



**Carers Queensland Inc. submission:  
Australian Law Reform Commission  
Elder Abuse Issues Paper**

**Date: August 2016**

**AN AUSTRALIA THAT VALUES AND SUPPORT ALL CARERS**

**Submission Title:** Submission to the Australian Law Reform Commission  
Elder Abuse Issues Paper

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**CARERS QUEENSLAND INC.**

Family and friend carers provide unpaid care and support to family members and friends who have a disability, mental illness, chronic medical condition, terminal illness or are frail aged.

The activity and impact of providing care is best understood in terms of its context; as a relationship between two or more individuals, rooted in family, friendship or community. Caring is a role rarely chosen by most, nor does it discriminate. Children and young people, people of working age and older people, people with disability, people who identify as culturally and linguistically diverse, indigenous Australians, people with diverse bodies, genders, relationships and sexualities and those living in rural and remote Queensland provide care to a family member or friends on a daily basis. For some caring is a short term commitment whilst for others, it is a role that literally lasts a lifetime.

Carers Queensland Inc. is the peak body representing the diverse concerns, needs and interests of carers in Queensland. Carers Queensland believes that all carers regardless of their age, disability, gender identification, sexual orientation, religion, socioeconomic status, geographical location or their cultural and linguistic differences should have the same rights, choices and opportunities and be able to enjoy optimum health, social and economic wellbeing and participate in family and community life, employment and education like other citizens of the State. Carers Queensland's mission is to improve the quality of life of all carers throughout Queensland.

We believe we are in a unique position to advocate on behalf of the 484,400 carers living in Queensland. We aspire to provide an independent platform from which to advance the issues and concerns of carers and believe our knowledge and expertise in carer issues means that we are able to provide the Government and industry with relevant and trusted information that will ensure that the needs of carers will be recognised, respected and acted upon. Our ambition is to ensure that carers are recognised and included as active partners in the development of government health and social policy, legislation and service delivery practices.

This submission reflects the concerns of Queensland's carers, those citizens who provide unpaid care and support to vulnerable family members and friends. This submission has been informed by consultation with Queensland's carers and Australian and international research.

## **INTRODUCTION**

Carers Queensland welcomes the opportunity to contribute to this much needed review of elder abuse. Carers Queensland understands that care relationships are not inherently equal and exhibit different degrees of dependence and need and shifting roles and obligations over the caring journey. We also know that the vast majority of carers strive to act in the best interest of the person they care for and support but we acknowledge that a very small percentage of carers will consciously manipulate aspects of the care relationship for their own material or personal gain.

Our submission is informed by national and international peer reviewed data, our own experience as a service provider and specialist community legal service and the personal and often difficult admissions of carers, those people who provide unpaid care and support to the most vulnerable in our society – children and adults with disability, mental health problems, life-limiting illnesses, challenging behaviours and the frail-aged.

We support the implementation of a comprehensive framework of preventative strategies and interventions that offer person-centred support to those impacted, proportionate to their unique circumstances.

## **POLICY CONTEXT**

Australia's contemporary social policy with respect to carers is both complex and contradictory. The policy promotes a philosophy of choice yet fails to offer carers real choice as to whether or not to commence or continue to provide unpaid care and support whilst simultaneously reinforcing a welfare ideology which places the moral imperative on families to assume the caring role, normalising the role of family and friend carers as providers of community and aged care and formalises family and intimate relations through the intrusion of public authorities. As a consequence carers have assumed responsibility to manage increasingly complex care and administrative arrangements (such as consumer directed care and individualised budgets) and the associated risks without adequate support and resources.

## CARERS AS VICTIM OF ABUSE

Carers have a range of roles regarding the safeguarding of vulnerable people – as informants, as abusers and as individuals vulnerable to harm, abuse and/or exploitation.

***It's hard to feel safe if we don't feel in control of what is happening in our life and hard to feel in control if we don't feel safe***

From experience we know that many carers experience harm (real or threatened) and/or exploitation perpetrated by the person they care for and support. Sadly, for 27.5% of respondents to Carers Queensland 2015 Quality of Life Audit<sup>i</sup>, the quote above bears some similarity to their caring relationship. Of these respondents 26% advised that they had experienced abuse more than once and many experience multiple types of abuse in their caring relationship.

Many children and adults supported by a carer, for example, have limited or fluctuating capacity to be responsible and rational individuals capable of making informed decisions, rationalising or controlling their behaviour or appreciating the impact of their behaviour on others. Others do not understand or appreciate the consequences of breaking a Domestic Violence Restraining Order, particular when they are in a florid state or affected by illegal drugs.

*When my son loses it he does not understand how his outbursts frighten me – he does not care about the damage to the house he causes. [Fortunately] he has not physically hurt me for about 10 years.*

*I have had to take out a domestic violence order because of the violence from my daughter. What happens when this expires?*

*My daughter assaulted her father. She has also imprisoned me in my bedroom on more than one occasion.*

*My son has enduring mental health problems and is often not compliant with his medication regime. Ten days ago he assaulted me. Pinning me to the floor he beat me with his fists and tried to strangle me. He cracked 4 ribs. I obtained a DVO which he neither accepts or respects and has been ringing me and calling to the house since.*

## **Aged and Disability Sector Failures**

For many carers, the impact of the abuse they experience, is compounded by the failure of practitioners to recognise their situation or worse yet, recognise their situation but ignore its presence.

Although rarely considered, carers can be vulnerable to abuse and exploitation perpetrated by not only the person they care for and support but from professionals who place undue confidence in the capacity and ability of carers to 'care' effectively and safely (rule of optimism) or presume carers are capable of and/or wish to continue to provide care and support.

Carers Queensland contends that some carers are exposed to harm and/or exploitation by the policies and practices of the health, allied health and community sectors.

### **1. Rule of Optimism**

The rule of optimism blinds practitioners and professionals working with vulnerable clients and their carers, affecting their perceptions and recognition of real or potential risk of harm, abuse, neglect or exploitation. The rule of optimism stems from the practitioners:

- generalised assumptions about carers; about their capacity to cope unsupported and their willingness to continue to provide care and support
- uncritical efforts to see the best in the situation resulting in an overly positive interpretation of what is going on in the family/home
- focus on the client and/or carer 'strengths' and ignoring what is not working and the risks that arise from that
- concerns about the consequences of intervention
- minimising or dismissing concerns raised
- not seeing or recognising emerging patterns of behaviour or concerns
- not ensuring a consistent focus on the person at risk
- excessive emphasis on the requirements of 'confidentiality' whilst the carer remains at risk of harm or exploitation
- sidestepping tell-tale signs or admissions of abuse or exploitation labelling them as 'cultural' or 'culturally acceptable'.

When practitioners operate through the ‘rule of optimism lens’ their actions, or lack of action, constitute a disservice to both the carer and the person they care for and support and has the potential to place both parties in situations that may be conducive to harm or exploitation.

*Husband gets aggressive and agitated with his illness. When you tell the doctors they really don't care.*

*When you have lived with abuse for the majority of your life it limits you with very few places that you feel totally safe, especially when you have cried out for help and no one believed you.*

*I believe my health would be a lot better if the medical professionals had of listened to me instead of the family and others - who were saying I did not live with violence. The courage it takes to stand up and then be labelled/ostracised/ignored and isolated only worsens the abuse & trauma. I had to turn to Google to find help!*

## 2. Risk adversity in the sector

The carer story below is a stark and common example of how carers are unable to exercise choice because of risk adverse policies and practices in the sector.

*Our son has autism, insulin dependent type 1 diabetes with complications including seizures, is non-verbal and has an intellectual disability. He is tall (1.8 metres) and weighs 90 kilograms. Recently he has become extremely violent- biting, hitting and head butting us and his siblings. I am covered in bruises, my husband has had skin taken off his face and my daughter has been thrown to the ground. I am frightened of him.*

*We are eligible for respite but cannot access any. Why – because no respite service provider wants the responsibility of administering insulin. So we have no option other than to continue to provide his care and support. If we cannot continue to provide his care we have no option except to relinquish him to state care.*

Carers Queensland asserts that service providers act in a prudential manner, calculating the risk potential against the potential profit margin of each client and where the risk potential exceeds the profit margin clients are declined service irrespective of their known ‘at-risk’ status or indications of being ‘at-risk’. The result of which is carers and the people they care for and support struggling to manage often at risk of continuing abuse and/or exploitation.

Carers, like all citizens, have the right to safety, dignity and respect. It is incumbent upon all practitioners working with carers in the health and allied health, disability, mental health and aged care sectors to not only respect these rights but to inform carers of their rights. Failure by service providers and practitioners to respect these rights can constitute systemic or professional abuse.

## PERSONALISATION REFORM AND CARERS

The move to consumer directed care and individual budgets has, for many carers, added an extra layer of complexity and risk to their caring responsibilities and often with no additional recognition or support. The assessment tools currently employed in Australia fail to recognise and respond to the needs and interests of carers, reflecting a disconnection between personalisation policies and practices and carer recognition legislation<sup>ii</sup>, <sup>iii</sup>.

The personalisation agenda assumes that carers who become involved in support planning have the time, knowledge and skills in areas such as negotiating and purchasing services, accounts management and reconciliation, contingency planning and complaints management and has ignored how time-poor carers can be.

Carers Queensland contends that the implementation of the personalisation has shifted the potential risk from service providers to carers and has failed to support carers to effectively make the transition from paternalistic service delivery to consumer directed care.

We recommend that the Commonwealth Government fund the establishment of locally based services whose primary role is to assist carers and those older clients who wish to self manage their care package with the legal, workplace health and safety and accounting aspects of purchasing and managing a care package.

## RECOMMENDATIONS

Carers Queensland recognises that safeguarding vulnerable older people, including older carers and carers of older people, is a complex area and that there are no perfect strategies, policies, procedures or approach that will address all the inherent issues across all domains.

As such, we argue that the investigation or mitigation of elder abuse through legal sanctions is an inadequate response to a complex issue perpetrated in the home, the community and in residential and community based care facilities.

- The use of legal sanctions to address elder abuse fails to recognise, and will therefore ignore, systemic abuse; the abuse that results from poor aged care policies, inadequate funding ratios, inadequate staffing ratios, targeted eligibility criteria that limits access to support services etc.
- The implementation of a raft of legal sanctions will serve to diminish the value of cost effective preventative strategies and services, programs that will minimise the prevalence and impact of elder abuse on individuals, families and communities.



- An 'elder abuse/safeguarding framework' predicated in legal sanctions will seek to treat 'perpetrators' as a homogenous group, without understanding the dynamics of the individual situation, or recognising other influences, such as inadequate support services, as militating factors.

Carers Queensland recommends that the ALRC Team:

1. Acknowledge and identify family and friend carers as a genuine category of persons who are at risk of elder abuse.
2. Review the excellent research and evidence from the United Kingdom and Northern Ireland, where a mandated interagency approach to the safeguarding of vulnerable adults has been operating effectively since 2000 and has been rigorously reviewed and evaluated.
3. Champion the establishment of an interagency framework that mandates all sectors to work collaboratively to address the causal factors that underscore elder abuse and agents that target and intimidate older and vulnerable people.
3. The implementation of a 'provider of last resort' policy; mandating providers that will provide the necessary assistance to support carers at risk of abuse and those they care for and support irrespective of risk calculation.
4. Fund independent support agencies who assist carers with the legal, workplace and safety and accounting obligations in regards to self managed packages of care.
5. Recommend a review by the higher education and vocational sectors into the curriculum of health, community care and aged care courses with respect to the adult and elder abuse and safeguarding policies and practices.

## REFERENCES

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<sup>i</sup> Carers Queensland Inc. 2015 Annual quality of Life Audit. Unpublished data.

<sup>ii</sup> Larkin, M. and Dickinson, H. (2011). *Personalisation: what will the impacts be for carers? Working Paper 64*. Third Sector Research Centre. [www.tsrc.ac.uk](http://www.tsrc.ac.uk)

<sup>iii</sup> Glendinning, C., Mitchell, W. and Brooks, J. (2013). *Carers and Personalisation. Discussion paper for the Department of Health. Working Paper No. DH2576*. Social Policy Research Unit, The University of York.