



ELDER ABUSE

ACSA POSITION

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ATTRIBUTION

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INTRODUCTION

Aged & Community Services Australia (ACSA) believes that elder abuse is a significant public policy issue that has devastating consequences for older people. At the very core of elder abuse is the loss of dignity and basic human rights. ACSA believes combating ageism across our society is an integral component in the prevention and recognition of elder abuse.

ACSA believes any response to elder abuse must start from a position of recognising the inherent dignity and worth of all older people, irrespective of disability or any other characteristic. Combating ageist stereotypes of older people will go a long way to setting a scene where older people are treated with the respect they deserve.

There are a range of policy options the Federal, State and Territory Governments and other stakeholders (including the aged and community care sector) should consider to strengthen the capacity to prevent elder abuse and respond effectively when it occurs.

SUMMARY OF RECOMMENDATIONS

National Plan

1. *ACSA supports development of a National Plan to Protect the Rights of Older Australians and believes this must include:*
 - *a comprehensive research program linked to policy and practice outcomes;*
 - *confirmation of the role of Commonwealth-funded assessment services in assessing and case managing abuse of frail older people and people with dementia;*
 - *working with Australian, State and Territory Governments to develop and implement a national elder abuse hotline, which covers all older people in community and residential care settings;*
 - *reviewing existing training programs for frontline staff across key agencies involved in working with older people, such as health services, aged care services, financial services;*
 - *developing appropriate new programs where needed and funding implementation of training programs to ensure comprehensive coverage; and,*
 - *developing and implementing a national awareness campaign to educate and to change attitudes and values.*

Legal Framework

- 2 *Australian, State and Territory Governments should implement a national, consistent approach to powers of attorney and guardianship which provides for:*
 - *the inclusion of a copy of these documents in My Health Record (linked to My Aged Care)*
 - *interstate recognition*
 - *a mechanism to monitor the use of private powers of attorney; and*
 - *education strategies to inform attorneys and the broader community about the role and functions of Power of Attorney and guardianship appointments.*

Information, Access, Assessment and Case Management

- 3. The capacity of My Aged Care to respond to instances of elder abuse must be improved. This must include appropriate staff training on elder abuse. Commonwealth-funded assessment services must also be provided a clear remit and sufficient funding to assess and, if required, case manage abuse of frail older people and people with dementia.*
- 4. Creation of a national elder abuse hotline and resource unit is supported and could build on infrastructure including current State and Territory units. A national unit should work closely with My Aged Care and provide telephone information and support and professional training on abuse and protection issues. A limited case management role should be considered where other services are unavailable. The Australian Government should jointly fund the national hotline to cover residential aged care as well as community settings.*

Workforce

- 5. A review of existing elder abuse training programs for frontline staff across key agencies involved in working with older people, such as health services, aged care services, financial services, should be undertaken. This should include examination of the content in vocational education and university courses. Australian, State and Territory Governments should fund development (where necessary) and implementation of training packages on preventing and responding to abuse where gaps are identified.*
- 6. ACSA believes there is a range of options for staff screening that should be examined by an expert panel including representatives of law enforcement agencies, aged and community care employers and unions. These include improving the operation of mandatory criminal record checks, development of protection of vulnerable adult checks (as in place in the United Kingdom) and implementation of good practice in staff recruitment and supervision. The examination should look closely at the practicality, timeliness, costs and benefits of any new systems.*

Research and Data Collection

- 7. A comprehensive program of research and data collection on abuse of older people should be developed. This should include consideration of funding a national prevalence survey, as well as including elder abuse items into regular reporting requirements for aged care services, accreditation and complaints bodies, law enforcement agencies and guardianship tribunals.*

Community Education

- 8. That a mainstream and targeted community education campaign be conducted to raise awareness of elder abuse with special attention to high-risk groups. This should include combating the underlying ageism that often contributes to elder abuse.*

Residential Care

- 9. The Australian Government must review the compulsory reporting system introduced into residential aged care in 2007. ACSA supports residential care and community care staff being made aware of their legal obligations under State and Territory legislation to report crimes such as sexual assault and physical assault. However, there is little evidence that the reporting requirement to the Australian Department of Health has been effective.*
- 10. A nationally consistent approach to use of surveillance equipment in the residential aged care services should be developed cooperatively by Australian, State and Territory Governments, aged care providers and consumer organisations.*

Definition of Elder Abuse

Elder abuse can be defined as “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.

World Health Organization 2002

Elder abuse, in this definition, occurs in the context of a relationship between the abused person and the abuser. It excludes self-mistreatment and self-neglect. The abuser may be a family member, friend, neighbour, care worker or other person in close contact with the victim. Crime or assault in the street or at home by strangers, and discrimination in the provision of goods and services are excluded.

Whilst a key concept in the definition is the existence of a ‘relationship’, it is important to note that the context of relationships differ and they may require different responses. For example, in residential aged care three possible categories of perpetrators of abuse are: other residents; family members/friends; and staff. Each category require quite different responses.

Similarly, the standard definition doesn’t stipulate whether the acts (or lack of action) are intentional or unintentional. The response to intentional acts to harm someone will be very different to a response for an unintentional act of omission due to lack of education or information on how to care properly for a frail older person.

For example, physical or sexual assault is a crime and should be dealt with accordingly. However, assisting a stressed carer to manage without shouting at their elderly spouse may best be dealt with via means other than labels of abuse.

Prevalence

The World Health Organization (2015) reported that estimated prevalence rates of elder abuse in high or middle income countries ranged from 2 to 14%, with the following prevalence rates for the most common types of elder abuse:

- physical abuse - 0-5%
- sexual abuse - 0-1%
- psychological abuse, above a threshold for frequency or severity - 1-6%
- financial abuse - 1-9%
- neglect - 0-6%

The Australian Institute of Family Studies (AIFS) notes “these prevalence estimates are based on data sources involving elderly people living in private and community settings and do not include those in institutional care or those with a cognitive impairment. These two latter limitations are characteristic of most prevalence studies, which therefore only reflect a partial view of the extent of elder abuse” (Kaspiew et al 2015).

Research is limited in Australia with no systematic prevalence study. The AIFS Paper summarises the recent evidence from longitudinal studies of older women, a personal safety survey of women over 55 and elder abuse helpline data from Queensland, Victoria and New South Wales (Kaspiew et al 2015). Research on clients of Aged Care Assessment Teams (ACAT) found between 1 and 5% experience elder abuse (Kurrle et al 1992; 1997; Livermore et al 2001). Taken together, the Australian studies suggest financial and psychological abuse are the most common forms, probably at rates similar to those reported overseas.

Other characteristics include:

- most victims of abuse are females, however around 20-40% of victims are reported to be men, a much greater proportion than in cases of domestic violence among younger adults (Kaspiew et al 2015);
- in most community cases family members are the abusers (mainly children and spouses) with a minority of reported cases involving paid workers (Elder Abuse helpline data cited in Kaspiew et al 2015);
- more than one form of abuse at a time is common (Boldy et al 2005; Kurrle et al 1997);
- men are more likely to be the abusers in cases of physical and psychological abuse while women are more likely in cases of financial abuse or neglect (Mears 1997; Kaspiew et al 2015);
- allegations or suspicions of reportable assaults (physical and/or sexual) are reported to the Australian Department of Health for around 1% of residential aged care residents each year (Department of Social Services 2014); and,
- sexual assaults of older people are rare but highly damaging and contributing factors poorly understood (Mann et al 2014).

Factors Contributing to Abuse

A range of factors have been identified as contributing to abuse (Australian Society for Geriatric Medicine 2004; Koch & Nay 2003; Kaspiew et al 2015), including:

- *Dependency of the older person*, characterised by the abusive or neglectful behaviour beginning around or after the onset of the person's disability. Often linked to carer stress. People with dementia have been identified as at particular risk
- *Psychopathology in the abuser*, including psychiatric or drug and alcohol problems
- *Family dynamics including domestic violence*, characterised by a history of violence (usually male to female) predating the onset of any disabilities
- *Carer abuse*, where a person with dementia or another condition abuses their elderly carer
- *Financial dependency of the abuser on the victim*. A key component in financial abuse but also linked to other types of abuse
- *Social isolation*, where the older person is isolated from social connections and support services.

Ethical Interventions

Kurrle & Sadler (1994) point out each situation of abuse encountered is unique and must be considered individually. They recommend referring to the principles of beneficence and autonomy when making decisions about intervention.

- *Beneficence* is the principle of acting in a manner that will do good, and remove or prevent harm. This encompasses a worker’s and organisation’s duty of care;
- *Autonomy* is the principle of self determination. The rights of older people to make their own decisions must be respected.

Older people are capable of making decisions for themselves unless severely impaired by dementia or other psychiatric illness. Where it appears that an older person lacks the capacity to make informed decisions, then assessment of mental competence is essential. Ethical dilemmas can occur where there are tensions between beneficence and autonomy, such as the case of the victim wishing to stay in an abusive situation – in such cases understanding the person’s capacity is crucial. Older people also have the right to make decisions others may not agree with as long as they have the capacity to do so.

Policy Responses

The issue of abuse of older people is a relatively recent focus of social policy and research attention. Table 1 summarises some of the key developments since the issue was first identified.

Table 1: Policy Responses to Elder Abuse through the Decades

Decade	Key developments
1960s	“Granny bashing” first discussed in UK and USA
1970s	Term elder abuse coined; initial research and policy responses in USA, Canada and Europe
1980s	First interest in Australia; legislative responses emerge overseas including elder abuse or adult protection services
1990s	NSW and Victoria lead way in research and policy response; first inter-agency protocols and service training initiatives
2000s	Queensland, Victoria and South Australia commission elder abuse helplines; Commonwealth initiates compulsory reporting in residential care
2010s	NSW helpline commences; increased focus within police services; renewed interest in legal remedies, especially around financial abuse. A number of inquiries have been launched to investigate the issue of elder abuse.

There have been two major inquiries reporting on elder abuse in 2016, with a further inquiry underway and another in planning.

The NSW Legislative Council Elder Abuse Inquiry (NSW Parliament 2016) findings are summarised in its first recommendation:

- That the NSW Government embrace a comprehensive, coordinated and ambitious approach to elder abuse with the following elements:
 - a rights based framework that empowers older people and upholds their autonomy, dignity and right to self-determination;
 - a major focus on prevention and community engagement;
 - legislative reform to better safeguard enduring powers of attorney and to establish a Public Advocate with powers of investigation;
 - an ambitious training plan to enable service providers to identify and respond appropriately to abuse;
 - an active commitment to building the evidence base for policy; and,
 - an enhanced role for the NSW Elder Abuse Helpline and Resource Unit, including case management.

The NSW Government is due to respond in February 2017.

The Victorian Family Violence Royal Commission (State of Victoria 2016) examined family violence involving older people and made three recommendations specifically covering elder abuse:

- The Victorian Government resource the development and delivery of information on family violence using channels such as seniorsonline, information distributed with Victorian Seniors Cards, Seniors Week and the Seniors Information Centre [within 12 months];
- The Victorian Government, through the Council of Australian Governments, encourage the Commonwealth Government [within 12 months] to:
 - ensure that the Human Resource Management Standard in the Community Care Common Standards Guide specifies that workers delivering services must have successfully completed certified training in identifying family violence and responding to it
 - review the existing Community Services Training Package courses relevant to providing ageing support to ensure that each course has a core, rather than elective, unit that adequately covers all manifestations of family violence.
- Victoria Police, with advice from the Priority Community Division, scope options for a trial of a dedicated family violence and elder abuse response team in one Victoria Police local service area. The team should have the capacity to investigate financial abuse [within two years].

Further to the above major inquiries, Federal, State and Territory Governments are currently working on a number of other elder abuse initiatives as detailed below:

The Australian Law Reform Commission (2016) Elder Abuse Inquiry has commenced and is due to report by May 2017. Its terms of reference include:

- Consideration of:
 - existing Commonwealth laws and frameworks which seek to safeguard and protect older persons from misuse or abuse by formal and informal carers, supporters, representatives and others. These should include, but not be limited to, regulation of:
 - financial institutions
 - superannuation
 - social security
 - living and care arrangements, and
 - health
 - the interaction and relationship of these laws with state and territory laws.

The South Australian Parliament (2016) has recently established a joint committee inquiry into elder abuse with broad terms of reference to examine the prevalence and scope of abuse in South Australia and the effectiveness of policy and service responses which is expected to report in late 2017.

The Coalition Federal Government committed during the 2016 Federal Election to a *Policy to Protect the Rights of Older People* (Liberal Party 2016):

- \$15 million commitment to develop a national plan to better protect the rights of older Australians, including from all forms of abuse;
- The national plan will include:
 - developing measures to enhance the knowledge base, relating to:
 - the nature and prevalence of elder abuse
 - risk factors
 - the effectiveness of existing prevention, intervention and remediation measures and programs at all levels of government
 - developing measures to facilitate co-ordination, communication and sharing of practices
 - developing options for a national elder abuse hotline
 - developing pilot training programs to educate frontline staff
 - developing a national awareness campaign to educate and to change attitudes and values.

ACSA Position

National Plan

The Federal Government's commitment to develop a National Plan to Protect the Rights of Older Australians is very welcome. Although elder abuse has attracted spasmodic policy attention since the 1990s, this has ebbed and flowed depending on reflex responses to media coverage of isolated, but appalling, cases of abuse.

Too often, Australian, State and Territory Governments have identified similar issues without retaining a consistent focus on implementing the processes required. A more coordinated and sustained approach is required if real progress is to be made.

Although many of the levers for responding to elder abuse sit within the State and Territory jurisdictions (e.g. criminal law, police services, guardianship, powers of attorney and health services), the Federal Government plays a significant role, not least through its primary responsibility for policy and funding in the aged care system.

Recommendation:

1. *ACSA supports development of a National Plan to Protect the Rights of Older Australians and believes this must include:*
 - *a comprehensive research program linked to policy and practice outcomes;*
 - *confirmation of the role of Commonwealth-funded assessment services in assessing and case managing abuse of frail older people and people with dementia;*
 - *working with Australian, State and Territory Governments to develop and implement a national elder abuse hotline, which covers all older people in community and residential care settings;*
 - *reviewing existing training programs for frontline staff across key agencies involved in working with older people, such as health services, aged care services, financial services;*
 - *developing appropriate new programs where needed and funding implementation of training programs to ensure comprehensive coverage; and,*
 - *developing and implementing a national awareness campaign to educate and to change attitudes and values.*

Legal Framework

There is a consensus among researchers, consumer groups and parliamentary inquiries that there's a need for strengthened legal protections for vulnerable older people, especially in cases of financial abuse (Kaspiew et al 2015; Miskovski 2014; National Aged Care Alliance 2016; NSW Parliament 2016). Although in many cases guardianship orders and powers of attorney are legal instruments which assist older people who lack capacity to manage their affairs, there is also evidence that they are often misused.

ACSA believes responses to elder abuse need to be proportionate to the types of abuse concerned. Criminal acts should be responded to through the criminal justice system; more subtle forms of neglect or psychological abuse should not be placed into a reporting framework that treats them like criminal acts. Rather responding, for example, to staffing issues, or to carer stress may be more appropriate.

Recommendation:

2. *Australian, State and Territory Governments should implement a national, consistent approach to powers of attorney and guardianship which provides for:*
 - *the inclusion of a copy of these documents in My Health Record (linked to My Aged Care)*
 - *interstate recognition*
 - *a mechanism to monitor the use of private powers of attorney; and*
 - *education strategies to inform attorneys and the broader community about the role and functions of Power of Attorney and guardianship appointments.*

Information, Access, Assessment and Case Management

The Federal Government has created My Aged Care as the frontline information, access and assessment point for entry into the aged care system. As such, My Aged Care, including staff in the Call Centre, Regional Assessment Services and ACATs, should be trained to receive any elder abuse notifications and know the appropriate referral pathways. These will include referrals to State and Territory Elder Abuse Helpline Units, Police, Aged Care Commissioner or Department of Health.

A number of studies and inquiries have highlighted that responsibility for assessment and case management of people experiencing elder abuse is the missing piece of the puzzle in Australia (Kaspiew et al 2015; NSW Parliament 2016). Changes to Federal Government guidelines for ACATs have reduced their involvement in assessing and case managing cases of elder abuse. ACSA believes that ACATs should be resourced adequately to take on assessment, and if required, case management of frail older people or people with dementia (see also Australian Society of Geriatric Medicine 2004).

As indicated in Recommendation 1, ACSA also supports creation of a national elder abuse hotline and resource unit. This would focus on information, advice and referral. We note that there are options for using the infrastructure of the existing State and Territory hotlines and possibly the Aged Care Complaints Commissioner. The national helpline should be funded by the Federal Government to include abuse in residential care settings, as this is currently excluded in the existing State and Territory hotlines, but it should not be the recipient of compulsory reports which focus on aged care provider's compliance with aged care legislation (currently the role of the Federal Department of Health). A limited case management role could also sit with a national helpline where other services are unavailable.

Recommendations:

3. *The capacity of My Aged Care to respond to instances of elder abuse must be improved. This must include appropriate staff training on elder abuse. Commonwealth-funded assessment services must also be provided a clear remit and sufficient funding to assess and, if required, case manage abuse of frail older people and people with dementia.*
4. *Creation of a national elder abuse hotline and resource unit is supported and could build on infrastructure including current State and Territory units. A national unit should work closely with My Aged Care and provide telephone information and support and professional training on abuse and protection issues. A limited case management role should be considered where other services are unavailable. The Australian Government should jointly fund the national hotline to cover residential aged care as well as community settings.*

Workforce

Elder abuse training has been resourced much better in the last 15 years, especially in aged care. However, there is scope to cover more staff, especially health professionals and frontline staff in areas such as banking. Mandatory police checks are now in place in aged care. However, not all perpetrators of abuse will have criminal records, so other forms of staff screening should be considered.

ACSA is developing a proposal to the Federal Government on development of a national aged care workforce strategy. It will be important to ensure that dealing with elder abuse is one of the factors taken into account in the future national strategy.

Recommendations:

5. *A review of existing elder abuse training programs for frontline staff across key agencies involved in working with older people, such as health services, aged care services, financial services, should be undertaken. This should include examination of the content in vocational education and university courses. Australian, State and Territory Governments should fund development (where necessary) and implementation of training packages on preventing and responding to abuse where gaps are identified.*
6. *ACSA believes there is a range of options for staff screening that should be examined by an expert panel including representatives of law enforcement agencies, aged and community care employers and unions. These include improving the operation of mandatory criminal record checks, development of protection of vulnerable adult checks (as in place in the United Kingdom) and implementation of good practice in staff recruitment and supervision. The examination should look closely at the practicality, timeliness, costs and benefits of any new systems.*

Research and Data Collection

While there has been an increased academic focus since the early 1990s, there remain significant gaps in our knowledge about elder abuse in Australia. The National Aged Care Alliance (2016) has pointed out that no prevalence study has been undertaken in this country. The AIFS study concluded “there is very limited evidence in Australia that would support an understanding of the prevalence of elder abuse, and there is emerging recognition of the need for systematic research in this area” (Kaspiew et al 2015).

ACSA welcomes the Coalition Government’s commitment to “developing measures to enhance the knowledge base, relating to:

- the nature and prevalence of elder abuse
- risk factors
- the effectiveness of existing prevention, intervention and remediation measures and programmes at all levels of government” (Liberal Party 2016)

However, ACSA notes that research is not all that is needed. We also need to embed appropriate items into regular data collections that will provide much improved visibility of elder abuse cases. It will be important to do this in a manner which minimises the red tape demands and does not ask organisations to gather data which could compromise the safety or privacy of older people. A consistent dataset will be essential for any new national helpline.

Recommendation:

7. *A comprehensive program of research and data collection on abuse of older people should be developed. This should include consideration of funding a national prevalence survey, as well as including elder abuse items into regular reporting requirements for aged care services, accreditation and complaints bodies, law enforcement agencies and guardianship tribunals.*

Community Education

Researchers have noted that ageism is a significant contributor to a climate where abuse can occur. If older people are not valued and respected, there is an increased risk that they will be mistreated (Kurrle & Sadler 1994; Kaspiew et al 2015).

Social isolation has a well-established association with being vulnerable to elder abuse (WHO, 2015). Kaspiew et al (2015) identify that “isolation renders elders more vulnerable to exploitation for psychological, emotional and physical reasons, and it also means that abusive behaviour is less likely to be discovered due to the absence of social and other networks around the older person.” Concerned members of the community need to know how to reduce isolation and support older people if they suspect abuse could be occurring.

The NSW Legislative Council Elder Abuse Inquiry (NSW Parliament 2016) concluded that a much stronger focus on prevention and community engagement was needed to combat elder abuse.

Recommendation:

8. *That a mainstream and targeted community education campaign be conducted to raise awareness of elder abuse with special attention to high-risk groups. This should include combating the underlying ageism that often contributes to elder abuse.*

Residential Care

ACSA is aware that highly distressing cases of abuse in residential care from time to time attract a high public profile. Understandably older people, family members and the general community are particularly concerned when they perceive the aged care provider or their staff are somehow involved in permitting or, even worse, committing the abuse.

The Federal Government introduced in 2007 compulsory reporting of allegations or suspicions of unlawful sexual contact with a resident or unreasonable use of force with a resident to the police and Department of Health within 24 hours. There is a discretion not to report alleged assaults perpetrated by residents with an assessed cognitive or mental impairment. The police investigate any criminal action, while the Department of Health investigates provider compliance with the *Aged Care Act*.

When ACSA undertook a survey of its members in 2009, it found compulsory reporting had increased awareness of abuse and encouraged better policies and procedures by service providers. But this had come at a cost of half of all reported cases being unsubstantiated or vexatious, expensive additional bureaucracy and limited evidence of improvement in obtaining criminal convictions where real assaults have occurred (Sadler 2009).

The Aged Care Sector Committee’s Red Tape Reduction Plan (2015) proposed to explore options to streamline reporting processes and minimise any red tape associated with the compulsory reporting requirements in relation to alleged reportable assaults (by Jan-June 2016). The Federal Government accepted the Red Tape Reduction Plan. ACSA believes it is imperative that the review of the

compulsory reporting system is commissioned promptly. ACSA also believes it is very important that other actions in residential care are proportionate to the risks posed.

ACSA believes the development of a cooperative approach between provider, older person (or their decision maker) and families is paramount to the use of monitoring and surveillance within aged care facilities. ACSA maintains there is no substitute for training of staff and astute managerial oversight to ensure residents' privacy and right to safety in residential care. In fact, people are entitled under the Charter of Care Recipients Rights and Responsibilities to have both.

A resolution at the recent 2015 Royal College of Nursing Congress was passed opposing the use of covert video and audio surveillance and recording in nursing and residential homes. 79.5% backed the resolution, reflecting a concern about how camera use has the potential to damage caring relationships, despite a high level of public support (Fisk & Flórez-Revuelta 2016). Rozenbergs (2016) concludes: "While the use of CCTV cameras has the potential to reduce instances of elder abuse, it is a reactive measure that cannot replace proactive actions such as comprehensive training and education of workers and astute managerial oversight of day-to-day operations."

ACSA supports the following principles for ethical use of surveillance developed by Malcolm Fisk (Egan 2015; Fisk & Flórez-Revuelta 2016):

- Any reasonable level of surveillance is appropriate for common or public areas – need to be clear about its presence
- Homes should be able to provide or be willing to permit surveillance technologies within resident rooms or other private areas
- Location of surveillance cameras should be carefully considered, should be visible or be known to be present
- Staff should be fully aware of their responsibilities in relation to surveillance devices
- Access to data, images, audio or video footage should be restricted to authorised persons in defined circumstances, need clear safeguards over who is able to access the information
- Ownership of data, images, audio or video footage – owned by the resident, but held and or used for his/her benefit
- Minimise intrusion – appropriate safeguards and guidelines in place.

Recommendations:

9. *The Australian Government must review the compulsory reporting system introduced into residential aged care in 2007. ACSA supports residential care and community care staff being made aware of their legal obligations under State and Territory legislation to report crimes such as sexual assault and physical assault. However, there is little evidence that the reporting requirement to the Australian Department of Health has been effective.*
10. *A nationally consistent approach to use of surveillance equipment in the residential aged care services should be developed cooperatively by Australian, State and Territory Governments, aged care providers and consumer organisations.*

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