****

**VICTORIAN MULTICULTURAL COMMISSION**

**Submission to Australian Law Reform Commission Elder Abuse Discussion Paper**

**Part 1 - Introduction**

**The Victorian Multicultural Commission**

Established in 1983, the Victorian Multicultural Commission (VMC) is an independent statutory authority and the voice of Victoria’s culturally and linguistically diverse (culturally diverse) communities. It is the main link between them and the government.

The VMC advocates on behalf of Victoria’s culturally diverse communities and provides independent advice to State and Federal Government departments. The VMC’s advice is informed by its regional advisory council (RAC) [[1]](#footnote-1) meetings and its regular community consultations and engagement meetings.

**Victoria’s culturally diverse population**

Of Victoria’s 5.3 million people, 26.2 % were born overseas in more than 200 countries and nearly half of all Victorians, 46.8 %, were born overseas or had at least one parent who was born overseas. In Victoria, 23% of people spoke a language other than English at home in 2011. This indicates how culturally diverse Victoria’s population is and the degree to which different ethnic groups and nationalities are retaining their language[[2]](#footnote-2).

**Context**

The VMC welcomes the opportunity to make a submission to the Australian Law Reform Commission’s (ALRC) Elder Abuse Discussion Paper in particular with regard to protecting the needs and rights of seniors in Victoria’s culturally diverse communities.

This submission is informed by VMC community consultation findings and its RAC meetings[[3]](#footnote-3). Elder abuse has been identified at RAC meetings over the past three years as an issue of increasing concern impacting Victoria’s culturally diverse communities. Elder abuse has been identified as occurring in the following communities: Greek, Italian, Chinese, Indian, Vietnamese, Maltese, Karen, Filipino, Hispanic, Polish and Russian.

The VMC has also identified that people from multicultural backgrounds are often not aware of their rights, responsibilities or avenues of redress.

The VMC has identified the following barriers to awareness and reporting, understanding of matters impacting culturally diverse seniors and accessing services[[4]](#footnote-4):

***Pre-arrival factors***

* Pre-settlement journeys including the long-lived and significant impacts of pre-arrival trauma due to war, torture, deprivation and separation, and loss of family members
* Mistreatment by overseas government agencies and local authorities resulting in a lack of confidence and trust
* Fear of reprisal if issues are raised with government agencies or service providers in country of origin
* Limited or lacking education, often at primary school level even in country of origin
* Social services and options may not have existed in country of origin (causing a lack of awareness/understanding).

***Cultural***

* Concern regarding identifying or reporting due to the impact (i.e. shame, stigma) on their families and their broader community
* Fear of reprisal/making things worse
* Stigma and shame
* Elder abuse can be a “taboo” topic within some culturally diverse communities
* Misunderstanding of what services can offer (e.g. counselling in some countries may be viewed as only for people who are mentally ill)
* Lack of awareness of services and how they can intercede or assist in challenging situations.

***English language skills and education levels***

* Limited English language and literacy skills (including in their native tongue)
* Lack of understanding of the Australian justice system
* Limited education levels – traditionally entered workforce earlier (e.g. in 1970 only 3% of the population had a university degree, this rose to just over 8% in 1989 and to almost 37% in 2012 [[5]](#footnote-5))
* Deterioration or loss of English language skills and reversion to native language[[6]](#footnote-6) or dialect as they age.

***Environmental/Other factors***

* Social isolation including loss of peer, close support due to them ageing at same time or dying, restrictive mental or physical health issues; distance (e.g. living several suburbs away from friends)
* Loss of mobility and limited transport options
* Systems and processes are daunting to them – requiring considerable effort and internal resilience – huge emotional barrier to reporting a loved one/family member
* Intergenerational differences including – financial pressures on younger generation/impact of lifestyle choices (e.g. drugs and gambling) – rise of inheritance entitlement attitudes
* Impaired cognitive skills and eroded confidence
* Lack of information technology skills
* Lack of easy/ready access to computer equipment and internet.
* Services are not culturally responsive enough – they alienate culturally diverse clients through of intercultural awareness and basic language skills. This can result in clients being non-communicative or engaging because they don’t feel they have a voice.

**Effective implementation of Elder Abuse proposals for multicultural communities**

The VMC suggests that factors which will mitigate the above barriers and assist the effectiveness of the proposals include:

* Intercultural awareness/sensitivity training for service provider staff
* Compulsory quality intercultural awareness and language skills training of aged care staff – including annual professional development requirements
* National community awareness education (such as using ethnic media, radio and TV) covering impact, rights, responsibilities (including sponsors), prevention and support, and including multi-media shock campaigns (i.e. road trauma/safety ) reaching all sections of the mainstream and culturally diverse community, and Australia Elder Abuse Awareness/Prevention day
* Information awareness and ongoing education campaigns for culturally diverse seniors to mitigate the barriers they face in raising matters impacting on them. For example, DHHS delivers a specific Elder Abuse Prevention and Response Initiative, which provides community education on elder abuse, specifically of older people from culturally diverse backgrounds. The initiative delivers professional education to raise the awareness of professionals working with culturally diverse clients regarding elder abuse, as well as a community awareness program to identified communities to increase their awareness of elder abuse and effective means to prevent and respond to this issue.
* Intergenerational awareness/education throughout communities and as part of general education system (i.e. incorporate into primary and secondary education curriculum)
* Make sponsors[[7]](#footnote-7) aware of their roles and responsibilities, the challenges and complexity associated with of looking after culturally diverse elders, particularly in an environment which is foreign to the elder person (for example; the importance of their parents being connected socially to members of their own community)
* Provide pre arrival elder abuse awareness information for seniors intending to make Australia their home, including details of rights, prevention and support services [[8]](#footnote-8)(e.g. at overseas embassies, by migration agents)
* Availability of translated materials
* The use of terms (oral and written) which have meaning and context for culturally diverse seniors
* Use of pictorial literature in the form of CALD storyboards[[9]](#footnote-9) for people with low level literacy
* Use of qualified interpreters for all interactions
* Seniors and culturally friendly design of IT information/instructions, forms and systems
* Implement similar guidelines to those at the Victorian Royal Commission Family Violence Recommendation 157 – updating guidelines on policy and procedures about the use of interpreters
* Ensure culturally diverse seniors are aware that they can quarantine a percentage of their assets to protect against mistakes, misappropriation or abuse[[10]](#footnote-10).

**Specific enablers**

The VMC suggests consideration of the following enablers which are adapted from outcomes of the Victorian Royal Commission into Family Violence.

* Establish a national network of Support and Safety Hubs[[11]](#footnote-11), where culturally diverse seniors (victims and potential victims) can access the support they need to be treated with respect and stay safe
* Recruit new specialist elder abuse workers to support culturally diverse seniors, especially women access services they need to stay safe and get back on their feet
* Provide specialist training to service providers, aged care workers, official visitors and state police officers who play a critical role in identifying and responding to elder abuse
* Initiate a Primary Prevention strategy, in conjunction with nation-wide behavioural change campaign, to help stop elder abuse happening in the first place

These initiatives will require government, community and related service provider cohorts to transform the way they approach and work, and should include creation and resourcing of the following:

* A national co-ordination agency which will oversee the operation of the Support and Safety Hubs
* A prevention agency, similar to work being done under Victorian Family violence perpetrator initiatives, with dedicated funding focusing on providing advice on best practice
* A Centre for Service Excellence to focus on building the strongest possible culturally sensitive workforce for all seniors
* A national data collection and management strategy to change the way that service providers, aged care facilities and government collect information to develop new capabilities to analyse data to protect at risk culturally diverse seniors
* Provision of adequate “new funding” to enable all service providers, particularly aged care facility operators, to implement awareness and intercultural training and other initiative and safeguards for culturally diverse seniors, as identified within the Discussion Paper and above
* Implementation of a joined-up whole of government, community and service provider approach.

**Part 2 VMC responses to Elder Abuse Discussion Paper proposals and questions**

The VMC has responded to proposal and questions within each of the following sections.

**2. National Plan - Proposal 2–1 & 2–2**

**VMC Response**

The VMC supports the development and implementation of a National Plan to address elder abuse and supports the commissioning of a national prevalence study that specifically considers, includes and addresses the unique factors associated with or impacting culturally diverse seniors

The VMC notes that the development and implementation of a national plan will only be effective if supported by additional (new) funding and resources. The VMC recommends that the ALRC strongly advocates for the required additional funding and resources.

The VMC recommends that the study specifically and significantly investigates Elder Abuse within culturally diverse communities as the number of multicultural seniors represents a significant group of society, and as a percentage of the Australian population this will continue to grow. The VMC recommends that the study directly includes consultation with culturally diverse communities, that it listens to the voices of these communities and seeks to co-design and implement effective responses and strategies. The VMC would welcome involvement in the study and can assist in providing access to multicultural cohorts in Victoria.

**3. Powers of Investigation - Proposals 3–1 to 3–5**

**VMC Response**

The VMC supports Powers of Investigation proposals 3.1 to 3.5.

**5. Enduring Powers of Attorney and Enduring Guardianship - Proposals 5–1 to 5–13**

**and questions 5–1 & 5–2**

**VMC Response**

The VMC supports Enduring Powers of Attorney and Enduring Guardianship proposals 5.1 to 5.13. The VMC suggests that with respect to proposal 5.4 that consideration be given to including faith and religious leaders (e.g. local rabbi, minister, priest or Imam etc.) within the witness category. The rationale for this is their likely proximity to the older person’s place of residence and their knowledge of the family.

The VMC with respect to question 5.1 suggests that irrespective of who is permitted to search the register, that all access is regularly monitored and that safeguards are in place to identify and prevent search access being used for purposes that are, or could be, to the detriment of the elder person, immediately or at some future stage.

With respect to question 5.2 the VMC suggests that public advocates and public guardians should have the power to conduct random checks of enduring attorneys’ management of the principals’ financial affairs. This would have the effect of increasing the transparency of such arrangements, and increasing accountability and commitment in the best interests of a principal.

It would also promote public confidence in the process and reduce the potential for financial disadvantage accruing to principal due to mismanagement or misunderstanding by enduring attorneys. Further, it provides an incentive for enduring attorneys to ensure they are always acting in the best interests of the principal.

**6. Guardianship and Financial Administration Orders - Proposals 6–1 & 6–2 and question 6–3**

**VMC Response**

The VMC supports Guardianship and Financial Administration Orders proposals 6.1 and 6.2.

With respect to question 6.1 the VMC recommends that there should be compulsory training for newly-appointed guardians and financial administrators so that their role, responsibilities and obligations are fully understood. Such training should be accompanied by relevant operational reference materials.

With respect to question 6.3 the VMC suggests that the subject person be informed of the process with their nominated/trusted confidant, a person capable of understanding and assisting the subject person to understand the process and to be in the optimum position to have a say/make informed decisions. With respect to culturally diverse community members who have low English language skills, this would also require the use of an independent qualified interpreter.

**7. Banks and Superannuation - Proposal 7–1 & 7–2**

**VMC Response**

The VMC supports Banks and Superannuation proposals 7.1 and 7.2. The VMC recommends that the proposals include provisions that address the unique culturally diverse community issues and nuances listed at **Part 1** of this submission**.**

**8. Family Agreements - Proposal 8–1**

**VMC Response**

The VMC supports the Family Agreements proposal 8.1 but stresses that in the development and application of the proposal significant consideration must be given to the broader concept of family in collective cultures.

Further, the VMC recommends that tribunals in resolving family disputes use processes which consider and address the unique culturally diverse community issues and nuances listed at **Part 1** of this submission**.**

**9. Wills - Proposals 9–1 to 9–3**

**VMC Response**

The VMC supports Wills proposals 9.1 to 9.3 and stresses the need to consider and address the unique culturally diverse community issues and nuances listed at **Part 1** of this submission.

**10. Social Security - Proposals 10–1** to **10–4**

**VMC Response**

The VMC supports Social Security proposals 10.1 to 10.4. The VMC believes that for these proposals to be effective, with respect to culturally diverse seniors, that the Department of Human Services in implementing them should consider and address the unique culturally diverse community issues and nuances listed at **Part 1** of this submission.

Of particular relevance is the use of qualified interpreters, cultural responsiveness and sensitivity training for staff, funding and provision of translated materials and wherever possible additional multicultural service officers.

**11. Aged care - Proposals 11–1** to **11–11**

**VMC Response**

The VMC supports the Aged Care proposals at 11.1 to 11.11. The VMC recommends compulsory intercultural awareness and sensitivity training for all aged care workers caring for culturally diverse seniors.

With respect to Questions 11.1 to 11.3 the VMC recommends the adoption of policies and requirements similar to Victorian Working with Children Checks and the protection of vulnerable children.

**References**

* Australian Law Reform Commission – Elder Abuse Issues Paper
* Australian Bankers Associations Inc – Submission to ALRC Elder Abuse Issues Paper
* CoHealth and Justice Connect Seniors Law - Submission to ALRC Elder Abuse Issues Paper
* Commissioner for Senior Victorians - Submission to ALRC Elder Abuse Issues Paper
* Elder Care Watch \_ Submission to ALRC Elder Abuse Issues Paper
* Ethnic Communities’ Council of Victoria Submission to ALRC Elder Abuse Issues Paper
* Federation of Ethnic Community Councils Australia \_ Submission to ALRC Elder Abuse Issues Paper
* Law Council of Australia - Submission to ALRC Elder Abuse Issues Paper
* Office of the Public Advocate - Submission to ALRC Elder Abuse Issues Paper
* Older Persons Advocacy Network - Submission to ALRC Elder Abuse Issues Paper
* The University of Melbourne - Submission to ALRC Elder Abuse Issues Paper
* Uniting Care Australia - Submission to ALRC Elder Abuse Issues Paper
* Victorian Royal Commission into Family Violence
* Victorian Multicultural Commission Submission to Powers of Attorney Legislation: Understanding and use of Power of Attorney in Victoria’s CALD communities http://www.multicultural.vic.gov.au/images/Kathleen/POA.pdf
* Victorian Multicultural Commission Regional Advisory Council members 2014 – 2016
* Wainer, J., Owada, K., Lowndes, G., & Darzins, P. (2011). Diversity and financial elder abuse in Victoria: Protecting Elders' Assets Study. Retrieved February 23, 2017, from Monash University: http://www.eapu.com.au/uploads/research\_resources/VIC-Diversity\_and\_Financial\_Elder\_Abuse\_FEB\_2011-Monash.pdf
1. There are eight RACs, each with up to 13 members, comprising 37different cultural backgrounds, across metropolitan, regional and rural Victoria. Further details are at <http://www.multicultural.vic.gov.au/regional-advisory-councils/about-rac> [↑](#footnote-ref-1)
2. <http://profile.id.com.au/australia/language?WebID=110> (Accessed 21 February 2017). [↑](#footnote-ref-2)
3. RAC members reflect the diversity of Victorian communities and include local residents, service provider and local government representatives. The direct feedback and experience of RAC members managing a major ethnic specific aged care facility, providing health consultancy to the government, and managing cultural welfare services with specific focus on elder abuse, have assisted in informing this submission. [↑](#footnote-ref-3)
4. The VMC notes that some of these matters were listed in the Discussion Paper. Their listing here provides context regarding VMC responses to Discussion Paper proposals and questions. [↑](#footnote-ref-4)
5. Universities Australia, Equity and Participation <https://www.universitiesaustralia.edu.au/uni-participation-quality/Equity-and-Participation#.WK60qzt97ic> (Accessed 21 February 2017). [↑](#footnote-ref-5)
6. University of Essex, Language Attrition amongst the elderly - <https://languageattrition.org/among-the-elderly/> (Accessed 21 February 2017). [↑](#footnote-ref-6)
7. Especially regarding Contributory Parent visa [↑](#footnote-ref-7)
8. The older person may have no access to, or awareness of, this information before they arrive to Australia. Even if made available to their children in Australia, it may not get to the parents. This is very significant as the parent will not be eligible for a pension until they have been resident in Australia for 10 Years. [↑](#footnote-ref-8)
9. City of Moreland. The series of CALD-Com storyboard themes is available at: <http://www.moreland.vic.gov.au/community-care/multicultural-services/cald-com-storyboards-and-videos/download-caldcom/> [↑](#footnote-ref-9)
10. Significant also for seniors arriving as part of Contributory visa scheme [↑](#footnote-ref-10)
11. Victoria’s model adapted for Victorian seniors as part of the Victorian Family Violence initiatives. [↑](#footnote-ref-11)