243. Assets, Ageing and Intergenerational Transfers Research Program, The University of Queensland Sub form with responses

Name of organisation: Assets, Ageing and Intergenerational Transfers Research Prorgam, The University of Queensland

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Proposal 2–1

Yes.

 Currently extensive research and report/enquiries and service initiatives exit. They need to be drawn together in a national plan that addresses prevention, community education, intervention,  service system development and law reform.

Proposal 2–2

Yes. But this is not the sole priority. Currently a good level of understanding exists of the causes and incidence of various types of elder abuse but there is limited knowledge of how to intervene effectively while respecting the older person's wishes. What is also needed is further understanding of referrral networks, the intersection of health, law and community care systems, and innovative approaches to intervention. An understanding  of service systems is much needed.

Proposal 3–1

The "AND" is impotrant here. Just (a) for example is not sufficient.

Proposal 3–2

Yes. The balancing of support, protection and autonomy is a key conern. Our research (detailed in attachment at the end of this submission) shows that older people have a range of views on what they want to happen.  In the area of finanical abuse preserving familiy relationships is often prioitised over acting in relation to the abuse.

Proposal 3–3

Yes but should not be such a blanket power. Context and capacity need to be considered here.

Proposal 3–4

All excellent principles but the limitations of support systems and the boundaries of some services need to to taken into account. At times there are very limited options for referral as a result of  boundaries (e.g helplines can only refer,  legal services for older people do not take on cases where the older person is unable ot speak for themselves)  or geographical location.

Proposal 3–5

Proposal 5–1

Yes. Our research findings have been suggesting this for many years. We have found cases where multiple EPAs exit for one principal, no one knows which is the most recent,  finanicial institutions mistrust EPAs because of this and aged care providers do not know how to check if more than one EPA exists or even it if is current. The issues are also: at what point are they registered, who will pay to keep the register up to date and where will there be an alert to indicate a prior document.

Proposal 5–2

Important but good records need to be kept. Alerts need to be in place,

Proposal 5–3

Yes

Question 5–1

It should not be just open access. A search should be initiated by a service provider or professional who has been presented with a document that they seek to check. Inclusions should be service providers in aged care, social workers in NGOs and health and finanical insitutions.

Question 5–2

Yes. Our research into finanical abuse consistently shows that the absence of any system of monitoring supports risky finanical management practices and abuse. Systems in place for monitoring appointed finanical administrators are not in place for financial attorneys. (See LPITF report)

Proposal 5–4

The key issue is the independence of witnesses and how this is established.. This requires a clear definition.

Should the list be broader? e.g. a teacher in rural areas, a social worker in health?

Proposal 5–5

Yes. Although much of the assets are often gone by the time the issues come to tribunals.

Regular monitoring is a necessary first step. Routine Activity Theory suggests that the presence of monitoring has a strong effect on containing criminal behaviour.

Proposal 5–6

Yes. Agree with these points. In addition, our research (see LPITAF report in attachments)  suggests that more is needed to ensure that conflicts of interest are well understood.

Proposal 5–7

Should consider: convicted of a family violence offence, has a restraining order against them for violence.

Proposal 5–8

Yes. Very important to list and give clear examples.

Also consider adding: cannot act as executor of the will  on the basis of the EPA in the event of the detah ofthe principal. Sometimes not well understood by service providers or by family members.

Proposal 5–9

Yes. The Asset Management research clearly showed a range of risky practices including poor record keeping, mingling finances, poor arrangements re granny flats.

An issue to be considered here is that record keeping should not be so onerous that family members refuse to be financial attorneys and responsibilities default to the state. Our rearch showed that there are few support services available to assist  nominated atttorneys to do a good job and keep adequate records.

Proposal 5–10

Yes. Good policy but has a long history of limited action.

How to engage the states in this is a key consideration.

Proposal 5–11

Will this add to the complexity of trying to get nationally consistent legislation?

Proposal 5–12

Yes. Our research (LPITAF)  suggests that case examples are important in fostering understanding of responsibilities.

Proposal 5–13

Yes. They need to understand what this means in particular circumstances.

Proposal 6–1

Yes. They also need  to  know before or at the time the argeement is signed to indicate that they understand the role, are willing to do it and will comply with the legislation. We have some evidence of attornies being nominated in their absence and being unaware of appointment.

A problem noted in our research is that there are few services available to help attorneys who are unsure of their roles and responsiblities or how to enact them properly in the face of family conflict and undue influence of others.

Question 6–1

All good points but few resources for this in current system and few resources to support attorneys needing help. Services that support good practice are needed. Whose role is this?

Training needs to be balanced with concerns about overloading attorneys. Financial attorneys report that tasks can be onerous, there can be family disagreements to manage  and that assiting the older person to remain involved time consuming.

Proposal 6–2

Should be clearer about what they are signing and when they sign. It is important to indicate understanding, willingness to undertake the role and will comply.

Question 6–2

Question 6–3

Person in the same room, resources to support the person express their views and concerns.

System changes e.g .more flexible Tribunal hearings - some in hospitals, aged care etc, resource seniors legal services to support   .

Proposal 7–1

Yes.  Agree.

One problem is with use of ATM's and less formal mechanisms and how to monotor this.

Some jurisdictions use "protected accounts"' developed in conjunction with the older person. These should be considered.

Proposal 7–2

Question 7–1

Question 7–2

Proposal 8–1

Yes. Also need to consider resourcing services to help famlies resolve these matters before they come to tribunals.

Could Seniors Legal Services have a more prominant role here.

Services to support families to resolve differences are limited.

Question 8–1

The older person should be able to indicate who is 'family' or 'like family'.

Proposal 9–1

Yes. Agree. Our research on wills (see "Having the Last Word" document at end of this submission) highlights the importance  of challenging a legal culture, where it exists, that presents wills and EPAs as routine documents rather than improtant opportunity to open up conversation with relevant family as well as being clear about intentions and preferences.

Proposal 9–2

Proposal 9–3

Proposal 10–1

Yes. Not just a strategy but also resources to take action. Staff need time to do it properly.

Proposal 10–2

Yes. Complexity of arrangments need to be recongised as well as issues of capacity and undue influence. Staff need time to make further enquiries, explore referral networks.

Proposal 10–3

Nominee arrangments are currently poorly understood and  monitored.   This area needs greater attention in ensuring nominees are appropriate and a system of review and monitoring is in place.

Proposal 10–4

Training PLUS resources are needed.

Service systems are poorly developed. Cultural competence and working with diversity are key issues.

Proposal 11–1

What is the role of Age and Disability Advocacy Organisations here? Would they be better placed to investigate?

Proposal 11–2

Psychological abuse and bullying could also be included.

Proposal 11–3

Proposal 11–4

Proposal 11–5

Question 11–1

Question 11–2

Question 11–3

Proposal 11–6

Proposal 11–7

Proposal 11–8

Agree

This is a complicated area with the need to acknowledge here a range of views and intentions. Providers want a document to indicate  desires of the resident and family, who is decision maker in event of incapacity . However, the older person should not be required to do this. Our resarch indicate some problems in the understanding and use of EPAs in residential care including the presumtpion of incapacity. Also staff indicate that it is resource intensive to implement assisted decision making and defer instead to appointed attorneys, even when the resident has capacity for a decision.

Proposal 11–9

Yes. A protocol for staff exists, it shoud be extended to community visitors. Should the role of Age and Disability Advocacy organisations be clarified here?

Proposal 11–10

This should be linked to exisiting advocacy organisations funeed by the commonwealth.

Proposal 11–11

Yes.