27 February 2017

Dear Sir Madam,

info@alrc.gov.au

Darwin Community Legal Service Aged and Disability Advocacy Service welcomes the opportunity to comment on the ALRC Elder Abuse Discussion Paper 83 and acknowledge that we are generally supportive of all the proposals as outlined in the paper.

We support the submissions already provided by other Aged Advocacy Services funded through the National Aged Care Advocacy Program (NACAP).

 In particular, given the lack of legislation in this area we would like to see the Commonwealth take the lead in developing legislation to deal with perpetrators of elder abuse and those who facilitate the abuse.

**Financial and Psychological abuse**

This is the most common issue reported to our Elder Abuse Information Line, which receives calls from metropolitan, rural and remote and from CALD and ATSI communities. Carers, family members and relevant professionals tell us they are at a loss as to what to do when the older person refuses to make a complaint and does not want to the police involved.

**Department of Social Services - Carer Payment**

We strongly support the proposal at 10.1 for the Department of Social Services to develop an elder abuse strategy. A person receiving a carer payment is obliged to notify Centrelink if there is a change in their caring circumstances but this is not done where there is financial advantage to the perpetrator.

**Guardianship**

It is acknowledged that Guardians and those holding Enduring Power of Attorney or who are nominated on an Advance Personal Plan must act in the best interests of the person for whom they are the agent of care. This raises the question of who oversees these guardians and we strongly support the proposal at 3.1 that State and Territory public guardians/public advocates be given powers to investigate elder abuse where they have reasonable cause to suspect.

**Banks and financial institutions**

Notwithstanding privacy laws and confidentially issues we believe that banks and financial institutions have a responsibility, where abuse is suspected, to report to their relevant supervisors. We strongly support the proposal at 7.1 for a Banking Code of Practice in this regard.

**CALD and ATSI communities**

We would like to see more resources provided for both the above communities to address the issue of Elder Abuse.

Language and cultural mores are barriers in both communities to effective appropriate assistance. Where possible this should be provided by members of those communities. It is therefore important that adequate culturally appropriate resources are provided to effectively address Elder Abuse.

The following are examples taken from our Elder Abuse Information Line which has been in operation since May 2015, and currently operating within existing resources.

***An issue for those living remote***

*Mary currently lives in a remote community and her daughter receives the Carers Pension. The daughter has alcohol and gambling issues and spends all of her time out of the house, while Mary is left in 40 degree heat on the verandah. The service provider has been reluctant to notify relevant authorities or allied health professionals without permission from Mary who says she doesn’t mind if her daughter needs extra money.*

***Trusting a friend***

*Lin came to our attention through one of her community members. She had loaned a friend a considerable amount of money. She had approached the friend and asked for it to be returned but the friend became very angry. We suggested that the community member and Lin approach the perpetrator and advise they had contacted the local legal service. Lin later advised us that the friend had agreed to pay a certain amount each week, although she doubted she would get it all back.*

***Getting into Debt***

*John’s son came to us for assistance after discovering his 86 year old father had taken out an $80,000 loan against his house, had debts on three credit cards and had been seen by a neighbour leaving the casino. The family were shocked at his level of debt and that he had been seen leaving a casino, as he had never been known to gamble. While the family did not think their father had cognition issues, given the recent information, an ACAT assessment revealed that he had dementia. The family queried why the bank had allowed an 86 year old without legal capacity, to take out a mortgage and to hold several credit* cards. *They believed this should have raised alarm bells by staff as to this unusual behaviour from an otherwise frugal long term customer.*

***Not a happy granny flat***

*Helen’s daughter-in-law called us concerned that another son and his wife had taken over the father’s house in order to care for him. The father had given the son money to build a granny flat for him to live in but he was now unhappy there as the daughter-in- law and son regularly abused him. The daughter-in-law is concerned that he has now been left with little savings or options for other accommodation.*

**Conclusion**

Darwin Community Legal Service Aged and Disability Advocacy Service appreciate the complexities of addressing the issue of Elder Abuse across a range of jurisdictions. The NACAP program has a long-term commitment to this issue and has individually and collectively much experience in the aged care sphere generally and elder abuse. As an advocacy service we would like to see a range of remedies, including legal, education, information and community awareness raising. We look forward to the outcome of this review. For further information please contact Caitlin Perry Executive Director or the writer.

Lorraine Gibbs

Senior Advocate/Team Leader

Aged and Disability Advocacy Service