



ST VINCENT'S
HEALTH AUSTRALIA

UNDER THE STEWARDSHIP OF MARY AIKENHEAD MINISTRIES

Australian Law Reform Commission Elder Abuse Inquiry

St Vincent's Health Australia submission

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An abstract graphic composed of several overlapping, semi-transparent blue triangles and polygons. The shapes are arranged in a way that creates a sense of depth and movement, with some shapes appearing to recede into the background while others come forward. The colors range from a light, pale blue to a darker, more saturated blue.

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1. Context and policy

1.1 What is elder abuse?

Elder abuse is a form of family violence. It is “a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person”.¹ Elder abuse may be physical, social, financial, psychological or sexual and can include mistreatment and neglect. Elder abuse often occurs behind closed doors and it is estimated that 80% of elder abuse is underreported.² Elder abuse does not discriminate. The incidence of elder abuse is not unique to any older person, gender, socio-economic, religious or cultural group.³

The impact of elder abuse on older people can include both physical and mental health problems, feelings of social isolation due to reduced social networks, financial loss and in some situations increased risk of death.⁴ Research carried out by the National Ageing Research Institute indicates that approximately 67 per cent of elder abuse is undertaken by a son or daughter of the older person, and 92 per cent of the people causing harm are related to the older person (including those in a de facto relationship).⁵

In Australia there is growing awareness of elder abuse at a time when there are greater numbers of older people, increased longevity and higher rates of people with dementia.⁶ Research indicates elder abuse is experienced by approximately 2–6% of older people in Australia.^{7 8}

Financial and psychological abuse are the most commonly reported types of abuse, and often more than one type of abuse is experienced at a time. Many of the same factors that contribute to family violence contribute to elder abuse, including gender inequality, the use and abuse of power within relationships, and a history of family conflict and community attitudes (ageism).

1.2 The current legal and policy context

In Australia there are currently no specific laws (at a state or national level) or a national government policy framework related to elder abuse. The one exception is the mandatory reporting of certain types of abuse in commonwealth residential aged care facilities.

Professionals working with older people at risk of abuse are reliant on state and territory government elder abuse policies, strategies including criminal and civil laws (including guardianship and powers of

¹ World Health Organisation (2002), *Toronto declaration on the global prevention of elder abuse*, p 2.

² World Health Organisation (2008), *A Global Response to Elder Abuse and Neglect: Building Primary Health Care Capacity to Deal with the Problem Worldwide*, p 1.

³ World Health Organisation (2002), *Toronto declaration on the global prevention of elder abuse*.

⁴ Dong et al (2009), *Elder self-neglect and abuse and mortality risk in a community-dwelling population*, *Journal of the American Medical Association*, 302(5):517–526.

⁵ National Ageing Research Institute in partnership with Seniors Rights Victoria (2015), *Profile of elder abuse in Victoria: Analysis of data about people seeking help from Seniors Rights Victoria Melbourne*.

⁶ Victorian Department of Health and Human Services (2009), *With Respect to Age*, page IX

⁷ Kurrle S, Naughtin G (2008), *An overview of elder abuse and neglect in Australia*, *Journal Of Elder Abuse & Neglect*, 20(2):108-25.

⁸ Cooper C, Selwood A, Livingston G (2008), *The prevalence of elder abuse and neglect: a systematic review*, *Age and Ageing*, (2):151.

attorney). Most Australian states and territories have some guiding policy or strategy to prevent and respond to elder abuse. The need for community awareness, information and education for older people and professionals, and the need for coordinated multidisciplinary support services, pathways and protocols are identified as common themes. However, the level of state-wide actions and initiatives vary greatly.^{9 10}

Some states have very detailed elder abuse prevention and response strategies, such as New South Wales, Tasmania and Victoria. For example, Victoria's 2009 *With Respect to Age* is a guideline that lists specific actions and initiatives. The document includes calls for law reform, the establishment of documented referral pathways, research, community awareness campaigns, and ongoing support for the state's elder abuse service, Seniors Rights Victoria.

Despite the lack of a national policy framework, there has been consistency among the states and territories regarding the *approach* needed to address elder abuse. All jurisdictions have adopted a human rights approach to elder abuse, as opposed to a protective and mandatory reporting approach (with the one exception previously mentioned in residential care). An empowerment model assumes all adults are competent to make informed decisions, unless proven otherwise, and that they have a right to self-determination and informed choice. This approach empowers and encourages older people facing abuse to take action through information, education and advocacy, but does not compel the older person to take action.

The current political and media focus on family violence has provided a climate of opportunity, particularly with the increasing recognition of the importance of the role of health services in responding to family violence.

St Vincent's Health Australia strongly supports the ALRC's proposals for a National Plan to address elder abuse and a National Prevalence Study.

1.3 The Victorian Royal Commission into Family Violence

The correlation between elder abuse and family violence has drawn significant attention in recent years and more recently in Victoria, as a result of a recent Victorian Royal Commission into Family Violence (VRCFV).

In 2015, St Vincent's Health Australia and our clinicians from St Vincent's Hospital Melbourne provided evidence to the Victorian Royal Commission into Family Violence confirming the role that health services can and should play in the responding to elder abuse.

The Royal Commission released its recommendations in March 2016 and endorsed St Vincent's Hospital Melbourne's framework for addressing elder abuse, concluding: "the Commission notes and supports initiatives such as the St Vincent's Hospital model. A model such as this should be adapted for use in other hospitals and other environments such as aged care".

While the recommendations specific to elder abuse are limited, the content of the 'Older People' chapter provides a solid basis for future reform. The Commission believes that responses to older people who have experienced family violence should be informed by key principles, which recognise

⁹ Chesterman J, (2016) *From recognition to reform: Planning the next generation of elder abuse response strategies*, presentation at 4th National Elder Abuse Conference, Melbourne.

¹⁰ Chesterman J, (2016) *Taking Control: Putting Older People at the Centre of Elder Abuse Response Strategies* (2016), Australian Social Work, vol 69 (1), pp 115-124

the particular experiences and needs of older victims. These key principles are (Victorian Royal Commission into Family Violence report, Chapter 27: Older People, p 89):

- Public awareness of family violence against older people must increase, so that family and friends can identify abuse and provide support.
- Older victims should be encouraged to seek help and know where it can be found.
- All service providers who may come into contact with older victims should be able to identify when family violence is occurring and know what to do in response. Aged care and health care workers should be able to obtain advice and support to resolve the ethical tension between patient/client wishes and protecting their safety.
- Older victims should be supported to remain in their homes. If they choose to leave, they should be supported to obtain appropriate accommodation.
- Older victims from Aboriginal or Torres Strait Islander backgrounds should be able to receive culturally safe services.
- Older victims from particular communities – including culturally and linguistically diverse communities (CALD), lesbian, gay, bisexual, transgender communities and people with disabilities – should be able to access services that understand and can respond to their different experiences and needs.
- When responding to family violence against older people, the response should be sensitive to their choices about family relationships; for example, instead of relying on a criminal justice response, greater support could be given to parents who are carers of adult children with mental health issues.
- Responses between various sectors (and particularly aged care, health and family violence services) should be coordinated and collaborative.

2 St Vincent's work in elder abuse

2.1 St Vincent's Hospital Melbourne: a national leader

St Vincent's Hospital Melbourne has a long tradition of providing quality health care for vulnerable people and has aimed to provide a response to elder abuse which is one of shared responsibility across the health service with a focus on active engagement by key health professionals. St Vincent's is uniquely placed to contribute to the broader elder abuse knowledge base, thereby strengthening our service provision as well as the organisation's advocacy and ability to influence family violence policy directions. St Vincent's commitment to addressing elder abuse is strongly aligned with its values of compassion, justice, integrity and excellence and its Mission, reflecting the hospital's long held commitment to person-centred care and social responsibility.

Elder abuse strategies and practice initiatives have generally relied on organisations to drive change and develop service improvements within existing resources. Through its groundbreaking work, St Vincent's Hospital Melbourne now has more than 10 years' experience in developing capacity to respond to suspected elder abuse in a health care setting, including implementation of a Protection of Vulnerable Older People facility-wide policy (2013), a model of care, competency framework, education module and a governance structure to oversee the process.

St Vincent's Hospital Melbourne has implemented an evidence-based, multidisciplinary collaboration which aims to safeguard vulnerable older people at risk of harm by improving safety and quality of care through effective clinical governance. These are fundamental drivers in safeguarding vulnerable older people.

The framework was developed in response to clear evidence that:

- Hospitals can offer a window of opportunity for intervention in elder abuse – people experiencing elder abuse are at greater risk of hospitalisation than other seniors.¹¹
- Health professionals lack specific understanding, education and training in recognising abuse and intervening.¹²
- Education and training of health professionals in elder abuse is regarded as an important means of ensuring the early identification, prevention and effective management of elder abuse.¹³
- High levels of suspicion of abuse, but low levels of intervention was identified in a pilot survey (2005). An anonymous survey of staff at St Vincent's Hospital Melbourne found 53% had suspected abuse in the last 12 months, but only 17.7% attempted to explore the situation further and 7% attempted an intervention.¹⁴

The St Vincent's Elder Abuse framework was informed by the PhD research of St Vincent's Hospital Melbourne Senior Social Worker, Meghan O'Brien and supported by an Australian Research Council Linkage grant in collaboration with the University of Melbourne. As such, the response to elder abuse is based on an evidence-informed approach to deliver effective practice using best-practice principals from other jurisdictions including evidence gathered from a study tour of the United Kingdom which focuses on safeguarding principals for all adults.

The response to elder abuse at St Vincent's has been built on the view that having a policy about elder abuse is not enough. Health professionals need to be confident in identifying and responding to elder abuse in a complex health care environment. Clinical leadership and executive level support are critical, pathways for responding need to be in place, and older people need to be given the right to choose options that can support them and their family. Elder abuse is often shrouded in secrecy and individual feelings of shame can have devastating consequences for an older person. For this reason it is essential that hospital staff can identify the "red flags" and risk factors and sensitively inquire as part of their clinical practice.

The St Vincent's Hospital Melbourne Elder Abuse Framework

The key features of the model are:

- *High-level governance arrangements* – a senior Vulnerable Older People Coordination and Response Group has been established. Members of the group review all data relating to suspected cases, and also advises on policy and continuous improvement.
- *A model of care* which supports staff to identify pathways for intervention and escalation based on risk, patient choice and safety planning.

¹¹ Joubert, L & Posenelli, S (2009), *Responding to a Window of Opportunity: the detection and management of aged abuse in an acute and subacute health care setting*, Social Work in Health Care 48, pp.702-714.

¹² Cooper, C., Selwood, A. and Livingston, G. (2009), *Knowledge, detection, and reporting of abuse by health and social care professionals: A systematic review*, The American Journal of Geriatric Psychiatry, 17 (10): 826–838.

¹³ Day, M.R., Bantry-White, E. and Glavin, P. (2010), *Protection of vulnerable adults: An interdisciplinary workshop*, Community Practitioner, 83 (9): 29–32.

¹⁴ Joubert & Posenelli (2009).

- *Data collection and notification* – all cases of confirmed, witnessed or suspected elder abuse are notified to the coordination and response group. The data informs process improvement and workforce training.
- *Education* – the framework is underpinned by three tiers of competency training for hospital staff.

In spite of literature confirming that older people are reluctant to report elder abuse¹⁵, St Vincent's Melbourne's data of suspected elder abuse notifications (n = 315) confirms 58% of older people are reporting directly to the hospital's health professionals, supporting the view that a health care setting is indeed a 'window of opportunity'.

When an older person is in hospital, they may feel like they are in a safe environment and may disclose to a health professional they trust. If the hospital has received a disclosure of abuse from an older person, key staff are able to confidently assess the situation further, including discussions with the person of concern. There may be issues of carer stress, lack of knowledge around resources, and the need for education or information. The hospital's aim is to respect the wishes of the older person, upholding their right to self-determination, while balancing this with appropriate risk assessment and care planning. The patient's medical record contains important information which allows health professionals to work with the older person and their family to create a care plan which addresses their individual needs.

An older person's cognition (ability to make informed decisions) is an essential element which can guide health professionals in how they may respond to an older person at risk. St Vincent's can access neuropsychologists and geriatricians who can provide expert assessment and guidance if there are concerns about the capacity of the older person.

St Vincent's approach to responding to elder abuse requires a team approach. Medical, nursing and allied health staff work together to support and address the care needs of the older person during an inpatient stay. St Vincent's has a range of programs which can assist at the point of discharge which include complex care and transition care programs which offer ongoing case management and funded services to assist older people in creating new and empowering pathways for their lives. Hospitals are uniquely placed to provide these services as they have access to on-site specialist medical and multidisciplinary support and can make rapid and effective referrals to other departments.

St Vincent's Hospital Melbourne's achievements are now widely recognised as best practice when it comes to identifying and responding to elder abuse in a health care setting. It continues to build on its model and play a role in workforce development, particularly in Victoria, by sharing its knowledge and experience. For example:

- St Vincent's is developing a training module to support 15 health services to better respond to older people at risk as part of the Victorian Department of Health and Human Services' (DHHS) initiative *Strengthening Hospitals Response to Family Violence*, a project lead by Bendigo Health and the Royal Women's Hospital.
- St Vincent's has received funding to partner with the Bouverie Centre as part of a two year DHHS project being rolled out as a trial for an integrated response to elder abuse across the hospital and community sector.

¹⁵ Bagshaw D, Wendt S & Zannettino L (2007), *Our Actions To Prevent The Abuse Of Older South Australians, Action plan* (based on research), prepared for the Office for the Ageing, Department for Families and Communities, South Australia.

2.2 Maintaining data on Elder Abuse

Data collection is a fundamental driver in safeguarding vulnerable older people. The availability of health service data on the prevalence of elder abuse cases is rare. Through monitoring and auditing St Vincent's Hospital Melbourne is able to guide improvements. Audits of Vulnerable Older Person notifications made at St Vincent's since the inception of its new policy, and related case information, have assisted in the review of the current model of care and informed further policy review, process and practice improvements, and training requirements based on data collected over a four year period.

An analysis of results on 315 notifications of suspected elder abuse audited to date found:

- 49% patients were aged 80 years and over; 67% were female and 72% born outside of Australia.
- 57% of cases involved direct disclosure of elder abuse by the older person.
- In 75% cases of suspected elder abuse, confirmation was made following further assessment and 15% were unable to be determined, requiring further monitoring.

Results on types of abuse, as a percentage of all the confirmed elder abuse, were:

- Financial (56%)
- Psychological/Verbal (55%)
- Physical (39%)
- Neglect (28%)
- Sexual (4%)
- 31% of confirmed cases involved 2 types of abuse, 20% involved 3 types or more.

In the sample:

- 38% of older people had a diagnosis of dementia or cognitive impairment; 32% had history of family violence.
- In about a third of cases, the person of concern (alleged perpetrator) had a mental health issue, and in two-thirds of cases the person of concern was living with the older person.

The work undertaken at St Vincent's Melbourne has confirmed how data can be collected, analysed and promoted to inform improvements. It has informed the hospital on incidence and prevalence including demographics, risk factors, intervention strategies, learnings and areas requiring review or action. The findings from the data have also guided education to health professionals. For example, the data has given the hospital key information both older people and the person of concern including: the incidence of CALD patients at risk, high levels of mental health issues, neglect and dementia.

2.3 Elder Abuse Health Justice Partnerships

In January 2016, **St Vincent's Hospital Melbourne**, Justice Connect Seniors Law and Seniors Rights Victoria established Australia's first Health Justice Partnership (HJP) for vulnerable older people at risk of abuse in a hospital setting. Justice Connect Seniors Law is a specialist community

legal service established to assist older Victorians with legal issues related to ageing, with a particular focus on elder abuse. The lawyer employed as part of the HJP is funded by Seniors Rights Victoria through the Victorian Department of Health and Human Services, Seniors' Programs and Participation, Ageing and Aged Care Branch.

Elder abuse might manifest as a health issue, such as depression or chronic pain – or a social issue, such as homelessness – but the underlying cause might be legal. For example, a failed agreement with an individual's family to provide care. Resolving the underlying legal problem can improve a clients' health and wellbeing.

The HJP aims to offers a client-centred approach to older people at risk of elder abuse by recognising an older person's experience of elder abuse might involve interconnected health, social and legal issues.

The model includes a senior lawyer based at St Vincent's up to three days per week linked to the Social Work Department. Key responsibilities include:

- Providing secondary consultation to assist staff in managing elder abuse and to support staff to identify and respond to elder abuse and identify legal issues.
- Provide information to staff across the organisation on the role of the HJP and the services which can be directly offered to older people at risk.
- Assistance to the St Vincent's Vulnerable Older Persons' Coordination and Response Group to strengthen existing practices.
- Provision of targeted legal advice on site and appropriate information and resources for patients on a case-by-case basis.

In its first year, the HJP has already delivered clear benefits:

- Better – and sooner – access to legal help. If an older person does not want to speak to a lawyer, they can still receive general legal information through their St Vincent's worker, who can continue to support them.
- Better reach to help disadvantaged clients who otherwise would not have been able to access legal help.
- Improved relationships and collaboration between professionals. The lawyer can build trust and credibility with colleagues, who may be more likely to refer clients in the future and encourage their colleagues to do the same.
- Existing St Vincent's Hospital Melbourne's policies, procedures and practice have been strengthened with respect to the legal and professional implications of multi-disciplinary practice as well as engagement with legal services.

The St Vincent's Health Justice Partnership lawyer states: 'As clinicians are becoming aware of my role, I am meeting with older patients in hospital and in their own home, who otherwise would have been unlikely to seek out legal advice.'

A social worker who has referred clients to the HJP lawyer confirms the service provides a timely opportunity to support patients in hospital before they go home: 'The benefit of getting legal help in hospital is that it creates an opportunity, a safe space to get someone legal advice they might not necessarily be able to get when they go home.'

Case study: Alexi

Alexi was 83 years old when Hugo, his partner of 50 years died, leaving Alexi on his own for the first time in many years. Alexi didn't have much family left, and his neighbour Gary, who was in his 30s, started coming around to visit him.

At the beginning, Alexi was grateful. Gary could use the internet and helped him to pay his bills online. Gary would organise the shopping and do some cleaning in the house from time to time. Alexi started to rely on him.

As time went on however, Gary became controlling. When Alexi came out of hospital after some minor surgery, Gary had rearranged the furniture without asking Alexi. Gary would collect Alexi's mail, and open it without permission; he would make demands for items in Alexi's house and feeling he had no choice, Alexi would give them to him.

Alexi wanted to make a new will as everything in his current one was left to Hugo. Alexi felt pressured, as Gary had started to make comments about what he wanted Alexi to leave him – as well as telling him he should be appointed power of attorney so he could manage Alexi's finances. Alexi wished Gary would leave him alone, he had no intention of leaving anything to Gary, or appointing him as attorney.

Through his St Vincent's Hospital Melbourne social worker, Alexi was put in touch with a Health Justice Partnership (HJP) lawyer who was based at the hospital. The HJP lawyer was able to give Alexi advice on Powers of Attorney, and link him with pro bono lawyers who could draft him a new will without Gary's interference. Alexi's will is now complete and stored in private. He sees Gary less often, but when he does come around, Alexi is no longer worried by Gary's comments as he feels confident in his understanding of his rights.

A similar Health Justice Partnership committed to preventing and responding to elder abuse was also recently established between **St Vincent's Health Network Sydney** and Justice Connect.

The newly initiated Health Justice Partnership (HJP) Addressing Elder Abuse Project will see a lawyer from Justice Connect become part of the health care team at St Joseph's Hospital, Auburn and St Vincent's Hospital, Darlinghurst, and will involve supporting and empowering health professionals to recognise potential cases of elder abuse and proactively respond to legal issues identified by the older person.

As with the Melbourne HJP, by basing themselves at a St Vincent's facility, the Justice Connect lawyer will receive timely referrals directly from the health team, provide consultations to clinicians and patients, and make referrals to pro bono legal services where necessary to achieve a satisfactory legal outcome for the patient.

And again, mirroring the Melbourne HJP partnership, the Sydney initiative will involve the training and education of health professionals around elder abuse, and the role they play in advocating for their patients to improve health and legal outcomes. The partnership will also enable St Vincent's Health Network Sydney's facilities to collect data on the prevalence of elder abuse among its patient cohorts, and the impact its health care teams can make on their patients' experience of elder abuse through prevention and coordinated response.