

9. Banking

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Summary

9.1 Banks and other financial institutions will often be in a prime position to detect and prevent the financial abuse of their older and at-risk customers. As discussed in Chapter 2, financial abuse is one of the most common types of elder abuse. Banks can play a valuable role in protecting their customers and encouraging them to consider carefully the risks of certain practices and transactions.

9.2 In this chapter, the ALRC proposes that banks be required take ‘reasonable steps’ to identify and prevent the financial abuse of vulnerable customers, and that this standard be prescribed in the *Code of Banking Practice* (the Code), so that the standard is contractually binding. The specific steps should continue to be set out in an industry guideline, so that they can be readily updated.

9.3 The chapter discusses some of the steps banks should take to protect their at-risk customers. These steps include training staff in how to respond appropriately to elder abuse and setting up systems and using software and technology to detect unusual transactions and other potential avenues for abuse.

9.4 Banks should also speak with vulnerable customers directly, or otherwise check arrangements that purport to authorise another person to operate someone’s bank accounts. They should also warn customers, train staff, and take other steps to ensure people are not being financially abused when they guarantee a loan.

9.5 In some cases, banks should report suspected abuse to relevant authorities, with the customer's consent. These authorities will include state and territory public advocates and public guardians, the police, or the adult safeguarding agencies recommended in Chapter 14.

Banks and financial abuse

9.6 Financial elder abuse may often involve taking or spending funds held in an older person's bank account. Legal Aid NSW told the story of Doris, an 83 year old pensioner who found she had a large outstanding balance on her credit card:

Doris was easily confused and her memory was not good. ... Doris said she had not received any credit card statements for some time but she knew how much she was putting on her card and made sure she made the payments every month. [Her bank statements showed that] the amount and frequency of transactions on her credit card increased dramatically over a short period. ... The statements also showed a marked change in the usual pattern of transactions. For example, there were large online purchases and large cash advances, when Doris had never obtained a cash advance on the card before, nor was aware it was possible.¹

9.7 The Hervey Bay Seniors Legal and Support Service provided examples of the types of elder abuse that it had observed:

The older person lives with the abuser and has given them authority to access their bank account, either by giving them the card or through internet banking access. The account is used to pay household expenses and to make cash withdrawals. Often the older person has no knowledge as to the extent of the use of their funds, especially as with internet banking, bank statements are no longer posted through the mail. The use of the funds continues after the older person goes into care and is often only picked up when nursing home fees are not paid.

The older person has difficulty getting to a bank and gives the abuser access for the purpose of withdrawing funds for them. The abuser withdraws funds for their own use.

The older person authorises use of a credit card for a specific purpose but it is then used for other purposes.²

9.8 Some of these examples suggest that online and mobile banking may present challenges for some older people on the 'wrong side of the digital divide'. No doubt such technology is very convenient for many older people, as it is for most of the rest of the population. These technologies may allow many older people to monitor their accounts more actively and in their own homes, and thus better protect themselves from financial abuse. Advances in fraud detection technology may be another valuable safeguard against abuse. However, some older people may be unfamiliar or uncomfortable with internet and mobile banking and other people may take advantage of this.

1 Legal Aid NSW, *Submission 140*. Legal Aid NSW argued that 'the bank should have seen the "red flags" and contacted Doris to confirm whether she was aware of this unusual activity on her account. Big Bank agreed to waive the debt': *Ibid*.

2 Hervey Bay Seniors Legal and Support Service, *Submission 75*.

9.9 Concerning the broader context of this topic, COTA submitted that there were:

- generally low levels of financial literacy among older people, and particularly older women;
- growing complexity in the operation of banking;
- accelerating change of banking business practices and product offerings;
- a shift to online transactions; and
- a reduction in physical bank branch offices and numbers of staff available to assist older customers in person or on the telephone.³

9.10 Poor health, remote living and poverty in the community are among the factors that may make some older Aboriginal and Torres Strait Islander people more vulnerable to financial abuse. The Top End Women's Legal Service (TEWLS) told the story of Queenie, a 70 year old Indigenous woman living outside a regional centre with family who help care for her:

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 know 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.⁴

9.11 TEWLS also wrote about Margaret, a 50 year old Indigenous woman who suffered significant health problems. Her husband and carer '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'.⁵

Financial literacy and other ways to protect yourself

9.12 The ALRC recommends that banks be required to do more to stop the financial abuse of older people, but recognises that there are limits to what banks are able to do to stop some types of financial abuse of older people by trusted family, friends and carers. For example, some financial abuse will be difficult for a bank to detect: will banks know when a carer, who buys groceries for an older person using the older person's credit card, adds a few items of their own to the shopping cart? Furthermore, some methods of detecting financial abuse, even if possible, might be considered too intrusive.

3 COTA, *Submission 354*.

4 Top End Women's Legal Service, *Submission 87*.

5 Ibid. Another stakeholder told the story of a terminally ill elderly man who had given his partner access to his ATM card and pin number, and when he died, 'his partner cleaned out his ATM account': National Aboriginal and Torres Strait Islander Legal Services, *Submission 135*.

9.13 Customers will therefore continue to need to monitor their accounts and take an active interest in their own finances. Financial literacy is itself a safeguard from abuse, and some stakeholders noted the importance of government initiatives to improve people’s financial literacy.⁶ Alzheimer’s Australia said that to prevent financial abuse, ‘older people require targeted, consumer-friendly information to support their financial literacy’.⁷ The Financial Services Council submitted that such initiatives were particularly important for women and people from culturally and linguistically diverse backgrounds.⁸ TEWLS recommended ‘increased community financial and legal education to reduce the prevalence of Indigenous elder abuse’.⁹

9.14 It will also remain important for people to plan for the possibility that in the future they may have limited ability to manage their own finances. In 2016, it was estimated that over 400,000 Australians have dementia,¹⁰ which for some will make managing their own finances difficult or impossible. People may need to consider appointing a trusted family member or friend to help them manage their financial affairs and protect them from abuse by others, should they later need such help.¹¹

9.15 This chapter proposes additional safeguards against financial abuse, but the ALRC is mindful of the need not to create new rules for banks that might in fact be a burden, not only for other bank customers, but for older people and the people who care for them. One submitter told the ALRC that he could give ‘myriad examples’ of the way ‘inflexible procedures or unhelpful staff can multiply the work required by a carer’.¹²

Banks responding to elder abuse

Recommendation 9–1 The *Code of Banking Practice* should provide that banks will take reasonable steps to prevent the financial abuse of vulnerable customers, in accordance with the industry guideline, *Protecting Vulnerable Customers from Potential Financial Abuse*.

The guideline should set out examples of such reasonable steps, including in relation to:

- (a) training staff to detect and appropriately respond to abuse;
- (b) using software and other means to identify suspicious transactions;
- (c) reporting abuse to the relevant authorities, when appropriate;

6 On financial literacy more generally as a crucial strategy to reduce elder abuse, see ch 3.

7 Alzheimer’s Australia, *Submission 80*.

8 Financial Services Council, *Submission 78*.

9 Top End Women’s Legal Service, *Submission 87*.

10 Laurie Brown, Erick Hansnata and Hai Anh La, ‘Economic Cost of Dementia in Australia 2016–2056’ (National Centre for Social and Economic Modelling for Alzheimer’s Australia, 2017) 6. See also ch 2.

11 Although guardianship powers, powers of attorney and other such arrangements are also sometimes abused, as discussed in chs 5 and 10.

12 S Dunlop, *Submission 220*.

- (d) guaranteeing mortgages and other loans; and
- (e) measures to check that ‘Authority to Operate’ forms are not obtained fraudulently and that customers understand the risks of these arrangements.

9.16 Banks are often in a good position to detect financial elder abuse and protect their at-risk customers. National Seniors Australia said that employees of financial institutions ‘may be in the best, and sometimes the only, position to recognise financial exploitation as it occurs’.¹³ The Australian Bankers’ Association (ABA) submitted that banks can ‘play an important role in recognising potential financial abuse’.¹⁴ For some, banks are not only in a good position to stop abuse, they have a moral duty to protect their customers. The Office of the Public Advocate (Qld) said that with ‘unparalleled commercial success comes a level of social responsibility’.¹⁵

9.17 There is an industry guideline on how banks might respond to elder abuse, but it is voluntary and unenforceable. The ALRC recommends that the Code explicitly state that the reasonable steps that banks must take are provided for in the industry guideline. As discussed below, this is intended to make the provisions of the guideline contractually binding on the banks, as are the provisions of the Code.

9.18 This chapter focuses on the ABA’s *Code of Banking Practice* and industry guidelines, but related changes should also be made to the *Customer Owned Banking Code of Practice*, to protect the customers of the credit unions, mutual banks and mutual building societies that subscribe to that Code.¹⁶

The Code, guidelines and other regulation

9.19 The *Code of Banking Practice* (the Code) is part of what has been described as a ‘complicated tapestry’ of banking regulation.¹⁷ Regulations to protect bank customers from fraud, unauthorised transactions and other potentially abusive conduct include those in case law, the *National Credit Code*, the *Australian Securities and Investments Commission Act 2001* (Cth), and the *ePayments Code*.

9.20 For example, the *ePayments Code*, administered by the Australian Securities and Investments Commission, ‘regulates electronic payments, including ATM, EFTPOS and credit card transactions, online payments, internet and mobile banking, and BPAY’, and includes ‘rules for determining who pays for unauthorised transactions’.¹⁸

13 National Seniors Australia, *Submission 154*.

14 Australian Bankers’ Association, *Submission 107*.

15 Office of the Public Advocate (Qld), *Submission 361*.

16 This code is owned and published by the Customer Owned Banking Association (COBA) and monitored by the Customer Owned Banking Code Compliance Committee: Financial Ombudsman Service, *Customer Owned Banking Code of Practice* <www.fos.org.au/about-us/codes-of-practice/customer-owned-banking-code-of-practice/>.

17 Phil Khoury, *Report of the Independent Review of the Code of Banking Practice* (2017) 10.

18 Australian Securities and Investments Commission, *ePayments Code* (March 2016) 2.

9.21 Eighteen banks, including each of the ‘big four’, have signed up to the Code—it reportedly covers 95% of the retail banking market.¹⁹ While banks are not required to subscribe to the Code, those that do are ‘contractually bound by their obligations under the Code’.²⁰ The Code provisions address:

bank accounts, bank transfers, loans, credit cards, terms and conditions, account statements, financial difficulty, debt collection, dispute resolution and related matters. All of these matters are subject to other legal requirements that have continued to evolve since the Code was first conceived.²¹

9.22 The ABA, which developed the Code, states that

[t]he principles and obligations set out in the Code apply to the majority of banking services delivered to individuals and small businesses across Australia. ... The Code gives individual and small business customers important rights and confirms existing rights.²²

9.23 Compliance with the Code is monitored by the Code Compliance Monitoring Committee (CCMC).²³

9.24 The Code does not include provisions specifically directed at elder abuse.²⁴ Instead, guidance for banks on elder abuse is set out in the ABA’s industry guideline, *Protecting Vulnerable Customers from Potential Financial Abuse* (the industry guideline).²⁵ The Financial Ombudsman Service has called the guideline ‘best practice’ in dealing with a bank dispute about financial abuse.²⁶ The ALRC acknowledges the value of this resource. As discussed below, many of the safeguards recommended by stakeholders are already featured in these guidelines.

9.25 However, the industry guideline is voluntary and ‘does not have legal force or prescribe binding obligations on individual banks’.²⁷ The ALRC considers that banks

19 Code Compliance Monitoring Committee, *Code Subscribers* <www.ccmc.org.au/code-of-banking-practice-2/code-subscribers/>.

20 Australian Bankers’ Association, *Code of Banking Practice—FAQs* (2013) 1.

21 Khoury, above n 17, 10.

22 Australian Bankers’ Association, *Code of Banking Practice—FAQs* (2013) 1.

23 The CCMC was reviewed by Mr Phil Khoury at the same time as he reviewed the *Code of Banking Practice*. The report was published in February 2017. Industry was found to be ‘largely satisfied with the performance of the CCMC’, particularly with its work ‘focused on good practice’, rather than its work ‘focused on breaches’. Non-industry stakeholders were less satisfied, but criticisms were said to be directed at the Code, the CCMC mandate and its resourcing. ‘Although some urged the CCMC towards more of a quasi-regulatory role, I concluded that it should be focused on public assurance through more visible, transparent monitoring—and adding value to the industry through a greater focus on good practice and continuous improvement’: Phil Khoury, *Independent Review of the Code Compliance Monitoring Committee* (2017) 5.

24 As noted below, it does include provisions for ‘customers with special needs’, but these concern matters broader than abuse. Some of the general provisions in the Code, such as those related to guaranteeing loans, discussed below, will of course be relevant to elder abuse.

25 This is part of ‘a package of materials to promote good practice and clearer processes for banks so they can better support customers who may be vulnerable to financial abuse or who want to plan ahead and manage their financial affairs, especially as they get older’: Australian Bankers’ Association, *Financial Abuse Prevention* <www.bankers.asn.au>.

26 Australian Bankers’ Association (ABA), *Submission 365*.

27 Australian Bankers’ Association Industry Guideline, *Protecting Vulnerable Customers from Potential Financial Abuse* (June 2013) 1. Some of the guideline may reflect pre-existing legal obligations.

should have binding obligations to protect their older customers from abuse, to the extent that this is reasonable. This is why the ALRC recommends that the industry guidelines be incorporated into the Code.

9.26 There are two ways the guidelines could be incorporated into the Code. First, the Code itself could set out the reasonable steps that banks should be expected to take. This was proposed by the ALRC in the Discussion Paper.²⁸

9.27 A second approach would be to leave the specific steps in the industry guideline, but have the Code provide that banks must comply with the guideline. This is a useful approach if it is easier to update the guideline than the Code, which in turn may be important if the guidelines include measures that refer to technologies or practices that are likely to change often.²⁹ With advances in technology and new research into effective responses to elder abuse, banks might reasonably be expected to do more in the future to identify and respond to potential abuse.³⁰

9.28 The ALRC recommends this second approach, which is more consistent with recommendations of Phil Khoury in his 2017 review of the Code:

The Code could be more effective if redrafted in a modern structure, based on key principles, in a plain-speaking style with fewer carve-outs and exceptions, and with supporting detail in linked Industry Guidelines.³¹

9.29 The ABA, which administers the Code and Guidelines, is also somewhat more supportive of this second approach. The ABA said it was ‘committing to a review of the guideline, re-evaluating the reasonable steps guidance and working with member banks on the implementation of the guideline to their internal processes, procedures and policies’.³²

The industry guideline provides guidance for banks and assists banks in responding to suspected cases of financial abuse on an individual case-by-case basis. A prescriptive clause in the Code will not allow for this flexibility and will impede the ability of banks to effectively and appropriately respond to individual circumstances of financial abuse.³³

28 Australian Law Reform Commission, *Elder Abuse*, Discussion Paper No 83 (2016) prop 7–1.

29 This may also support placing the requirements in industry codes or guidelines, rather than legislation. On the question of whether there should be a Code at all, the independent reviewer writes: ‘I also see a voluntary Code as able to be more flexibly framed than legislation, easier to understand than the law and in theory at least, much faster to update and evolve over time’: Khoury, above n 17, 5. Although if compliance with voluntary industry codes and guidelines proves poor, this may highlight the need for stricter regulation. The ALRC is also not suggesting that more prescriptive banking regulation is not appropriate for other banking requirements.

30 The Code already includes a ‘reasonable steps’ clause: ‘We recognise the needs of older persons and customers with a disability to have access to transaction services, so we will take reasonable measures to enhance their access to those services’: Australian Bankers’ Association, *Code of Banking Practice* (2013).

31 Khoury, above n 17, 6.

32 Australian Bankers’ Association (ABA), *Submission 365*.

33 *Ibid.*

9.30 Alternatively, the ABA submitted, the Code could ‘include a clause reflecting a banks’ commitment to addressing elder abuse’ (presumably with the detail remaining in the guidelines).³⁴

9.31 The proposal that banks should be required to take reasonable steps to respond to elder abuse was almost unanimously supported by those stakeholders who commented on it.³⁵ Seniors Rights Victoria submitted that there should be standard mandatory protocols for banks in relation to elder abuse, and that the industry guidelines on elder abuse should be made mandatory and incorporated into the Code.³⁶ National Seniors Australia submitted that the financial services sector should ‘use codes of practice to better address the risk of financial elder abuse among older clients’.³⁷ Aged Care Steps agreed that

banks should be implementing strict guidelines that will assist in preventing cases of elder abuse ... Such guidelines and rules should be implemented within the Banking Code of Practice which will ensure the enforcement of such preventative measures to prevent and reduce the risk of financial elder abuse.³⁸

9.32 COTA supported the proposal and said that ‘[b]anks must take a holistic approach to supporting older consumers to feel confident in the conduct of their own business. This could make a significant contribution to reducing the vulnerability of some people to elder financial abuse’.³⁹

9.33 The Public Trustee (Qld) said that incorporating the guidelines into the Code ‘would be of great benefit to combating elder abuse’.⁴⁰ The Public Trustee submitted that, in its experience as administrator for over 9,000 adults with impaired capacity,

banks sometimes singularly are the institutions which can recognise and take action in respect of misappropriation of funds. The proposed incorporation of reasonable steps, particularly training of staff, coupled with protections to permit banks to report (untrammelled by the strictures of privacy and confidentiality) would be useful steps.⁴¹

34 Ibid.

35 Office of the Public Guardian (Qld), *Submission 384*; Chartered Accountants Australia and New Zealand, *Submission 368*; Victorian Multicultural Commission, *Submission 364*; Justice Connect Seniors Law, *Submission 362*; Office of the Public Advocate (Qld), *Submission 361*; Disabled People’s Organisations Australia, *Submission 360*; M Berry, *Submission 355*; COTA, *Submission 354*; Legal Aid NSW, *Submission 352*; Law Council of Australia, *Submission 351*; Aged Care Steps, *Submission 340*; CPA Australia, *Submission 338*; Institute of Legal Executives (Vic), *Submission 320*; Consumer Credit Legal Service (WA) Inc, *Submission 301*; Seniors Rights Service, *Submission 296*; FMC Mediation & Counselling, *Submission 284*; ADA Australia *Submission 283*; Customer Owned Banking Association (COBA), *Submission 271*; Public Trustee of Queensland, *Submission 249*; Office of the Public Advocate (Vic), *Submission 246*; Lutheran Church of Australia, *Submission 244*; Assets Ageing and Intergenerational Transfers Research Program, The University of Queensland, *Submission 243*; Carers Queensland, *Submission 236*; C Fairweather, *Submission 228*.

36 Seniors Rights Victoria, *Submission 171*.

37 National Seniors Australia, *Submission 154*.

38 Aged Care Steps, *Submission 340*.

39 COTA, *Submission 354*.

40 Public Trustee of Queensland, *Submission 249*.

41 Ibid.

9.34 Legal Aid NSW supported the idea of placing an obligation on banks to protect older customers in the Code, but suggested that, rather than banks being required to take ‘reasonable steps’, they should be required to ‘take all steps that are “reasonably practicable” to prevent the financial abuse of customers’.⁴²

9.35 The Office of the Public Advocate (Qld) said that many financial institutions ‘already have these types of protections in place’, but the practices should be ‘adopted as part of standard banking practice’:

Often, banks are the first institution to become aware of unusual transactions on older people’s bank accounts. They are therefore well positioned to detect fraud and financial abuse, and act early to prevent or stop it.⁴³

The reasonable steps

9.36 As discussed above, the ALRC recommends that banks and other financial institutions should be required to take reasonable steps to prevent the financial abuse of their customers. Such a provision in the Code would be a valuable additional safeguard against the financial abuse of vulnerable customers.

9.37 The industry guideline sets out many steps that banks should take, including:

- staff should be ‘trained to identify potential financial abuse as part of their fraud prevention programs’;
- where abuse is suspected, staff should consider talking to the customer—and ask ‘clear, factual, and non-threatening questions’;
- staff should check third party authorisations and documentation—‘If a third party presents a withdrawal form or instructions, bank staff should verify the third party’s authority by directly contacting the customer or checking associated documentation (ie power of attorney document)’;
- staff might seek advice from others in the bank—eg, managers, internal lawyers, fraud, security—and delay transactions until further investigation work is done; and
- staff might also seek advice from the Public Advocate or other relevant agency, but without identifying the customer.⁴⁴

42 Legal Aid NSW, *Submission 352*. ‘The “reasonably practicable” requirement is from work safety legislation. We consider that the position of employers, who control the working environment of their employees and who are in a position of trust, is analogous to the position of banks, who are entrusted with the money of their customers and have a duty to keep it safe’: *Ibid*.

43 Office of the Public Advocate (Qld), *Submission 361*.

44 Australian Bankers’ Association Industry Guideline, *Protecting Vulnerable Customers from Potential Financial Abuse* (June 2013).

9.38 The guidelines also discuss administration, guardianship and powers of attorney, stating, in part:

Before an administrator or guardian can be provided with access to, and information on, a customer's accounts or facilities, banks should ask for written proof of their status, such as certified copies of an instrument or order. Once verified, banks should note the appointment or authority on the customer's accounts or facilities. ... Banks need to understand the level of access the attorney has over their customer's account or facility because a power of attorney can be tailored to certain types of decisions or transactions.⁴⁵

9.39 In a 2016 report about financial elder abuse, a US federal regulator, the Consumer Financial Protection Bureau, recommended that banks and credit unions: train staff to recognise and respond to abuse; use fraud detection technologies; offer 'age-friendly' services; and report suspicious activity to authorities, whether or not reporting was mandatory in their state.⁴⁶

Training

9.40 Many stakeholders in this Inquiry stressed the importance of banks responding to elder abuse. Training staff was the most commonly suggested step, with some stakeholders submitting that such training should be mandatory.⁴⁷

9.41 For example, National Seniors Australia submitted that relevant codes of practice should require that staff be trained to:

- recognise signs of abuse and recognise the common profile of a vulnerable customer and/or potential abusers;
- understand protocols to deal with suspected abuse; and
- understand enduring powers of attorney and administration orders made by tribunals.⁴⁸

9.42 The Law Council of Australia also said it supports mandatory training for staff and that training should include:

- the nature of an enduring power of attorney, including the difference between joint and joint and several;

45 Ibid 5.

46 Consumer Financial Protection Bureau (US), *Recommendations and Report for Financial Institutions on Preventing and Responding to Elder Financial Exploitation* (2016).

47 Justice Connect, *Submission 182*; Eastern Community Legal Centre, *Submission 177*; People with Disability Australia, *Submission 167*; Legal Aid NSW, *Submission 140*; Consumer Credit Legal Service (WA), *Submission 112*; Office of the Public Advocate (Vic), *Submission 95*; Advocare Inc (WA), *Submission 86*; Law Council of Australia, *Submission 61*; Care Inc. Financial Counselling Service & The Consumer Law Centre of the ACT, *Submission 60*. 'Staff training and the alignment of on-the-ground performance measures and business practices with the intentions set out in the Code will be essential': COTA, *Submission 354*.

48 National Seniors Australia, *Submission 154*.

- ensuring that, where an enduring power of attorney commences upon loss of capacity, the person dealing with the attorney is satisfied that there has been a loss of capacity with respect to the particular transaction at hand (a principal may have capacity for some decisions and not others);
- the difference between an enduring power of attorney for personal matters (which does not confer authority to conduct financial affairs) and an enduring power of attorney for financial matters; and
- awareness of the types of limitations on the exercise of power under an instrument and the effect of those limitations.⁴⁹

9.43 Another stakeholder listed these examples of possibly suspicious transactions:

Atypical use of ATM cards; Uncharacteristic non-sufficient funds activity or overdraft fees; Activity in previously inactive accounts; Opening new joint checking account or adding joint owner to existing account; Increase in total monthly cash withdrawals compared to historical patterns.⁵⁰

9.44 The Financial Services Institute of Australasia submitted that its members ‘broadly support strategies to strengthen educational and ethical standards for financial services professionals to identify and appropriately respond to cases of elder abuse’.⁵¹

9.45 In some cases, it might be appropriate for bank staff to try to speak with an older person alone, for example, where an older and at-risk customer comes into a branch with a relative or friend and asks to transfer funds to that person.⁵² Further, if the older person does not speak English, ‘staff should not rely on the relative or friend to translate for them’.⁵³

9.46 Alzheimer’s Australia said that banks should train staff to prevent the financial abuse of people with dementia.⁵⁴ Similarly, Disabled People’s Organisations Australia submitted that staff should be ‘trained in supported decision-making to ensure they are aware of the supports to which their clients may be entitled, as well as the limitations of supporters in this area’.⁵⁵ Capacity Australia said that it had produced training on elder abuse for accountants and financial planners, but is ‘struggling with engaging the interest of the industry’, and that therefore training should be required.⁵⁶

9.47 The Institute of Legal Executives commented that training should include ‘appropriate questioning and listening techniques’, because some transactions which appear suspicious may not be.⁵⁷

49 Law Council of Australia, *Submission 351*.

50 Consumer Credit Legal Service (WA) Inc, *Submission 301*.

51 Financial Services Institute of Australasia, *Submission 137*.

52 Legal Aid NSW, *Submission 352*.

53 *Ibid.*

54 Alzheimer’s Australia, *Submission 80*.

55 Disabled People’s Organisations Australia, *Submission 360*.

56 Capacity Australia, *Submission 134*.

57 Institute of Legal Executives (Vic), *Submission 320*.

9.48 Another stakeholder stressed that banks need to be sensitive to the needs and convenience of carers:

I understand why financial institution staff may need more training to alert them to the risk of elder abuse. However, I ask that this training also be tempered by the understanding that the vast majority of carers are doing the right thing by the elders who need their help.⁵⁸

9.49 Training to help bank staff identify suspicious transactions was also recommended in a Parliamentary Inquiry into elder abuse:

In the Committee's opinion, banks and financial institutions should be providing such assistance to customers as part of their normal duty of care. It is vital that the staff of banks and financial institutions are trained to recognise signs of potential abuse and that there are specific protocols with the bank or financial institution, and indeed across the industry, for dealing with such reports.⁵⁹

9.50 Unsurprisingly, banks might also employ software and other digital tools to identify suspicious transactions. Some of the tasks that stakeholders have suggested should be performed by bank staff might be performed by, or with the assistance of, these digital technologies. This will only become more important as increasing numbers of Australians use the internet for their banking and rarely visit a bank branch.

Reporting abuse

9.51 Reporting suspected abuse may also be a reasonable step for banks to take in some circumstances. A number of stakeholders submitted that banks should report elder abuse to a relevant authority.⁶⁰

9.52 Before reporting abuse to the police or other authority, banks should consider discussing the suspected abuse with the customer who may be being abused.⁶¹ Where the older person has a guardian, attorney or other substitute decision maker for financial matters, the bank might also, or instead, contact that person (assuming it is not that person who is suspected of the abuse).

9.53 Seniors Rights Service submitted that the Code 'should make clear that no consequences will follow' from bank staff reporting suspected elder abuse.⁶² Paul Greenwood, a US prosecutor, went further and submitted that if 'we make every bank

58 S Dunlop, *Submission 220*.

59 Australian Government, *House of Representatives Standing Committee on Legal and Constitutional Affairs: Older People and the Law—Government Response* (2009) [2.107].

60 See, eg, Seniors Rights Victoria, *Submission 171*; Financial Services Institute of Australasia, *Submission 137*; Consumer Credit Legal Service (WA), *Submission 112*; Australian Bankers' Association, *Submission 107*; Public Trustee of Queensland, *Submission 98*; Alzheimer's Australia, *Submission 80*; Law Council of Australia, *Submission 61*.

61 'Financial service providers need to be supported to be able to educate clients and to be able to identify and report abuse to clients': National Seniors Australia, *Submission 154*.

62 Seniors Rights Service, *Submission 296*.

employee a mandated reporter of suspected financial elder abuse, then this will ensure that proper training is given'.⁶³

9.54 In Chapter 14, the ALRC recommends that adult safeguarding agencies should investigate the abuse of 'at-risk adults' and provide necessary support and protection. The ALRC also recommends that people who report suspected abuse to adult safeguarding agencies be given immunity from certain legal obligations that might otherwise prevent them from reporting abuse. This should remove an impediment to reporting abuse that banks have identified. The ABA submitted that

legal obligations including privacy laws and anti-discrimination laws as well as obligations of confidentiality and concerns about possible actions in defamation provide challenges for banks in reporting suspected financial abuse. Although the ABA does not support mandatory reporting, the industry would like to see the establishment of clear reporting guidelines for banks to follow if a bank chooses to report what it believes to be suspected financial abuse as well as a government body to which banks can report suspected financial abuse, and statutory immunity for banks choosing to report suspected financial abuse.⁶⁴

9.55 The National Older Persons Legal Services Network submitted that this may not be necessary and that in most abusive situations, 'the primary strategy should be to talk directly and alone to the person who is the suspected victim' about the situation and what might be done.⁶⁵ Banks should then 'take proactive or remedial action within their power, in consultation with the older person':

They can move money into another bank account, refuse loan applications, investigate and report matters where appropriate—all with the undisclosed consent of the apparent victim.

It is more complex when the suspected victim is unable to protect their own interests and in those situations the advice of the suitable public guardian or advocate should be sought.⁶⁶

9.56 The Customer Owned Banking Association said its members would like to see 'a clear and consistent approach and guidelines for the banking institutions to identify and report suspected elder abuse':

For example, if a staff member knows a family member of a person they suspect is a victim of elder abuse, the bank should have the ability to consult with that member (without disclosing too much information about the account). Banking institutions should also be able to consult with the suspected victim's doctor or refer the matter to the police. The law currently limits bank staff to merely verifying a transaction that they suspect is taking place in the form of financial abuse.⁶⁷

63 P Greenwood, *Submission 304*. As discussed below and further in Ch 14, the ALRC does not recommend mandatory reporting in this report.

64 Australian Bankers' Association, *Submission 107*.

65 National Older Persons Legal Services Network, *Submission 363*.

66 *Ibid.*

67 Customer Owned Banking Association (COBA), *Submission 271*.

9.57 Some customers might object to banks ‘interfering’ in their affairs—questioning how they or their family and friends spend their money, suggesting they are being abused, or reporting suspicions to the police or other authorities. Some customers may consider this an invasion of their privacy. Such objections may be even stronger if it is considered that the interference is partly because someone is considered old. There is no doubt that banks must act with tact and sound judgment. As the ABA guidelines state:

Intervening in a customer’s financial matters or questioning them without due consideration and sensitivity may embarrass the customer, and possibly damage the bank’s relationship with their customer. In cases of suspected financial abuse, it is important to be vigilant and cautious.⁶⁸

9.58 Where the older person or their representative can take steps to prevent the abuse, or to seek help from others, then it should often not be necessary for the bank to notify anyone else. Older people should generally be able to decide for themselves how to respond to abuse. The need to respect people’s autonomy is, for some, the key reason underpinning their objection to mandatory reporting. State Trustees Victoria submitted that mandatory reporting ‘may be seen by the elderly as intrusive and patronising’.⁶⁹

9.59 The ALRC does not recommend that banks be required to report all instances of suspected abuse to authorities, but rather that reporting abuse will sometimes be the appropriate step to take. The circumstances in which banks should report abuse should be clearly set out in the industry guideline.⁷⁰

9.60 If the person has impaired decision-making ability in relation to this matter, the relevant authority is likely to be the state Public Advocate or Public Guardian. If adult safeguarding laws are enacted, as recommended in Chapter 14, then the abuse of ‘at-risk’ adults might be reported to adult safeguarding agencies, with the consent of the at-risk adult.⁷¹

9.61 This is broadly consistent with the findings of a Parliamentary Inquiry into elder abuse, which recommended the development of ‘national, industry-wide protocols for reporting alleged financial abuse’ and ‘a training program to assist banking staff to identify suspicious transactions’.⁷²

68 Australian Bankers’ Association Industry Guideline, *Protecting Vulnerable Customers from Potential Financial Abuse*, June 2013 2.

69 State Trustees Victoria, *Submission 138*.

70 See ch 14 for a discussion of reporting abuse to adult safeguarding agencies.

71 In Western Australia, suspected abuse of a person with legal capacity may be reported to Advocare. A Parliamentary Committee has suggested that other states might adopt a similar approach: ‘The Committee recommends that the members of the Australian Guardianship and Administration Committee examine the Western Australian legislation relating to reporting by banks and other financial institutions of suspected abuse to the Public Advocate and Advocare, and develop similar initiatives for consideration by their respective state and territory governments’: House of Representatives Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, *Older People and the Law* (2007) [2.114].

72 *Ibid* [2.110].

Guaranteeing loans

9.62 Some older people guarantee loans to their adult children, perhaps to help them buy a house. Some stakeholders suggested that these guarantees, along with ‘reverse mortgages’ or joint loans for children, are a site of abuse, and should be addressed in banking codes and guidelines. For example, the National Older Persons Legal Services Network submitted:

It is now seen as relatively normal to ask older parents to provide some financial support or guarantee to a child seeking to buy their own home as some sort of ‘early inheritance’. In our experience, the normalising of this particularly dangerous transaction is troublesome. Unless explicitly stated, it is unlikely that front line bank staff would identify this as a potentially abusive situation that may ultimately lead to an older people becoming homeless.⁷³

9.63 The Consumer Credit Legal Service (WA) submitted that some people who have provided guarantees may not be adequately protected under the Code, which ‘leaves them in a vulnerable position because they cannot seek assistance from the financial service provider in cases of financial difficulty’.⁷⁴

9.64 The industry guideline acknowledges that financial abuse can include ‘pressuring a vulnerable customer into being a guarantor when they lack sufficient knowledge about the transaction or the capacity to make informed decisions’.⁷⁵

9.65 Clause 31 of the Code concerns guarantees. It has been said to largely ‘codify case law and overlap with National Credit Code requirements’, including provisions in the National Credit Code with respect to warnings, the need to get legal and financial advice, and restrictions on enforcement.⁷⁶ Clause 31 provides, in part, that before taking a guarantee, signatory banks will give potential guarantors a ‘prominent notice’ that: they ‘should seek independent legal and financial advice on the effect of the Guarantee’; they ‘can refuse to enter into the Guarantee’; ‘there are financial risks involved’; they have a right to limit their liability; and they ‘can request information about the transaction or facility to be guaranteed’.⁷⁷

9.66 Legal Aid NSW submitted that banks should also ask guarantors to confirm in writing whether they have sought independent legal or financial advice about the arrangement.⁷⁸ The independent reviewer considered that this was not necessary. The Code already requires that banks give prominent notice to guarantors recommending that they seek advice and that there be a ‘warning notice’ directly above the place

73 National Older Persons Legal Services Network, *Submission 363*.

74 Consumer Credit Legal Service (WA) Inc, *Submission 301*.

75 Australian Bankers’ Association Industry Guideline, *Protecting Vulnerable Customers from Potential Financial Abuse* (June 2013) 2.

76 Khoury, above n 17, 106. See *National Consumer Credit Protection Act 2009* (Cth) Sch 1 (National Credit Code), s 90.

77 Australian Bankers’ Association, *Code of Banking Practice* (2013) cl 31.4.

78 Legal Aid NSW, *Submission 352*. They also said banks should notify customers that acting as a guarantor can affect their Centrelink income: *Ibid*. In their submission, Legal Aid NSW suggested other protections that might be added to the guidelines, including in relation to financial hardship.

where guarantors should sign.⁷⁹ The independent reviewer was ‘not persuaded that the signing of an additional document waiving the right to advice would sufficiently add to the Code protections’.⁸⁰

9.67 However, the independent reviewer did make other recommendations about guarantees, including that the Code be amended to:

- ‘require signatory banks to provide a guarantor with the signatory bank’s assessment that credit is “not unsuitable” for the debtor, where the signatory bank is required by *National Consumer Credit Protection Act 2009* to prepare this’;
- ‘prohibit signatory banks from signing a guarantor, who has not been legally advised, until at least the third day after the provision of all required information to the guarantor’; and
- require signatory banks ‘to inform a guarantor where the debtor has been in continuing default for more than 2 months or where the debtor’s credit contract has been changed because the debtor has encountered financial hardship’.⁸¹

9.68 The independent reviewer also made the following recommendation:

In consultation with consumer representatives, signatory banks should enhance Industry Guidelines to assist bank staff to identify when a guarantee should be viewed as financial abuse and accordingly when the signatory bank should exercise its discretion not to accept a guarantee as security for credit.

The guidance should cover the factors that might be suggestive of financial abuse and what further steps a signatory bank should take in response, including enquiries about the guarantor’s financial position to assess the extent of hardship that would result if the guarantee is enforced by the signatory bank.⁸²

9.69 The ALRC has accordingly recommended that industry guidelines include provisions in relation to guaranteeing mortgages and other loans.

Authorising third parties to operate bank accounts

9.70 Retail banks in Australia typically have a standard form that customers may submit to authorise someone else to operate their bank account on their behalf. This is known as an ‘Authority to Operate’. Giving a trusted person access to one’s bank account will sometimes be convenient or even necessary, particularly for someone who finds it difficult to use online banking services or visit a bank branch. However, these

79 Australian Bankers’ Association, *Code of Banking Practice* (2013) cll 31.4 and 3.8.

80 Khoury, above n 17, 116.

81 Ibid recs 38, 39 and 41.

82 Ibid rec 42.

arrangements can be abused,⁸³ and have been said to undermine the protections in powers of attorney legislation.⁸⁴

9.71 These forms must typically be signed by the bank customer and the person authorised to access the account, but the signing of the form does not need to be witnessed by others and the customer is not required to visit the branch to submit the form. There is therefore a risk that the forms will be completed and submitted fraudulently. An account holder's signature might be forged, or unreasonable pressure might be placed on the account holder to sign the form themselves. Also, some customers may not understand the arrangement or its risks, particularly if they have not visited a bank branch or otherwise sought advice.

9.72 One reasonable step that banks might take to protect customers from financial abuse might therefore be to increase protections around these 'Authority to Operate' forms. For example, banks might require that an employee of the bank, and perhaps another person, witness the forms being signed. This might make it more difficult to submit a fraudulent form. The additional formality may also discourage the person given authority from later misusing the funds. These people might also be required to sign a declaration or undertaking that they will not misuse the arrangement, such as for their own benefit.⁸⁵

9.73 Banks might also require the customer to sign a declaration or undertaking stating that they understand the scope of the authority and the additional risk of financial abuse. Customers may then be more reluctant to enter these arrangements with people they should not trust.

9.74 In the Discussion Paper, the ALRC proposed that such protections should be prescribed in the Code.⁸⁶ Submissions in response to this proposal were mixed, but many supported the proposal.⁸⁷ The National Older Persons Legal Services Network said that third party authorisations 'ought to be considered as seriously as any other substitute decision making instrument':

If it is not possible in a particular situation to obtain an EPOA or an administration order (and we struggle to think of a situation when this would not be more

83 The Law Council of Australia has said that authority to operate arrangements may 'easily' be used for financial abuse: Law Council of Australia, *Submission 61* citing the views of the Law Institute of Victoria.

84 *Ibid.* For example, compare with governing the making of power of attorney, guardianship and other such instrument: see ch 5.

85 Consumer Credit Legal Service (WA) Inc, *Submission 301*.

86 Similar changes could also be made to the *Customer Owned Banking Code of Practice*.

87 Chartered Accountants Australia and New Zealand, *Submission 368*; Victorian Multicultural Commission, *Submission 364*; National Older Persons Legal Services Network, *Submission 363*; Justice Connect Seniors Law, *Submission 362*; M Berry, *Submission 355*; Law Council of Australia, *Submission 351*; Aged Care Steps, *Submission 340*; CPA Australia, *Submission 338*; Cairns Community Legal Centre Inc, *Submission 305*; FMC Mediation & Counselling, *Submission 284*; ADA Australia *Submission 283*; Customer Owned Banking Association (COBA), *Submission 271*; Public Trustee of Queensland, *Submission 249*; Office of the Public Advocate (Vic), *Submission 246*; Lutheran Church of Australia, *Submission 244*.

appropriate), then a third party authorisation should have as close to possible the features of an EPOA.⁸⁸

9.75 Some said that that one of those witnesses should be a medical practitioner, lawyer or another prescribed professional,⁸⁹ a suitable bank employee or Justice of the Peace,⁹⁰ or at least that they should be independent and unrelated to the parties.⁹¹ ADA Australia suggested that the principal should be required to sign the forms without the appointee present.⁹²

9.76 The Law Council of Australia supported the proposal, but noted that another approach would be ‘to require banks to rely on instruments such as enduring powers of attorney, powers of attorney, or administration orders’.⁹³ However, the ABA, which opposed the proposal, said that while banks ‘strongly encourage the use of formal arrangements, some bank customers prefer to put in place appropriate measures to help protect themselves yet retain their financial independence, including an Authority to Operate’.⁹⁴

9.77 A number of stakeholders either opposed the proposal, or expressed serious reservations.⁹⁵ Some suggested it would not significantly reduce elder abuse and that other steps were more important, while others were concerned that the cost and inconvenience of the process might outweigh any benefits.

9.78 One stakeholder said that requiring people to sign a declaration is unlikely to stop financial abuse partly because many people ‘do not read or do not understand’ what they are signing.⁹⁶ Others said that people from culturally and linguistically diverse backgrounds or with impaired decision-making ability may ‘not understand the declaration, its risks or its implications’.⁹⁷

How are the witnesses going to attest to the fact that the customer had capacity unless it is very clear? Training and education will be key.⁹⁸

9.79 Office of the Public Advocate (Qld) said that if a person is prepared to forge one signature, they will be prepared to forge two,⁹⁹ although this problem might be met by requiring an employee of the bank to witness the signing of the form when it is lodged.

88 National Older Persons Legal Services Network, *Submission 363*. See also V Fraser and C Wild, *Submission 327*.

89 Customer Owned Banking Association (COBA), *Submission 271*.

90 Aged Care Steps, *Submission 340*; A Salt, *Submission 278*.

91 Chartered Accountants Australia and New Zealand, *Submission 368*; Institute of Legal Executives (Vic), *Submission 320*; Cairns Community Legal Centre Inc, *Submission 305*.

92 ADA Australia *Submission 283*.

93 Law Council of Australia, *Submission 351*.

94 Australian Bankers’ Association (ABA), *Submission 365*.

95 *Ibid*; Office of the Public Advocate (Qld), *Submission 361*; Office of the Public Guardian (Qld), *Submission 384*; Legal Aid NSW, *Submission 352*; Carers Queensland, *Submission 236*.

96 Consumer Credit Legal Service (WA) Inc, *Submission 301*.

97 *Ibid*.

98 Dr Kelly Purser, Dr Bridget Lewis, Kirsty Mackie and Prof Karen Sullivan, *Submission 298*.

99 Office of the Public Advocate (Qld), *Submission 361*. See also Office of the Public Guardian (Qld), *Submission 384* (‘increased witnessing requirements are unlikely to positively impact the behaviour of the dishonest third party (family member or friend) who is assisting the older person’).

9.80 Others suggested that these arrangements are convenient for many people, particularly for those older people who have limited ability to visit their bank or use online banking services, and that witnessing rules might be an administrative burden for customers and inhibit them from entering the arrangements. Legal Aid NSW suggested the costs may outweigh the benefits: ‘It could create excessive barriers for older people needing assistance with their banking, but not wishing to create a power of attorney’.¹⁰⁰

9.81 Witnessing rules might also be a burden for carers. The Office of the Public Advocate (Qld) said it would be ‘more work and obstacles for honest people trying to make these arrangements for the benefit of the older person’.¹⁰¹ Carers Queensland considered the proposal to be ‘sound in principle but ineffective in reality’.¹⁰²

9.82 Others suggested the safeguard might not be sufficient, because the older person giving authority may be under someone’s influence and ‘may have been coached to state they understand the scope of the authority’.¹⁰³ Banks would therefore need to ensure their customers were not being coerced to give authorisation.

9.83 Another concern some stakeholders expressed was that banks might use the additional witnessing rules to limit their liability. Consumer Credit Legal Service (WA) submitted that financial institutions may use the declaration ‘as a tool to show that the customer has “waived” their rights’ and to ‘prevent older Australians from redress against their perpetrators or their banks’.¹⁰⁴

9.84 The ABA submitted that the current arrangements offered sufficient protection:

A third party signatory may be added to a customer record when a customer requests another person have access to their accounts, for both financial and non-financial transactions, on a temporary or permanent basis. Unlike a formal instrument, a third party signatory does not have the authority to open or close existing accounts on behalf of the customer. The current procedure requires the accountholder to attend in person at the bank or provide certified ID. This is sufficient protection to verify the authenticity of the form.¹⁰⁵

9.85 The ABA also noted that it was difficult to see how additional witnessing requirements and declarations could be made to apply only to ‘a particular category of customer ... without discriminating and restricting the actions of many older people who remain highly competent’.¹⁰⁶

100 Legal Aid NSW, *Submission 352*.

101 Office of the Public Advocate (Qld), *Submission 361*.

102 Carers Queensland, *Submission 236* (noting that it was ‘aware of many circumstances where a person with an intellectual or cognitive disability has been asked to provide a “mark” (signature) on the relevant paperwork in order to open a bank account’).

103 A Salt, *Submission 278*.

104 Consumer Credit Legal Service (WA) Inc, *Submission 301*.

105 Australian Bankers’ Association (ABA), *Submission 365*.

106 It was also suggested that the requirements should not apply to everyone, because they were too burdensome: *Ibid*.

9.86 Given the above concerns, the ALRC does not recommend that the Code or industry guideline provide that the signing of ‘Authority to Operate’ forms must necessarily be witnessed by others. The potential administrative burden to older people and their carers seem to suggest that caution should be exercised.

9.87 However, safeguards against the abuse of these arrangements appear to be necessary, and witnessing rules and formal declarations may be one way of protecting against abuse for some customers. In other cases, it might be more appropriate for the bank to call a customer to confirm that they did in fact sign an ‘Authority to Operate’ form and that they understand the risks of allowing other people to operate their bank account.¹⁰⁷ These or other such safeguards should be set out in the industry guideline.

Internet banking

9.88 It is reportedly common for some people to allow a spouse or other intimate partner or family member to operate their bank accounts online. This can be as simple as sharing an account number and password, even though banks warn people not to do this.

9.89 The National Older Persons Legal Services Network submitted that ‘many older people rely on adult children to operate internet banking and that passwords are routinely accessible by those children’.¹⁰⁸ The Office of the Public Guardian (Qld) stressed the need to consider internet banking and ‘the mechanisms that should be in place to protect the interests of the older person who provides their family member, or attorney with access to their online accounts’.¹⁰⁹ The Institute of Legal Executives said ‘the issue of internet banking is of grave concern’:

We are informed of many instances where abuse has been perpetrated simply because the account holder has provided his/her account access details to another—whether through pressure being brought to bear, or simply because it is ‘easier’ for the other person to attend to (usual) payments on the account holder’s behalf.¹¹⁰

9.90 Online banking can be risky, Consumer Credit Legal Services (WA) submitted.

Some older Australians rely on close family members or friends for help with activities such as online banking. In this process, they may end up sharing their online banking details with these family members or friends, which would constitute a breach of the terms and conditions of their bank account.¹¹¹

107 Legal Aid NSW submitted: ‘Banks should contact older people to confirm any written authorities they purport to have given to another person to transact on their accounts’. They also said that banks should contact older people by phone to confirm that they have authorised large transactions: Legal Aid NSW, *Submission 352*. ‘Banks could use their mobile staff, who have received appropriate training about elder financial abuse and undue influence, to talk to customers face-to-face in their homes, to satisfy themselves that the arrangements for third parties to access their accounts are appropriate’: Office of the Public Advocate (Qld), *Submission 361*. Others said that ‘bank staff can, and often do, intervene under existing protections where there is an obvious abuse such as an unusually large withdrawal or transfer of money’: National Older Persons Legal Services Network, *Submission 363*.

108 National Older Persons Legal Services Network, *Submission 363*.

109 Office of the Public Guardian (Qld), *Submission 384*.

110 Institute of Legal Executives (Vic), *Submission 320*.

111 Consumer Credit Legal Service (WA) Inc, *Submission 301*.

9.91 A related concern is whether online banking services are sufficiently accessible to some people with disability and to people who do not use computers or the internet. The National Older Persons Legal Services Network said banks should provide services that are accessible to people who ‘struggle with internet services and automated telephone programs’.¹¹²

9.92 This is reflected in the Code, which states that banks ‘recognise the needs of older persons and customers with a disability to have access to transaction services, so we will take reasonable measures to enhance their access to those services’.¹¹³

9.93 Accessible online banking may make some people less likely to delegate their banking to others, which may in turn reduce financial abuse, however this topic is broader than elder abuse and is not the subject of recommendations in this Report.

Community education

9.94 Providing information to older customers about financial abuse and discussing with customers how they might protect themselves are other steps banks might take.¹¹⁴ Consumer Credit Legal Services (WA) suggested that banks might sponsor educational activities for elderly account holders, as part of a broader strategy to raise community awareness of elder abuse. It noted that ‘[c]ommunity education can include financial seminars for local seniors, including providing case studies of elder abuse and outlining the steps that can be taken to prevent or protect against financial exploitation of an elder person’.¹¹⁵

9.95 Community education about the risks of online banking may also help older Australians make informed choices about ‘who they share their personal details with and the potential consequences of doing so’.¹¹⁶

9.96 This education about the risks of online banking should be one aspect of the broader community education strategy recommended as part of the National Plan to combat elder abuse.¹¹⁷

112 National Older Persons Legal Services Network, *Submission 363*.

113 Australian Bankers’ Association, *Code of Banking Practice* (2013) cl 7.

114 ‘National Seniors recommends that financial service providers be supported to deliver information to clients about the potential risks of elder abuse and the mechanisms that can be put in place to protect against future abuse’: National Seniors Australia, *Submission 154*.

115 Consumer Credit Legal Service (WA) Inc, *Submission 301*.

116 *Ibid.*

117 See ch 3.

