



AASW

**Australian Association
of Social Workers**

*Submission to the Australian
Law Reform Commission
Re: Elder Abuse Discussion Paper*

March 2017

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Introduction

Who we are

The Australian Association of Social Workers (AASW) is the professional body representing over 9,000 social workers throughout Australia.

We set the benchmark for professional education and practice in social work and have a strong voice on matters of social inclusion, social justice, human rights and issues that impact upon the quality of life of all Australians.

The social work profession

Social work is a tertiary-qualified profession recognised nationally and internationally. The social work profession is committed to the pursuit of social justice, the enhancement of the quality of life, and the development of the full potential of each individual, group and community in society. Principles of social justice, human rights, collective responsibility and respect for diversity are central to the profession and are underpinned by theories of social work, social sciences, humanities and Indigenous knowledge. Social workers work with individuals, families and groups in numerous fields, including aged care. Social workers consider the relationship between biological, psychological, social, cultural and spiritual factors and how they impact on a person's health, wellbeing and development. Accordingly, social workers maintain a dual focus in both assisting with and improving human wellbeing and identifying and addressing any external issues (known as systemic or structural issues) that may be having a negative impact, such as inequality, injustice and discrimination.

Social workers have a long and proud tradition of working together with older Australians towards active ageing. This includes a strong commitment to self-determination, dignity and respect. Social workers are involved in the delivery of aged care and carer support services in a range of fields of practice including direct service delivery, service planning, service management, research and policy. Using effective interpersonal skills and maintaining a person-centred approach they provide a range of services such as: complex psychosocial assessments, advocacy, mediation or negotiation, counselling, referrals, liaison and education. They support older Australians in many areas including health, housing, income support, Indigenous services, disability, workforce participation and community development. Social workers work collaboratively with older people to identify goals and work towards positive outcomes. Furthermore, they are committed to recognising strengths in order to build capacity, create opportunities and take action. Therefore, social workers are uniquely placed to hold both a broad and an in-depth view of the multiple issues facing older Australians within a rights-based context and with a focus on wellness and social connectedness.

Our submission

Elder abuse, as defined by the World Health Organisation 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.

Elder abuse can take various forms such as physical, psychological or emotional, sexual and financial abuse. It can also be the result of intentional or unintentional neglect.¹

The AASW believes that it is a human rights issue that requires a comprehensive set of strategies, and the cooperation of multiple individuals and groups. Preventative strategies informed by human rights principles need to be the foundation of the response to elder abuse in the private and the public lives of older people, whether it be in the spheres health, finance, education, care and support services, or recreation. Social workers are integral to services that cater for the health and wellbeing of older Australians in all settings **Aged care**

across the aged care continuum. Therefore, AASW welcomes the opportunity to further contribute to this inquiry into elder abuse.

This document is a follow up to our previous submission to this inquiry and will focus on the aged care sector.

Response

11. Aged care

- As identified in our previous submission, there are longstanding and well-known problems relating to the collection of evidence regarding elder abuse. Improved research in this area is greatly needed and we strongly support the Commission's proposal for a national prevalence study.
- We would like to once again state our position that aged care assessment programs play a vital role in identifying elder abuse, however they do not have the capacity to manage/investigate abuse. Across the aged care system, the most formal safeguarding strategy for older people has been focused in residential care settings with the introduction of mandatory reporting of assault of a resident. Outcomes of the implementation of this policy have not been evaluated adequately as to whether it is achieving effective protection and/or redress for victims. Risks and opportunity for elder abuse to occur may be higher for an older person living in the community, especially if they are physically or culturally isolated and/or dependent on another person. Referral of an isolated older person into the community aged care system may offer an initial interface where it is possible to identify and respond to abuse as part of assessment and provision of health and other home support services. In the context of a person's private home and family, abuse investigation is sensitive and frequently needs to be undertaken slowly as a trusting relationship is developed.
- When assessing/investigating abuse allegations, if the older person's consent to investigate

¹ World Health Organization, 'Elder abuse', Ageing and life course, WHO, 2012, retrieved 15 September 2012, <http://www.who.int/ageing/projects/elder_abuse>

abuse allegations cannot be obtained, no appropriate legal authority exists to gain access to the older person, to explore issues of mental capacity and risk or to undertake any other relevant investigation.

- If a client seeks or agrees to disclose and explore issues of abuse, effective intervention frequently requires specialist expertise and strong working relationships between relevant agencies. Recent Aged Care reforms driven by a competitive funding model have diminished the already limited capacity in the aged care system to identify elder abuse and access to appropriate expertise to respond. It is once again strongly recommended that a clear and accessible pathway to timely expert assessment and response should be established within the Commonwealth Aged Care system.
- There needs to be an incorporation of supported decision-making principles and models, which reduce focus on the vulnerability of the victim. Furthermore, there needs to be greater clarity regarding the roles and responsibilities of substitute decision makers and informal arrangements, so any guidelines need to link with the principle that people have assumed capacity to make decisions therefore every effort needs to be taken to ensure the individuals wishes and input.
- Consumer Directed Care (CDC) leaves vulnerable adults particularly with cognitive impairment at great risk of abuse and neglect. This can include:
 - Financial exploitation – overcharging or using large portions of the individual budget for administrative fees.
 - Neglect. Carers not being effectively regulated or trained to provide the necessary care.
 - People who may be experiencing or be at risk of experiencing abuse are frequently unable to even seek or initiate assistance, or to exercise the choice and control that is central to CDC models
- CDC models frequently disadvantage vulnerable people with complex needs who are not able to successfully act as a 'consumer' in their own interests. Needs for assistance may not be related solely to the provision of services but more linked to case management. Complex and expert case management may be beyond the scope of service coordination available from the Commonwealth Home Care Package provider.
- We also strongly support training of all staff to ensure caring and respectful treatment of older people in ACFs, as well as about elder abuse. Procedures should support reporting of all forms of elder abuse from anyone having contact with the older person, effective response strategies, including staff support and performance measures. Unannounced external visits talking to individual residents and family as nominated by the auditors – not just focused on financial governance written more positively. The community, health professional, facility staff, patients and families need greater education on what are acceptable restrictive practices and how to report concerns.
- Aged Care Complaints mechanisms should focus more on the patient and the concerns for their wellbeing, and less on the facility and whether they have breached their provider responsibilities under the Aged Care Act. Unannounced external visits talking to individual residents and family as nominated by the auditors – not just focused on financial governance written more positively. The complaints system is onerous and can be very challenging for an older person to initiate

and maintain a complaint against a provider in whose residential care they are living. An aged care facility is an elderly person's home, where they have established friendships and senses of security that contribute to their sense of self, the protection of that person's residency, as a priority, must be reinforced while a complaint is processed.

- The ability of advocacy services to be responsive is limited by the principles of the advocacy model that generally precludes direct intervention: in situations where mental incapacity is an issue; where the person refuses or cannot give consent; with perpetrators of abuse. This limitation leaves a significant response gap when considering a comprehensive national strategy.

Conclusion

The AASW welcomes the opportunity to make a follow up submission to this inquiry. We look forward to continuing to work with the government towards improving the health and wellbeing of older Australians.

Submitted for and on behalf of the Australian Association of Social Workers Ltd



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