

Elder Abuse Responses

Safeguarding the rights of older
South Australians

Consultation Outcomes Report 2018

www.sahealth.gov.au/stopelderabuse

Prepared by
Office for the Ageing



Government
of South Australia



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Background

Over the last three years Office for the Ageing has taken a strong leadership role in implementing initiatives and actions to address elder abuse awareness, prevention and response, in partnership with a range of non-government and community organisations.

Key initiatives undertaken or funded by Office for the Ageing since 2015 include:

- Conducting annual [Stop Elder Abuse media campaigns, which have targeted the general community, carers and volunteers, and the health, legal and financial sector workforce.](#)
- Establishing and promoting the [South Australian Elder Abuse Prevention Phone Line Support and Referral Service](#), which has received over 820 calls since it commenced in October 2015.
- Promoting the annual Planning Ahead Week to raise awareness about the importance of planning ahead for future health, financial and post death matters, and the legal tools available to safeguard rights.
- Distributing more than 20,000 copies of the [Knowing Your Rights – A Guide to the Rights of Older South Australians](#) publication to older people, their family and friends to assist them to understand their rights, the laws that protect and safeguard these rights, and where they can access services and information.
- *Knowing Your Rights* for Culturally and Linguistically Diverse Communities, which promotes older people's rights through community champions and ethno-specific radio segments.
- The Promoting the Safety of Older Aboriginal Peoples project, which is a co-design project involving older Aboriginal people to develop abuse prevention resources and interventions.
- Developing an elder abuse simulation e-learning package for health students and other disciplines.

Office for the Ageing and the Attorney-General's Department are currently working with the Commonwealth to consider the recommendations from the Australian Law Reform Commission's Inquiry into Protecting the Rights of Older Australians from Abuse (2017)¹. This work includes developing a National Plan for elder abuse prevention, recognition and response.

Introduction

To build on this work, on 27 November 2017, Office for the Ageing released the *Elder Abuse Responses Discussion Paper* to seek community feedback about future actions that could be undertaken to further safeguard the rights of older South Australians and better respond to elder abuse.

The Discussion Paper sought feedback on three areas of opportunity:

Area 1 - Strengthening awareness.

Area 2 - Increasing responses.

Area 3 - Considering legislation.

The areas of opportunity identified in the Discussion Paper were informed by the recommendations of the *Final Report of the Joint Committee on Matters Relating to Elder Abuse*², *Elder Abuse – A National Legal Response*¹ and the *Closing the Gaps Report*³.

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Engagement and responses

The consultation included an interactive engagement opportunity (Gallery Walk) on

11 December 2017, and an open submission process promoted through a wide variety of channels including: *WeekendPlus* to over 65,000 seniors card members; the YourSAy network to over 15,000 stakeholders; government and non-government networks; social media and the *Advertiser* and *Messenger* newspapers.

The consultation period ran for six weeks, closing on Monday, 8 January 2018. Fifty seven submissions were received: 42 from individuals, including 12 from older people (identified by age or location, e.g. retirement village) and 15 from government and non-government organisations.

Summary of key findings

The need to combat ageism was highlighted as a critical safeguarding strategy. Safeguarding through building community literacy around elder abuse to combat negative stereotypes of older people at all levels, including schools, workforce and community, was supported (AREA 1).

Ongoing campaigns to support raising awareness of elder abuse using a broad range of media and access points was considered important, including to diverse cultural and community groups (AREA 1).

Mediation was considered to be an early intervention tool, comprising part of a suite of possible service responses. For example, to facilitate family conversations and planning ahead, preventing the possible escalation of abuse. It was noted that mediation in isolation is not adequate to safeguard older people from abuse (AREA 2).

Development of age friendly service orientation and a whole-of-government policy for elder abuse prevention was widely supported (AREA 2).

The absence of an agency or organisation responsible for responding to reports or concerns of abuse was highlighted as a significant gap (AREA 3).

Many respondents were in favour of new adult safeguarding legislation and supported the establishment of a South Australian Adult Safeguarding Unit, in alignment with the recommendations of the *Final Report of the Joint Committee on Matters Relating to Elder Abuse*², *Elder Abuse – A National Legal Response*¹ and the *Closing the Gaps Report*³ (AREA 3).

Strengthening Awareness

Responses to Question 1: *Are there other mechanisms for raising awareness about elder abuse that could be undertaken, or groups that you think should be targeted for awareness raising?*

Increasing workforce and general community awareness was supported by all respondents. Mechanisms to raise both workforce and community awareness of elder abuse on an ongoing basis, rather than short term campaigns, were considered to be more effective. It was further suggested that promotions use a broad range of media to ensure a diverse range of population groups have access to information tailored to their needs. Most respondents stated that promotions should include, but not be limited to, social media and electronic promotions. Expanding information access points to locations such as shopping centres, airports, libraries, sporting clubs, banks, lawyers' offices, hairdressers, community organisations, South Australia Police, schools and post offices was

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proposed. Targeting information at particular life junctures, such as when people first apply for pensions, was also raised as a strategy to disseminate information more broadly.

Whilst sustained community education and awareness raising initiatives were considered essential, respondents indicated these should form part of a multi-faceted change strategy supported by other reforms, such as legislation, service delivery or other innovations. It was proposed that a whole of government communications strategy, coordinated by a key agency such as an Elder Abuse Prevention Unit, could assist with sustained support for promotional initiatives from agency partners, including non-government organisations.

Additional suggestions included targeting campaigns to diverse groups e.g. culturally and linguistically diverse communities, Aboriginal and Torres Strait Islander communities, lesbian, gay, bi-sexual, transgender and intersex communities, gender-specific groups, rural and remote communities, family carers, and people with cognitive impairment or disability. A focus on workforce education was deemed important, particularly to first responders, such as the South Australian Ambulance Service, health professionals, social workers, South Australia Police, banks, the legal and financial sector, volunteers, aged care service providers and retirement village staff.

The need to combat ageism and negative stereotypes of ageing at all levels was highlighted as a critical safeguarding strategy. Current prevention initiatives, such as Planning Ahead and raising awareness of older people's rights, were supported to continue. Preventative strategies, such as a whole of family approach and education in schools, universities and kindergartens, were also suggested to strengthen community awareness and safeguard older people's rights, through building community literacy around elder abuse and the value of older community members.

Accountability of individuals and organisations in instances where elder abuse is recognised was also highlighted. Collaboration across government departments, clear reporting channels and greater promotion of the South Australian Elder Abuse Prevention Phone Line Support and Referral Service were suggested.

Increasing Responses

Responses to Question 2: *Do you believe that a referral pathway for mediation services is adequate to safeguard the rights and freedoms of older people who may be experiencing elder abuse?*

A majority of respondents supported mediation as an effective early intervention tool and considered it to be an important part of a suite of possible service responses. Respondents indicated that mediation could be one way to mitigate the possible escalation of abuse, or to facilitate early family conversations, particularly around planning ahead.

It was noted that mediation in isolation was not seen as adequate to safeguard older people from abuse. It was suggested that a mediation service may be utilised more effectively in a coordinated response system in which elder abuse could be investigated and the outcomes of referral to mediation followed up.

Some common issues which need to be considered in relation to mediation services included:

- Voluntary participation in mediation relies on the willingness of the parties, including the person committing the abuse, to mediate.
- The fundamental power imbalance underlying most elder abuse, and/or the ongoing dependence of the older person on the abuser.

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- Possible incapacity (cognitive or physical) of the older person may be a barrier to their participation.
- Lack of power to enact change - often there is a need for ongoing support to monitor and manage adherence to mediation decisions to ensure that protective strategies are successful. This role is generally outside the scope of current mediation services.
- Concern that a mediation pathway to address elder abuse reduces the perception of the seriousness of abuse.
- Current referral pathways are complex and are not well known or understood.
- Long wait times for mediation services and costs of mediation can be prohibitive.
- Quality control of services; mediators require specific training to be able to conduct mediation services for older people, particularly for those with cognitive impairment.

It was noted that mediators require specific training for situations involving elder abuse such as a contextual understanding of: power imbalances; the difference in gender roles when compared to other forms of abuse; presence of cognitive impairment of older adults experiencing abuse and abusers; and carer stress. Development of mechanisms to ensure early intervention and increasing access to mediation services through strategies such as providing services free of charge, provision of outreach options and ensuring mediation is culturally appropriate to the participants' needs were also proposed as mitigating strategies to the issues raised above. It was suggested consideration could also be given to a model of supported decision making.

Suggestions for services that could be targeted to raise awareness of the benefits of early mediation included: primary health care; aged care and retirement villages; South Australian Elder Abuse Prevention Phone Line Support and Referral Service; mental health services; Aged Care Assessment Teams; and pharmacies.

Question 2 (continued): Are there other services that should also be included for referral?

The absence of an agency or organisation responsible for responding to reports or concerns of abuse was highlighted as a significant gap in current service responses. The reduction of access to case management services within the broader Commonwealth-funded aged care service system was raised as problematic, and it was argued that this leaves many vulnerable adults without sufficient safeguards or a whole-of-person approach to care and support, with many cases of abuse not being detected or supported as a result. It was further noted that a market-driven model may act as a disincentive to a collaborative approach where multiple agencies are potentially involved.

Further research was suggested to identify high risk groups and to develop comprehensive, standardised elder abuse risk assessment tools to increase opportunities for early identification and intervention, to improve outcomes for older people.

Development of a whole-of-state-government policy for elder abuse prevention and age friendly service orientation was broadly supported, however, respondents noted that most services for older persons are delivered by organisations outside of state government. Establishing effective protocols for working across organisations and services, including referrals to the South Australia Police (SAPOL), were suggested as critical to strengthening effective referral pathways.

Voluntary registration of enduring documents, including advance care directives, and both court and tribunal appointments of guardians, were supported.

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Participants raised a number of additional avenues and services for the prevention of elder abuse. As highlighted previously the need for a cultural shift of how older people are viewed, and how they view themselves, was suggested as a key safeguarding measure. Home support was highlighted as a key preventative measure to reduce dependence of older people on family and friends. Other strategies included addressing social isolation, including in rural areas; improved access to advocacy support; support for carers to prevent carer stress; and measures to address abuse of carers.

Considering Legislation

Responses to Question 3: *What could be done to strengthen existing legislation to safeguard the rights of older people and respond to elder abuse?*

It was proposed that in the absence of new adult safeguarding legislation, relevant existing legislation could be enhanced although it was suggested that strengthening existing legislation is likely to be a complex, fragmented process that may only amount to incremental reform and have unintended consequences for the older person. For example, concerns were raised that existing legislation may be more weighted towards the principle of protection than dignity and autonomy, a fundamental principle in the *South Australian Charter of the Rights and Freedoms of Older People*. It was suggested that the *Advance Care Directives Act 2013*, *Guardianship and Administration Act 1993*, *Powers of Attorney and Agency Act 1984* and the *Mental Health Act 2009* should be consistent, rights-based, and with simple terms and definitions.

The community consultation affirmed that respect for the older person's rights and involvement of the older person in the decision-making process must be paramount in any future legislative reform.

The need to have a strong, consistent legal and policy framework that underpins service responses and legal remedies and the need for a consistent national approach to elder abuse prevention, recognition and responses was highlighted as critical to effectively responding to concerns of elder abuse.

The concept of mandatory responding discussed in the *Closing the Gaps Report*³ was supported, which proposed the adoption of a system of voluntary reporting with mandatory responses, involving stages of responses appropriate to the circumstances of each situation to ensure that the rights and freedoms of the adult concerned determine the nature of the response.

Responses to Question 4: *What might adult safeguarding laws seek to address, if the government was to proceed with this approach?*

It was acknowledged that there are gaps in current service responses for older people who may be experiencing elder abuse, particularly as agencies can only operate within their current organisational boundaries and have no power to investigate abuse. It was highlighted that many elder abuse situations in the community where the older person has no mental illness or mental incapacity fall outside of the role of SAPOL, the Office of the Public Advocate or the South Australian Civil and Administrative Tribunal. It was noted that these gaps impact on the opportunity to follow up suspicions of abuse, to intervene or support the person earlier, including possible referral to mediation services.

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Overall, there was general support for adult safeguarding legislation recommended by the *Joint Parliamentary Committee Inquiry on Matters Relating to Elder Abuse*²; the *Australian Law Reform Commission Elder Abuse Inquiry*¹, and the *Closing the Gaps Report*³. Participants welcomed safeguarding older people's rights, and participants were generally in favour of new safeguarding legislation to address this gap. The consultation showed support for a lead agency with the legislated authority to investigate or follow up suspicions of abuse, intervene, coordinate and compel interagency collaboration and review assistance, whilst ensuring that older people experiencing abuse are central in the decision making process. Inclusion of all vulnerable adults rather than an age-specific definition under any safeguarding legislation and policy development was also supported. It was highlighted that legislation should be inclusive, human rights based and weighted towards principles of dignity and autonomy, rather than protection and safeguarding. There was concern from some respondents that the legislation might result in a paternalistic or a 'we know best' approach.

The need for new legislation to align with existing state and Commonwealth legislation and the requirement for consequential amendments of other relevant legislation was recognised.

Consultation comments included that adult safeguarding legislation: provide for one central body/unit to undertake investigation with a stepped approach for intervention appropriate to the circumstances of each case; set out clear, but broad, definitions of elder abuse; a service model with clearly defined roles for partner agencies; a formal monitoring

process for review of referrals through the system; accountability for individuals and organisations; whistle-blower protections for those who reported abuse; and clear penalties for breaches of the law.

Clear accountability and responsibility for the legislation and unit was deemed necessary to ensure transparency. Many respondents considered across government and non-government service provider collaboration was essential to strengthening referral pathways and reporting channels. A central unit or coordinating body would support improved data collection and reporting. There was support for approaches to be tailored to a diverse range of cultural needs that address language and cultural barriers.

It was concurrently acknowledged that whilst legal reform is important, this needs to be supported by a strong policy and adequately resourced service response framework and effective interagency coordination mechanisms. Respondents highlighted that any changes to legislation would need to be supported by a strong implementation plan including workforce and community education with resources available in appropriate formats to inform a diverse range of older people of their rights and about the new unit. It was noted that there should continue to be a strong focus on prevention and advocacy support.

Whilst some respondents supported a mandatory reporting scheme for elder abuse, it was also argued that mandatory reporting is inherently paternalistic, has the potential to infringe on older people's rights to self-determination, and may prevent help-seeking behaviours for fear of a family member being reported and punished.

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Responses to Question 5: *Are there specific cultural requirements that should be considered in response to abuse of vulnerable adults from Aboriginal or culturally and linguistically diverse backgrounds?*

Almost all respondents agreed that specific cultural requirements should be considered in all of the responses outlined in the Discussion Paper. Themes included respect and dignity, consultation with the older person about their specific cultural requirements, understanding how culture impacts on concepts of 'abuse' and on concepts of safeguarding rights, including women's rights. It was also highlighted that consideration should be given to understanding and responding to cultural practices regarding financial management and decision making.

A need for culturally competent practice at all levels of intervention, supported by adequate workforce training was considered important. It was suggested that co-designing tailored messages to different cultural groups/contexts was important to overcome difficulties in translating complex concepts to different cultures. For example, in many language groups, there is no word or concept of abuse.

Next Steps

Based on community feedback, the Government, through Office for the Ageing will:

1. Continue to raise awareness of elder abuse in the community and workforce, through targeted Stop Elder Abuse campaigns.
2. Continue to support projects and initiatives that focus on combating ageism and promoting positive concepts of ageing to enhance wellbeing and resilience.
3. Reflecting the Government's commitment to combatting ageism by challenging the way ageing is framed in the language and structure of the services the government delivers, develop and strengthen age friendly government customer service orientation through co-designing resources and staff training with older people.
4. Develop a rights-based legal framework (adult safeguarding legislation) for the prevention of abuse and neglect of vulnerable adults, with a focus on prevention, early intervention and legal safeguards.
5. Through adult safeguarding legislation:
 - a. Establish the South Australian Adult Safeguarding Unit (Unit) responsible for responding to reports or concerns of abuse with stepped powers to investigate, intervene, coordinate and compel interagency collaboration and review, whilst ensuring that the rights and dignity of vulnerable persons are paramount.
 - b. Focus on the prevention of abuse through awareness raising and community and workforce education.
 - c. Consider mediation as a possible referral option as an early intervention or prevention mechanism.

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Appendix 1

List of submissions to the Elder Abuse Responses Community Consultation

57 submissions received: 42 from individuals, 12 of which were from older people (identified by age or location e.g. Retirement Villages) and 15 from the following organisations:

- Carers SA
- Relationships Australia
- Council on the Ageing SA
- Flinders Law, Flinders University
- MIGA (Medical Insurance Indemnity for Medical Practitioners)
- Department for Communities and Social Inclusion (now Department for Human Services)
- ECH Inc
- Domiciliary Care, Department for Communities and Social Inclusion (now Department for Human Services)
- Australian Association of Social Workers
- Consumer and Carer Reference Group, Helping Hand Aged Care
- Aged Rights Advocacy Service
- Disability Policy Unit, Department for Communities and Social Inclusion (now Department for Human Services)
- South Australia Police
- Office of the Public Advocate
- University of South Australia, School of Law

References

- 1 Australian Law Reform Commission Final Report: A National Legal Response (Inquiry into Protecting the Rights of Older Australians from Abuse). May 2017.
- 2 Joint Committee on Matters Relating to Elder Abuse, Final Report. October 2017.
- 3 Closing the Gaps - Enhancing South Australia's Response to the Abuse of Vulnerable Older People, Report for the Office of Ageing and Disability Services, Office of the Public Advocate in collaboration with University of South Australia. October 2011.



For more information

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