourage inter-professional and interagency collaboration as elder abuse can include a complex of interdependent factors involving social work, the police, health care, financial institutions and NGOs.
2. While regulation may provide a solution for prevention in residential settings, community based care is much more difficult to regulate and assess. A policy push would require an exploration of regulatory regimes that can work in community settings.
3. Training and education on elder mistreatment and protection, at professional and vocational level plus for continuing professional development (CPD), should be made mandatory for the relevant professions. Ageing and thereby elder abuse are often left to the end of the core training curriculum and are therefore poorly attended where these clash with exam preparation. Where CPD is provided this should, as far as possible be inter-professional in nature. Improved education and training needs to be supported by aged care systems that include place based training and support for workers in residential and community settings.
4. Place based support. An effective strategy has been to work with staff to create non abusive environments. Much of this has taken place in residential rather than community settings. Again, contrary to public expectation, care workers seem willing to admit to and problem solve around abusive events and work toward solutions, although this depends upon the creation of management environments that are considered open and safe.

**Proposal 2.2. A National Prevalence Study.**

1. I would strongly support a national prevalence study for Australia. It would provide scientific rather than anecdotal evidence of the scale of the problem and therefore the most effective targeting of resources. Prevalence studies are important because once you have a figure you can apply it to any population or area and get an estimate of those at risk. Prevalence can be contrasted to incidence which tells you how many people are being picked up by services. When the UK study compared the two they found that only 3% of the at risk population were known to services. Similar figures have been found in the USA.
2. When Canadian, Irish and UK prevalence data is compared, differences have emerged between countries which are associated with urban-rural composition and the experience of first nation peoples. If findings are borrowed from elsewhere there is no guarantee that they would reflect the Australian situation. National evidence from CALD and First Nation/Indigenous cultures in terms of definition and culturally appropriate responding, the effects of generational differences under conditions of high migration, plus Australia’s urban, rural and remote profile would make having our own baseline figures a priority.
3. All current studies have relied on representative population samples and community self-reports by older people. There are no studies to date of prevalence within residential care, although there are a number of incidence studies, mostly concerning dementia care homes. Means of accessing a representative sampling of residential care should be investigated.

**Proposal 3. Powers of investigation**.

1. Evidence shows that responses to mistreatment vary by country, with Germany taking a criminal justice and policing approach, North America a legal mediation and mandatory reporting route, the UK keeps registers and at risk registers under the general rubric of Adult protection, some Nordic countries have adopted a family counselling response. The main tension here is between whether the issue is considered a criminal or a social work problem, with the balance of thinking erring on the side of seeing mistreatment as essentially a social problem supported by legal statute and government guidance. Further, the issues can be complex requiring interagency and interprofessional collaboration.
2. **3.2** recognises that we are dealing with adult-adult interaction and decision making should be respected.
3. **3.4** The main issue, however is what happens after investigation. Here, it is particularly important that investigation and responding should inspire hope that things can get better and that both victims and perpetrators in families are given options. Perpetrator characteristics closely associate abuse with other social problems which include mental illness, substance misuse and financial insecurity. Often it appears that the perpetrator is in a position of psychological, social or emotional dependency on the victim, rather than the other way around. Evidence on the association between abuse and economic hardship is mixed and cannot be assumed however social isolation and overcrowding have both been linked to abuse in different studies. Some CALD community studies have also identified community or social abuse where victims are systematically excluded from family or community participation, as was identified in a study undertaken by Hong Kong Christian services. The complexity of mistreatment and the fact that it covers a wide number of phenomena (Neglect, Financial abuse, Psychological abuse, Physical abuse, and Sexual harassment / abuse, plus social abuse) each with different dynamics should not be lost. Unfortunately there is currently little research evidence on service effectiveness.

**Proposals 8 and 11. Family and Aged Care.** As far as possible mediation should be employed to address issues of mistreatment. Service responses that rely solely on monitoring and traditional social work or police input alone rarely provide options that are likely to inspire hope in victims that the future can be better. Intergenerational Mediation services, including counselling and family work approaches probably provide the most effective remedy for sustainable change, especially in the case of perpetrators who might be the daughters or sons of the older person. Mediation plus monitoring should form the backbone of a service response.

Investigation and responding should be backed up by effective inter-agency coordination between social work, health and criminal justice systems.

Definitions of family should take cultural preferences into account, including CALD and First Nation and Indigenous preferences. In contexts where services have been systematically withdrawn, counter to historical and lifecourse expectations, then social and macro-institutional forms of mistreatment should be taken into account before assuming individual and familial financial abuse.

In addition to adequate monitoring and reporting, residential care work should focus on increasing overall care quality as in these contexts mistreatment is much more likely to be a culture of care than a ‘bad apple’ problem. Where systems refer specifically to mistreatment, in place training should include how to recognise, report and intervene in specific incidents and how cultural reparative work can be put in place. Providers should be required to provide specific guidance on mistreatment and responding which should form part of existing regulatory reporting and inspection.

Simon Biggs

Simon Biggs is the Brotherhood of St Laurence Chair of Gerontology and Social Policy at the University of Melbourne.

He has been voluntary scientific advisor to the *International Network for the Prevention of Elder Abuse* (INPEA) since 2005. INPEA lobbied for a United Nations *World Elder Abuse Awareness Day* (June 15th) which now holds local and regional events throughout Australia. INPEA is currently a member of the UN’s NGO Working Group on Older People, where it lobbies, with others, for a Convention on the Rights of Older People. Simon has spoken at WEAAD events within Australia and internationally. In addition to leading The Brotherhood’s Inclusive Ageing Research Team, He represents The Brotherhood on the *Elder Abuse Research Roundtable*, hosted by the National Ageing Research Institute (NARI). He was a lead investigator for the UK prevalence study on elder mistreatment (2007) undertaken by Kings College London and NATCEN. He has advised the EU, UK, Irish and Canadian Governments on elder mistreatment research and policy.

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