

Submission

To	Attorney General's Department
Topic	Draft National Plan to End the Abuse and Mistreatment of Older People
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About

We are an inclusive not-for-profit organisation working alongside more than 80,000 South Australians each year and have been creating positive change for South Australian communities for more than 120 years. We advocate for systems change across diverse social justice issues to shape public and social policy that delivers better outcomes for marginalised communities.

We support those in need to find the courage to move forward through enriching their lives and uniting the communities in which they live. By tackling the deep-seated challenges that affect people's lives, we are working to create systemic change and brighter futures for all South Australians.

Law Centre

We understand that dealing with the legal system can be confusing and daunting and staff in the [Uniting Communities Law Centre](#) assist people to work through these challenges. The qualified team provides support with information, advice, representation, referrals, or community legal education and these services are free.

Our Law Centre includes a specialised Elder Abuse Unit which provides legal and social work support to people over the age of 65 impacted by elder abuse. Our focus is always the older person. We start by speaking with them and getting their permission to make an appointment. We then do a broader assessment to work out what's going on and develop a way forward. Support can include legal representation, case management and counselling.

The Law Centre also has a Consumer Credit specialist service that works alongside the Elder Abuse Unit and has assisted with claims against banks, financial services and/or credit providers in cases of elder abuse.

Submission to National Plan to End the Abuse and Mistreatment of Older People

Uniting Communities thanks the Attorney General's Department for the opportunity to provide input on the draft National Plan to End the Abuse and Mistreatment of Older People. We are broadly supportive of the plan but believe there are a number of ways the plan can be strengthened to address the myriads of challenges facing older people at risk of or experiencing abuse. Our recommendations reference to both the plan and the accompanying Program Logic.

Key recommendations:

- That awareness raising campaigns include a focus on the person causing harm to highlight the various forms of abuse older people experience and promote awareness and action that holds the abuser to account.
- Awareness raising campaigns address the stigma experienced by older people and include explicit messaging on the issues.
- The plan specifically includes a commitment to expand and improve resourcing of Specialist Elder Abuse services to ensure equity of support by making this explicit within Priority Action 3.4.
- That the 'increased equity of access to services providing support for older people experiencing, or at risk of abuse or mistreatment,' in the Program Logic, be moved to the 'short term,' section recognising that such resourcing and expansion of services can be achieved within a shorter timeframe.
- That the expansion of mediation services that can work alongside Specialist Elder Abuse Units is included in the Priority Actions on page 56.
- Priority Action 2.3 should be replaced with the Royal Commission into Aged Care Quality and Safety (that focused on older people with a disability) given the Disability Royal Commission was not based on people over the age of 65.
- Priority Actions on page 56 specifically includes improving access to specialist advocacy and other support services for older people living with a disability who are at risk of or experiencing abuse/neglect.
- A commitment to develop nationally consistent offences is included for the abuse of older people. Currently ACT is the only state to introduce a standalone offence. Proposed coercive control legislation is limited to intimate partner relationships.
- A commitment to implement legislative reform for financial institutions is made to better protect older people from financial abuse, as a result of the federal [parliamentary inquiry](#).
- There is a commitment to a (statutory) review of laws which exempt the Age Discrimination Act and the systemic effects of those laws to address and reduce the impacts on the abuse of older people.

Additional Comments

Whole of community awareness, education and engagement

A focus on the person causing harm

We are pleased to see a strong focus on awareness raising within the plan, this will be a crucial preventative measure for reducing the abuse of older people in our communities. We believe that awareness raising campaigns should also include a focus on the person causing harm to highlight the various forms of abuse older people experience and promote awareness and action that holds the abuser to account. A similar strategy could be considered to the coercive control campaign in South Australia called, 'See the Signs' which focused on both the victim/survivor and people that cause harm (this was in the context of domestic violence). It has become apparent from our service experience that some forms of abuse of older people, particularly financial abuse, are not considered abuse by the person causing harm. For example, notions of inheritance impatience, or entitlement over the parents' finances, whereby an adult child steals or misuses the finances of an older person but does not believe what they are doing is abuse as they believe they have a right to the money. The exact messaging or case studies used in such awareness raising campaigns could be based on the most common cases, by consulting with specialist elder abuse support services.

Any campaign and awareness raising should draw attention to the various tactics used by people that cause harm including the various settings where abuse occurs, such as Power of Attorney (EPOA) provisions being exploited. Front line workers such as General Practitioners (GP), and hospital staff are in a position to prevent and respond to the abuse of older people, as they can often be the first or in some cases, only point of contact for older people. A lack of awareness can lead to harmful outcomes. For example, there have been instances with clients presenting to our Elder Abuse Unit where the abuser, has misled a GP in relation to assessments and approvals for EPOA and Advanced Care directives which has led to ongoing abuse. If given the right training more GPs would be able to identify abuse as it occurs and respond appropriately.

Stigma

There is a common stigma that is experienced by older people because of abuse that should be included in the plan. As the abuse experienced by older people is commonly perpetrated by family members, many older people can experience shame and stigma making it difficult to access support. This is then further complicated by a sense of responsibility and accountability older people can have towards their adult children, which can make it hard to seek assistance from services that may need to take out legal proceedings against the abuser. If older people were aware that others have gone through similar experiences, it may be easier to reach out for support.

Clear messaging

We think it is important that any awareness raising campaigns should include clear messaging that is explicit and easy to understand. There have been some campaigns in the past on elder abuse, including in the form of television advertising, that have included vague messaging that could be considered ambiguous, given it is not clear the content was on elder abuse.

Capacity and Capability of services

Specialist Elder Abuse Unit

Our Specialist Elder Abuse Unit was a part of the 2019 Australian Government trial of 12 specialist services. As highlighted in the plan, the evaluation showed that these services were meeting the needs of older people experiencing elder abuse. The combination of legal support and a social worker has proven to be an effective model. Significantly, our service has been running at capacity for at least a year (this does fluctuate). The demand continues to grow however, we are not able to support every referral we receive and must triage and prioritise matters as they come in. Greater resourcing would make this service accessible to more older people, particularly in some regional areas where our service is currently not available.

We recommend the plan specifically includes a commitment to expand these specialist Elder Abuse services so that this support is accessible no matter where older people are located within Australia to ensure equity of support. Specifically, we believe the 'increased equity of access to services providing support for older people experiencing, or at risk of abuse or mistreatment,' in the 'medium term' section of the Program logic, should be moved to the 'short term,' recognising that such resourcing and expansion of services can be achieved within a shorter timeframe. We also believe the older people would benefit from greater access to mediation services, that can work in conjunction with services like our Elder Abuse Unit.

Support services for older people with a disability

Older people with a disability are more likely to be at risk of abuse, a lack of support and a reliance on others (such as family) increases this risk. In the plan is the priority action – '2.3 Consider recommendations of the Disability Royal Commission relevant to ending the abuse and mistreatment of older people, through government responses in each jurisdiction.' However, this Royal Commission, was specifically for people – under the age of 65 – making the content, and recommendations not specific to older people. Instead, the National Plan on the Abuse and Mistreatment of Older People should include an increased focus on the Royal Commission into Aged Care Quality and Safety's recommendations for older people with a disability. Subsequently, Priority Action 2.3 should be replaced with the Royal Commission into Aged Care Quality and Safety in addition to what is included under 2.6.

The Aged Care Royal Commission recommendations included that older people living with disability are afforded the same rights to access the same types and levels of support as provided in the NDIS. The Aged Care Royal Commission demonstrated that the availability of disability services offered through My Aged Care is not equivalent to that afforded to those under the NDIS. People over the age of 65 are not eligible for the NDIS, only older people who accessed the NDIS before turning 65, can still access their support. Older people with a disability are missing out on vital support because of being excluded from the NDIS. We believe that the national plan, should specifically recognise the need to improve access to specialist advocacy and other support services for older people living with a disability who are at risk of or experiencing abuse/neglect.

For example:

Older Deaf people who were 65 or older at time of NDIS rollout, were only able to access Auslan interpreters for medical appointments which in turn, left some of them to depend and rely on family and friends to interpret and communicate for all their affairs including with banks, insurance, conveyancers, real estate agents, financial planners, car dealerships, mechanics and employers further heightening their risk of abuse and limiting their capacity to report abuse to anyone or for services to identify that a person was a victim of abuse.

Legal frameworks and adult safeguarding responses

There are a number of areas of legislative reform that are needed to prevent and address the abuse and mistreatment of older people, in addition to EPOA reform and this should be included in both the Priority

Actions of the plan and the short-term list for legal frameworks and adult safeguarding responses in the Program Logic.

Enduring Power of Attorney (EPOA)

We agree there is a need to improve and harmonise Power of Attorney (POA) legislation across the country. Lessons can be learnt from each state on what legislative reform is needed. In South Australia the *Powers of Attorney and Agency Act 1984* is outdated and in need of urgent change. Penalties are insufficient and the system currently requires that if the older person wants to pursue action due to the misuse of POA they must take the matter to the Supreme Court which is a long and expensive process that most are unable to pursue.

Standalone offences for the abuse of older people

There is currently no offence specifically addressing Elder Abuse in most states including South Australia, creating little legal consequence or deterrence for abusers. In the ACT, the *Crimes (Offences Against Vulnerable People) Legislation Amendment Act*, makes it an offence to abuse, neglect or fail to protect an older vulnerable person. Attempts have been made to address the abuse of older people amongst coercive control legislation in Queensland (which includes intimate partners, family and carers) but in SA and NSW the new legislation excludes family members and carers (which makes up a significant portion of abusers).

Our Elder Abuse Unit is currently relying on legislation that is commonly used for intimate partner violence, which includes the *Intervention Order (Protection of Abuse) Amendment Act 2009*. Some provisions exist within the *Criminal Law Consolidation Act 1935* but are very limited. There are limitations to the *Intervention Order (Protection of Abuse) Amendment Act 2009* in cases of elder abuse as an order can prevent contact with the victim but does not provide a means of recovering stolen/misused money (financial abuse) or enacting penalties unless the defendant is charged for a breach of an intervention order. Any new legislation could seek to implement other consequences instead of a prison sentence (as parents often do not want their adult child to go to prison) and could include other forms of remedy e.g. a way to recover financial losses that is accessible. This could include financial penalties and mandatory engagement with a service.

Regulating Financial Institutions

An analysis of data from our Elder Abuse Unit between 2022-2023 found that 54.4% of referrals involved financial abuse (which increases to 62% for women). Due to the rapid changes in technology, some older people do not have the digital literacy skills to conduct online banking and may have to rely on others (who may perpetrate financial abuse) to do this for them. The closure of physical bank branches, particularly in regional areas, has exacerbated these challenges. While the draft plan includes, 'exploring enhancements to the role of institutions in preventing financial abuse,' and 'will include specific research examining financial abuse indicators and risks to assist institutions, and through initiatives to enhance sector, community and government engagement with this issue,' we believe an explicit commitment to implement legislative regulatory reform for financial institutions in this area is missing from the plan.

Our Unit works with many clients who have experienced financial abuse including unauthorised transactions, both small transactions over a long period and large sums of money that has been stolen/misused, which has had a significant impact on older people. Prevention is the key given in many cases it is not possible to recuperate these funds due to the lengthy and costly court process and/or the abuser has already spent the funds and does not have financial assets to provide compensation. Other complications are added where older people have shared their password for their online bank account with the abuser, therefore forfeiting any responsibility on the banks to provide compensation, as this is

against banks policy, even though the lack of access to physical branches has forced some older people to rely on others.

The current self-regulation that exists through the Australian Banking Association Industry Guidelines is not sufficient, nor legally enforceable. The technology and tools exist for banks to monitor for financial abuse and to implement appropriate safeguards to protect consumers, yet this is not occurring. We believe the findings from the federal parliamentary [‘inquiry into the financial services regulatory framework in relation to financial abuse,’](#) provides sufficient information to assist the federal government in implementing reform to improve the response of financial institutions.

Our submission to the parliamentary inquiry included a range of recommendations that can be made to reform existing legislation and introduce better safeguards for older people within financial institutions.

The abuse of older people not recognised as domestic violence

Where abuse involves intimate partner violence, but the person is over the age of 65, this is commonly regarded as elder abuse instead of domestic violence. This is reflected in the service eligibility requirements of many family and domestic violence services that are not able to accept victim/survivors over the age of 65. Within our Unit we receive referrals from several third parties including police officers, or hospital staff, for cases of intimate partner violence (including instances of physical assault by an intimate partner) indicating this understanding is widespread throughout the community. Although current specialist FDV services are often at capacity, consideration could be made as to whether some specialist FDV services, may be more suitable than some elder abuse services, in cases of intimate partner violence, although this may depend on a case-by-case basis.

Other policy

Age Discrimination Act – NDIS exception

The draft plan currently refers to ableism as ‘ableism occurs when individuals, organisations and governments exclude and segregate people with disability, rendering them ‘unseen and unfamiliar.’ The current exception to the *Age Discrimination Act 2004* within the *National Disability Insurance Scheme 2013*, allows the NDIS to exclude older people living with a disability over the age of 65 years from NDIS support. Age discrimination in laws and policy can increase ageism and ableism, as the plan highlights, ‘ageism is a driver of abuse.’ There should be a review of laws which exempt the *Age Discrimination Act 2004* to determine the systemic effects of those laws to address these challenges.

Intersecting issues - Housing, AOD and Mental Health

We believe the draft plan would benefit from a greater focus on the various interconnected issues that relate to the abuse of older people. This is briefly mentioned on page 23 under ‘risk and protective factors,’ but lacks detail or inclusion in ‘Priority Actions’ of the plan. For example, the person causing harm in the case of adult children, can present with other issues such as poor mental health and/or alcohol and other drug challenges. On top of this, housing can play a major role in exacerbating experiences of abuse. In our Elder Abuse Unit, we have seen many instances where adult children who are the abuser, do not have another dwelling to move into, so if the older person were to make them vacate the property, they will likely be homeless. In the context of a parent/child relationship this can create hesitancy from the older person because even where they are aware of the abuse they are experiencing; they do not want the adult child to be homeless.

It is important that the draft national plan incorporates measures to address these risk factors. While the plan acknowledges the other national plans that may relate to the abuse of older people e.g. national housing and homelessness plan etc. it doesn’t specifically recommend or include action to create a

coordinated response. This could include a commitment to work with initiatives from other national plans where it directly impacts the abuse of older people, e.g. AOD, mental health and housing.

Loneliness and social isolation

As an organisation committed to addressing chronic loneliness, we believe the inclusion of social connection within the plan is a positive initiative. Our latest Loneliness by Numbers report explores what is loneliness, who is the most affected and how we can overcome this issue. Our latest data showed that 60% of the South Australian population reports experiencing loneliness. Although within our data, older people are not experiencing high rates of loneliness, we know from other research and evidence that this demographic is particularly at risk. Given our data is sourced through an online survey, it is likely that it is reaching a group of older people that may be more connected. The inclusion of 'whole of community and systems have better awareness of importance of social connection as a protective factor,' within the Program Logic is a positive component.

There is a connection between loneliness, social isolation and abuse. Loneliness can increase emotional dependency on an abuser, making it more challenging to seek help. On top of this, abuse can involve isolating the older person from others, increasing their loneliness, exacerbating the abuse and preventing others from providing support.

We believe the draft plan would benefit from additional 'Priority Actions,' that focus on addressing loneliness and increasing social connection for older people, to add to the current inclusion of, 'Develop whole-of-society initiatives to combat ageism, foster age-friendly communities and support meaningful social connections, including intergenerational connections.' It is important that communities are supported to identify place-based activities and services that will assist them to build and maintain social connections (and that these initiatives are continuously and appropriately resourced).

Nationally consistent standards

The Priority Action 3.1, 'identify best-practice quality and safety standards for specialist elder abuse services, with a view to increasing nationally consistent standards,' is a positive inclusion in the plan and will help expand best practice within Elder Abuse services. We believe dedicated consultation will be needed with Specialist Elder Abuse Services to evaluate and develop nationally consistent standards.

Gaps in evidence base and collaboration

We are pleased to see the inclusion of focus area 4, 'address gaps in evidence base and increase collaboration.' We believe there is an opportunity to improve data and research on elder abuse to improve interventions and best practice support models. Improving data collection and reporting will help ensure any interventions are working effectively and identify opportunities for improvement.

Conclusion

We appreciate the opportunity to provide a submission to the federal Attorney Generals Department. The abuse of older people continues to be a pervasive issue in our communities. Further reform and interventions will be crucial to reducing the issue. Uniting Communities would be pleased to provide any further information if required.