

24 May 2024

Inquiry into Justice Responses to Sexual Violence
Australian Law Reform Commission
jrsv@alrc.gov.au

To the Australian Law Reform Commission,

The Older Persons Advocacy Network (OPAN) welcomes the ALRC Inquiry into Justice Responses to Sexual Violence and the potential for legislative reforms to increase support for people who are victim survivors of sexual violence.

About OPAN

OPAN is a national network comprised of nine state and territory organisations that have been successfully delivering advocacy, information and education services to older people across Australia for over 30 years. In 2022/23, OPAN delivered information and advocacy support to over 36,100 people across the nation. OPAN's free services support older people and their representatives to understand and address issues related to Commonwealth funded aged care services.

OPAN is always on the side of the older person we are supporting. It is an independent body with no membership beyond the nine state and territory organisations. This independence is a key strength both for individual advocacy and for our systemic advocacy. OPAN works to amplify the voices of older people seeking and using aged care services and to build human rights into all aspects of aged care service delivery.

About the experiences of older women

An estimated 2.2 million women aged 18 years and over (22%) have experienced sexual violence since the age of 15, including 20% (2.0 million) who experienced sexual assault and 5.5% (544,700) who experienced sexual threat (ABS, Personal Safety Survey, Sexual Violence 2021-22). According to the National Elder Abuse Prevalence Study (August 2022) approximately 1% of people aged 65 and older in Australia, living in the community, reported an experience of sexual abuse in the 12 months preceding the survey for the study (though we feel the numbers are underestimated). The majority of these were women. The Aged Care Royal Commission's final report estimated there are 50 sexual assaults in residential aged care each week.

The Royal Commission into Aged Care Quality and Safety described physical and sexual abuse in residential aged care environments as a disgrace and a source of national shame.¹ Evidence given to the Royal Commission included many concerning accounts of sexual assault by staff and other residents in residential aged care.²

We know that older women are predominantly the victims of sexual abuse in later life and that men are the most common perpetrators. This includes sexual abuse by partners, family and non-family care givers, their children, other residents (in residential aged care) and strangers. Older women with disability or who are living with dementia, or other cognitive decline are more vulnerable to sexual abuse, with those living with dementia being the most common victim-survivors.³

Data regarding the location of the abuse varies. As noted by Dr. Ruthy Lowenstein Lazar, in her article *Me Too? The invisible older victims of sexual violence* (written for the UN) *“Most studies in the fields of gendered violence indicate that the majority of elders were abused in their own or in a family member’s home. Most studies in the elder abuse field point to nursing homes and care facilities as central locations of abuse”*. It is well recognised that Institutionalisation is a risk factor for abuse. This means that sexual abuse predominantly occurs where the older woman lives, which increases their vulnerability and also makes it much more difficult to seek help.

The sexual abuse of older women remains unrecognised, under-reported, under-researched and largely unaddressed. This reflects the way society views older women as non-sexual and therefore unlikely to be abused. As a result, older women are not believed when they talk about sexual abuse or report it.

Barriers to accessing Justice Responses

Older Women Living in the Community

Older women are the largest growing cohort of homeless people making them especially vulnerable to sexual assault and being unable to access supports or appropriate legal responses.

Older women living in the community can face particular barriers to accessing justice responses including:

¹ Royal Commission into Aged Care Quality and Safety, 2021, [Final Report Volume 1](#).

² Royal Commission into Aged Care Quality and Safety, 2021, [Final Report Volume 2](#).

³ Dementia Alliance International, 2022, [The Sexual Assault and Dementia Special Interest Group](#).

- Being reliant on the perpetrator for financial support, transport or access to the community
- Not having access to affordable technology, such as mobiles, or unable to utilise these technologies.
- Not being able to access information due to sight or hearing constraints.
- Being unable to access services due to mobility issues.
- Being unable to navigate complex justice and legal systems.

This can be exacerbated where there are cultural or language barriers, the older woman lives in rural and remote areas, or the perpetrator has Powers of Attorney or Guardianship over the older woman.

Older Women Living in Residential Aged Care

Older women living in residential aged care face many of the same issues as those living in the community. However, there are additional barriers to accessing justice responses including:

- No phones or not being provided with a mobile phone to be able to make calls.
- Having “gate keepers” – being reliant on aged care workers to access services and supports (and the woman may not want to discuss why she needs to access a specific service).
- Note being able to enter and leave the facility at will be due to pass codes and locked doors.
- Lack of transport or affordable transport offered by residential aged care facilities.
- Providers deferring to Guardians or Powers of Attorney despite what the older woman may be requesting (for example, an older woman was moved into a locked dementia unit and the staff were told by her guardian she was not to have visitors. They have enforced this despite the older woman requesting access to visitors).

Responding to sexual abuse in residential aged care is difficult where another resident is the perpetrator. There are limited options available and moving the perpetrator to another room, wing or facility simply shifts the problem rather than addressing it. The perpetrator may also have no other housing option and has to remain at the facility and not be made homeless.

Older Women Living with Dementia

For older women living with dementia there are additional barriers such as:

- Being in “locked units” where there is not the broader community of the residential aged care facility to provide additional layers of safety by being

able to report on what they see happening where the woman is unable to do so herself. It also creates additional barriers to the older women being able to access supports as she cannot freely leave the unit and there is often limited staff oversight.

- Not being believed when reporting sexual abuse
- The perception that sexual and family violence is less harmful to people living with dementia because of memory loss or lower pain responses.

Conclusion and Recommendation

Justice responses to sexual violence must consider the unique challenges and difficulties of older women, including those living in residential aged care, especially if they are also living with dementia or cognitive decline and/or are in a locked dementia unit.

OPAN strongly urges the Commission to make recommendations which directly address the experiences of older women, especially people living with dementia, reduce vulnerability, improve support for disclosure of sexual assault, and improve access to reporting and justice responses.

We also commend to you the [#ReadyTo Listen MAP Guidelines](#), which outline a considered framework for improving responses to sexual assault in residential aged care.

In addition, OPAN endorses the submission by Dementia Australia.

Older women deserve to be free of sexual violence and to be provided with supportive justice responses which reduce harm. We urgently need leadership for improved responses and to prevent further sexual violence against older women, especially those living with dementia.

If you would like further information, please do not hesitate to contact Samantha Edmonds, Director Policy and Systemic Advocacy [REDACTED]

Yours Sincerely

[REDACTED]

Carig Gear OAM
CEO
OPAN