

## **Submission to Elder Abuse DP 83**

**Submission : 25/02/17**

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Thank you for accepting my submission to Elder Abuse DP 83 released 12/12/16.

My private circumstances altered immediately after the close of submission in August, 2016. Therefore I thought it appropriate to provide this information for the public.

Below please find:

1. Summary and Closure - Addendum to My Story- Anonymous 131.
2. Comments on some of the 43 Recommendations in the Elder Abuse DP83.

Additionally, I would like to provide feedback on your podcasts.

Elder Abuse proposals on guardianship, financial administration & social security – 2 February 2017

Elder Abuse and reform proposals on powers of investigation – 2 February 2017

Elder abuse law reform proposals on aged care – 17 January 2017

Elder abuse law reform proposals on enduring documents and family agreements – 12 January 2017

The publication and content of the podcasts was most informative and indicative of the enormous efforts by the ALRC and all contributors. Podcasts gave a succinct clear summary of the discussion paper main recommendations and a prompt about the looming deadline 27/02/17.

I am privileged to have participated in this process.

Sincerely,

[REDACTED]

## 1. Summary and Closure - Addendum to My Story- Anonymous 131.

My siblings had displayed many signs of lack of respect for our mother with their sense of entitlement and exploitation of her property. This led to my last resort, to apply to the tribunal (VCAT). Initially the application was for Guardianship with our mother's endorsement, only when Guardianship was opposed by the siblings, I applied for Administration. A roller coaster of two years of action (sic) cost me ~\$30K and career sacrifice to protect my mother's rights against my four siblings. The end result was an appointment of two siblings co - Administrators and the Public Guardian.

With my mother's complete agreement and Medical Power of Attorney, I decided to dedicate my time and expertise to support her to live out her days in her home of 60 years. For the first couple of years I was able to support her and gradually implement appropriate services with her agreement, in a timely manner. Then in 2014, she had two acute episodes in hospital, which she recovered from. In cooperation with the medical team, I rehabilitated her back at home, as my mother desired, but with higher level of support.

During 2014, it became clear to me that my siblings were united in their desire to remove our mother from her home. Previously, I had been thanked for my assistance and my expertise was acknowledged, by some siblings. They made claims in VCAT that I would not let them help with her care, and I did not communicate about our mother's health updates, despite my dozens of emails with regular updates and them having a few years opportunity to become involved in her care. My main focus was on our mother who was a pleasure to support and willingly accepted scaled up services in order to remain at home.

Finally, September 2016, soon after completing my final draft submission to the ALRC and completing my notes for the upcoming VCAT hearing the next week, I received a call to say that an ambulance had been called to our 90 year old mother. That morning after being assisted by her usual carer to have a shower and get ready for the day's Planned Activity Group (PAG) she sat on her bed, lost consciousness, and died. Her wishes were granted. She remained in her house of 60 years, which our late father (RIP 45 years ago) had built.

The cost to me was enormous but the system allowed it. I had to consult and justify every intervention, whereas my siblings just had to be negative without any evidence. This is unacceptable. It is tantamount to inverting 'innocence until proven guilty'. However, I would have done nothing different for our mother, despite the unwarranted overheads and personal abuse. Within three months following her death, her house was sold for 2.25 million dollars. With the inflated real estate situation in Victoria and NSW, inheritance impatience will increase.

## 2. Comments on some Recommendations from Elder Abuse DP 83

<https://www.alrc.gov.au/news-media/podcast-elder-abuse-enduring-documents-and-family>

### Registering

1. National online register of enduring documents.
2. Range of safeguards
3. Name change to documents.

Re (1), Agree All Powers of Attorney (POA)s should be registered and witnessed by independent authority with a consistent National approach. Additionally, orders made by state tribunals should be contractual with the people who are made Administrators or Guardians. Although, they are court orders, a signature on the dotted line by the recipients of the orders would imply a greater responsibility and accountability - Certification that ensures the recipient is acknowledging responsibilities. Nevertheless, state tribunals need (powers) to enforce (contractual) orders.

Re (2), Family dynamics are so complex and powerful, there are still opportunities for offspring to gang up, or for one to exert power over another, even with joint authority, be it POA, Administration, etc. Whistle blowing needs to be given importance. Relevant authorities should have the powers and resources to investigate credible (whistle blower) complaints.

Conflict of interest is difficult to discern and family members with Authority (EPOA, Administration, etc ) who have hidden agenda can easily influence older people to make decisions that benefit the offspring themselves, or even use their power to provide funds for others in the family in order to buy favours. ie. reverse mortgage, loan for advanced inheritance. Again, whistle blowing can be a deterrent if taken seriously.

Re (3), Language is so powerful. People who lack respect for older people use terms like "losing it", "lost the plot", "confused" etc. and often the health professionals, or outside bodies accept these statements too readily, ie. as fact despite lack of supportive evidence.

Even if a person has a diagnosis of dementia, authorities, carers and family need to appreciate that the person still has a great deal to offer, and should be involved in all decisions made about them. It must be understood by all interested parties that the person with dementia deserves the right to live out their life as they see fit as long as no clear danger is presented. The person should also be given dignity of risk (eg. to stroll even if some risk of wandering) rather than be institutionalised because it suits the family not to worry at all. If a person is a minimal risk to themselves and others, they deserve to reside where they are most comfortable and maintain as much of their desired lifestyle as possible.

Use of 'elder abuse' by authorities (tribunal, courts, medicos, police ...) rather than often the

bland label 'family conflict' when it is clear that an older person has been or is being exploited for money or to gain access to their estate, would attach greater stigma to the abusers. eg. if the tribunal warned or spoke of 'abuse' in the court, or the public advocate appointment highlighted 'abuse', some cases may be curtailed more effectively. Sometimes it is simply 'family conflict', but other times it is really 'elder abuse'. Simplify the official and professional use of language in the area of abuse; use terms consistently; avoid euphemisms that imply less severity.

Training - Comprehensive training to communicate explicit and consistent statement of rules, what constitutes violation, and penalties for violation, should be mandatory. Having an option to read a website leaves many people with EPOA and other VCAT orders a way out to claim they did not know they were breaking a rule. Such people should be more responsible if they signed their understanding and acceptance, knowing the penalty for violation. Eg. The one hour Administration sessions offered by the VCAT are quite effective but should be mandatory prior to more comprehensive training following the sessions. Prospective Administrators should sign their understanding and acceptance, knowing the penalty for violation. They should be treated as 'L' and 'P' platers until they prove they are responsible Administrators, safeguarding the best interests of their represented person. Certification or completion of a course or milestones should be registered formally with the tribunal educators.