



Top End Women's Legal Service Inc.

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The Executive Director
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001

Via email: elder_abuse@alrc.gov.au

Dear Executive Director,

Elder Abuse Issues Paper – Snapshot of TEWLS' Experience

Thank you for providing the Top End Women's Legal Service ('TEWLS') with the opportunity to make a submission in relation to the Elder Abuse Issues Paper. We note that our submission is limited to elder abuse of Aboriginal and Torres Strait Islander women in rural, regional and remote parts of the Northern Territory ('NT'). We address Question Three, which seeks illustrative case studies, from the premise of staff and legal practise experience.

About TEWLS

TEWLS is a community legal centre focused on the advancement of the rights of all women. We are funded by the Commonwealth Attorney General's Department and the Department of Prime Minister and Cabinet to provide legal advice, casework, and community legal education to women living in the Top End of the Northern Territory ('NT'). TEWLS provides advice, information and assistance to women in a number of areas of law including family law, domestic and family violence, housing and tenancy, debts, sexual assault, discrimination and compensation for victims of crime.

TEWLS provides outreach services for culturally and linguistically diverse ('CALD') women, women incarcerated in the Darwin Correctional Precinct and Aboriginal women in Darwin and nearby communities at Acacia, Amangal, Belyuen, Knuckey Lagoon, Palmerston Indigenous Village and Bagot. While TEWLS has a particular focus on CALD women, CALD clients are predominately younger migrant or refugee women where the issue of elder abuse rarely arises.

Our Submission

By way of background, approximately 50% of TEWLS' clients are Indigenous women, almost all of whom are in receipt of Centrelink payments and are financially at-risk, with income levels below the Henderson Poverty Line.

Elder financial abuse is a common theme emerging in circumstances where a sick and/or elderly person is taken advantage of by their carer, who is typically a younger relative. In

our experience, an example of this abuse is carers' claiming carer payment to look after an elderly family member and subsequently not caring for her. This leaves the elderly person having to care for herself, which she is not capable of doing as evidenced by the initial assessment requiring care. In addition, a further example of elder abuse in our experience is carers' holding the elderly relative's key card to assist with her finances and soon after withdrawing the relative's money and spending it on themselves.

Example 1 – Margaret's story

Margaret is approximately 50 years old. She is Indigenous and lives with her Aboriginal husband in Darwin at various locations. Margaret has multiple significant health issues and requires dialysis. She depends upon her husband, who is her registered 'carer' for daily assistance. Margaret has also been subjected to decades of family violence from successive partners.

The family violence experienced by Margaret has more recently included financial abuse. Prior to her vulnerable health status, she was able to retain control of her key card and access to her bank account. Margaret's husband now assists her to conduct her financial matters, but also uses her key card without permission to purchase items for himself and often retains Margaret's key card. Notably, Margaret's husband receives preferential payments as her registered 'carer' and opposes an alternate carer being nominated to Centrelink.

Margaret often seeks respite from her 'carer' and his abuse by spending time with her extended family at a remote community.

A related scenario involving de-facto carers is Queenie's story.

Example 2 – Queenie's story

Queenie is approximately 70 years old. She is Indigenous and resides with family outside a regional centre. Members of her immediate family assist her with day-to-day living and related, including financial, matters.

Queenie is frail, with multiple significant health issues and disabilities. In addition, she has been diagnosed with psychological disorders as a consequence of five decades of domestic violence that included multiple physical assaults causing multiple physical impairments, as well as multiple sexual assaults.

Queenie's family accesses her bank account via her pin number, often without her consent. Queenie feels unable to regain control of her bank account; she does not how to change her pin number, does not have a relationship with her financial institution, speaks limited English, and cannot communicate with her financial institution without assistance.

External third party assistance was organised so Queenie could regain control of her bank account. A second 'secret' bank account was set up for other funds, so that Queenie could retain relationships with her family, but still retain money for herself.

Causes and related issues

In TEWLS' experience, elder abuse in Indigenous communities arises commonly in the financial context, but may also be linked to domestic and family violence, with the well established barriers to reporting domestic and family violence existing to reduce disclosure to external persons / services of Elder financial abuse. Further, as noted in Paragraph 34 of the Issues Paper states Indigenous Australians are often designated as 'older people' at an age earlier than that of the non-Indigenous population. In our experience, there is a significant proportion of the community who may be physically and mentally frail and therefore depend on their families for care and assistance. Coupling their fragility with often-reduced financial literacy, can leave individuals vulnerable to abuse.

The regional and remote living situation of many older Indigenous Australians increases the possibility for financial abuse if communities lack the facilities for individuals to conduct their financial affairs in private. In these circumstances, it is commonly understood that confidentiality in financial affairs is lacking. For example, some communities do not have a bank but rather money must be accessed from an ATM or within a shop. The public nature of these transactions leads to situations where older Indigenous Australians can be pressured or coerced to give money to members of their family or other members of the community. In TEWLS' experience, it is not unusual for key cards to be taken and used with or without the consent of the cardholder.

Poverty and financial disadvantage within Indigenous communities places a greater burden on the community as a whole. With limited resources available, greater pressure is exerted upon elder Indigenous Australians to share what limited money they may have or receive. If they are frail and dependent on their families and the community, elder Indigenous Australians may be unwilling or unable to prevent such abuse. Like many older Australians in the wider community, older Indigenous Australians often experience other barriers that make them more vulnerable to elder abuse including an inability to physically access services and language barriers, particularly when English is not a first language.

Recommendations

Connectivity within indigenous communities is a positive affirming attribute and protective factor to elder abuse. However, Indigenous elder abuse can also be mistaken or misconceived due to cultural expectations or assumptions by both Indigenous and non-Indigenous external parties, where as stated in Paragraph 36 of the Issues Paper, 'cultural expectations relating to kinship structures and sharing and reciprocity may complicate the way in which abuse is experienced and understood in those communities.'

The regional or remote location of many Indigenous communities presents high-level barriers to prevention techniques, and interventions when elder abuse does occur. It is our experience that communities often lack meaningful access to financial management services. For many reasons, including a lack of understanding of legal and financial processes by elders within regional and remote Indigenous communities, legally appointed decision makers are rarely an option and/or may not be culturally appropriate.

We concur with the conclusion made in Paragraph 35 by AIFS that substantially more work is required to understand and conceptualise elder abuse in the Aboriginal context, especially among different groups in different circumstances, given the diversity among ATSI communities.

Recommendation 1

TEWLS recommends increased community financial and legal education to reduce the prevalence of Indigenous elder abuse.

Recommendation 2

TEWLS recommends increased access to culturally appropriate financial services for Indigenous people in the NT. This would include regular service provider attendance to Indigenous communities to reduce the prevalence of Indigenous elder abuse.

We thank you for your consideration of the above. Should you require further information, please do not hesitate to contact the writer on (08) 8982 3000.

Yours faithfully,

TOP END WOMEN'S LEGAL SERVICE INC.



Vanessa Lethlean
Managing Solicitor