Churches of Christ Care welcomes the opportunity to comment on the Australian Law Reform Commission’s (ALRC) discussion paper on elder abuse. We are committed to achieving a future where all people are safe, respected, and free from violence and abuse, and preventing and responding to elder abuse is a key part of this.

Churches of Christ Care supports a number of the proposals made by the ALRC and believe they will improve safeguards for older people at risk of abuse. We also note that in some instances, the proposed changes could unintentionally act as a deterrent for family members to take on enduring powers, diverting this responsibility back to the state. For these changes to be successful, it is vital they are accompanied by appropriate resourcing for state and territory authorities so they can respond to community demand and prevent abuse.

# National plan

Churches of Christ Care supports the ALRC’s proposal to develop a national plan to address elder abuse. Given the range of state and territory laws and funding arrangements for delivering health and aged care, this will contribute to a coordinated, strategic approach to addressing elder abuse.

# Enduring powers of attorney and enduring guardianship

Churches of Christ Care generally supports the ALRC’s proposals relating to powers of attorney and enduring guardianship, particularly relating to developing a national online register of enduring documents. The following provides comment on selected proposals and responds to key questions.

## Question 5-1: Who should access the online register

**Churches of Christ Care recommends** approved aged care providers be given access to the national register of enduring documents.

In practice, people and their family members often have difficulties locating these documents, which can delay the start of service delivery. Also, people often believe they have certain decision-making powers, but when documents are sighted their delegated powers vary in scope. Having access to this register would allow approved providers to confirm who has delegated decision-making powers and involve the right people at appropriate points of assessment, planning and on-going care. This would give greater efficiency during intake and assessment phases, improving people’s timely access to services.

## Proposal 5-7: Eligibility for being an enduring attorney or guardian

**Churches of Christ Care recommends** being a respondent to an active or recent protection order related to domestic and family violence is considered as an additional criteria for excluding someone from being an enduring attorney or guardian.

## Proposal 5-11: Introducing the term ‘representatives’

**Churches of Christ Care recommends** guidance is given to ensure people understand the difference between a formal representative with an underpinning legal agreement and an informal representative, who is acting as an advocate and supporting people through discussions and processes.

In practice, people using our care services often refer to friends or neighbours as their representatives, however there is no formal legal framework underpinning this role or relationship. Most often, people use the term “representative” to refer to the role of someone participating in conversations with them and playing a supportive or advocacy role. Care needs to be taken to limit confusion between the role and powers of formal and informal representatives as work is done to change language and culture in this space.

# Guardianship and financial administration orders

## Question 6-1: Providing information to newly-appointed guardians and financial administrators

**Churches of Christ Care** **recommends** information and training on the role of guardians and administrators be incorporated into tribunal processes, including requiring confirmation a person understands the scope of the role and their obligations.

Our organisation considers compulsory face-to-face training as potentially too onerous for family members, which could have the unintended consequence of diverting guardianship and administration to the state. We support optional face-to-face training for new appointees, which should be available alongside well-designed and culturally sensitive online training packages to support people during the tribunal process.

If concerns are raised regarding a newly-appointed guardian or administrator, the tribunal should be able to direct them to undertake face-to-face training. Although it should be noted that while tribunal-mandated training may address inadvertent abuse, it is unlikely to prevent those seeking out to deliberately abuse and exploit older people.

# Social security

Churches of Christ Care supports the proposed measures to strengthen protections for people receiving social security benefits.

# Aged care

## Proposal 11-2: Defining reportable incidents

**Churches of Christ Care recommends** reviewing the range of reportable incidents and providing clear policy guidance to avoid setting reporting thresholds too low.

Churches of Christ Care supports the redefinition of reportable assault to reportable incidents, and the inclusion of incidents relating to sexual offences, fraud and financial abuse. We also support extending this framework to community care, which does have the same level of oversight as residential aged care. However, we are concerned that current descriptions of ‘ill-treatment’ and ‘unexplained serious injury’ are too broad and may set the threshold for reportable incidents too low.

Reportable assaults are currently subject to a high level of monitoring through regulation, and involve investigations by the organisation and police. If changes are made in the proposed form, reportable incidents would extend to include relatively common incidents in services such as unwitnessed falls, which can occur in high quality services as well as those experiencing quality issues. Broadening this definition without clear guidance on thresholds for reporting will rapidly increase the number of incidents being reported, increasing investigation and reporting workloads for providers, regulators and police services. This is particularly relevant in community care, where there is currently very limited formal reporting structures for suspected abuse and exploitation.

## Proposal 11-3: Exemptions of assaults committed by residents with cognitive impairment

**Churches of Christ Care** **recommends** setting a threshold for investigation when patterns of repeated assaults committed by residents with cognitive impairment are observed.

Incidents of assault committed by residents with cognitive impairments are common, and require providers to appropriately manage behaviours so people are not subjected to harm. We support introducing reporting of these incidents, however we believe investigation should only be trigged once a threshold of repeated incidents are met. This would give providers time to manage the situation, but also hold them accountable if repeated incidents occur and causing harm to others. Although we do note that in some cases, it can take significant time for providers to try, test and evaluate behaviour management strategies.

## Question 11-1: reportable incidents that should exclude someone from working in aged care

**Churches of Christ Care recommends** that any substantiated reportable incident relating to violence and sexual offences permanently exclude someone from working in aged care. We also recommend substantiated fraud incidents exclude someone from working in aged care for at least ten years, and exclusion due to bankruptcy be at the discretion of employers following a thorough investigation.

## Question 11-2: Employment clearances

**Churches of Christ Care recommends** employment clearances be valid for five years alongside the option for employers to do spot criminal history checks within this timeframe, unless a system that includes continuous monitoring is implemented.

## Question 11-3: Further offences to preclude a person from employment in aged care

**Churches of Christ Care recommends** considering a person’s recent history of being a respondent to domestic and family violence orders, and any breeches of those orders, when screening possible aged care employees. However, discretion should be given to employers as to whether or not this should exclude them from employment. This seeks to recognise that there are instances where women can be named as respondents to domestic and family orders, but have had a long history of being victimised within their relationship. In these cases, they are unlikely to have a history of breeches against their orders.

## Proposals 11-10 and 11-11: Official visitors scheme

**Churches of Christ Care recommends** incorporating the functions of the proposed official visitor’s scheme into existing complaints, auditing and community visitors’ schemes.

Aged care services are heavily regulated and monitored, and it is concerning that existing frameworks are not enough to allow people to speak out about experiences of abuse and neglect. However, we feel that reforming existing monitoring schemes and holding them to account for preventing and responding to elder abuse is preferable to adding a fourth layer of monitoring and compliance to aged care. Any changes made need to ensure we have a consistent approach to preventing abuse, as multiple systems and loopholes can lead to unscrupulous people slipping under the radar.

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| About our organisationChurches of Christ in Queensland has a significant presence in Queensland, Victoria and Vanuatu with over 200 services in more than 100 communities, touching tens of thousands of lives each year. We operate a range of missional and community care services to assist families, the elderly and people in need through church communities and our care services groups operated through Churches of Christ Care. Churches of Christ Care provides a range of services for seniors including retirement living, home and community care, home maintenance and modifications programs, and residential care in various locations across Queensland and Victoria. A number of these services can be co-located within one of Churches of Christ Care’s innovative integrated communities, bringing together services to support the continuum of life on one campus. All seniors and supported living services offer holistic client-focussed care and service. |