



The Honourable Warren Pitt MP
Member for Mulgrave

RECEIVED
22 NOV 2006
BY: LACA



**Queensland
Government**

Our reference: A/06/03693
COM 00085-2006

Submission No.....	96
Date Received.....	

Minister for
**Communities,
Disability Services
and Seniors**

16 NOV 2006

NA

Ms Cheryl Scarlett
The Secretary
House of Representatives Standing Committee
on Legal and Constitutional Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Ms Scarlett

I refer to the letter from the Honourable Peter Slipper MP of 20 September 2006 concerning the House of Representatives Inquiry into Older People and the Law.

As the Queensland Minister with portfolio responsibility for seniors and a personal interest in the safety and well being of Queensland seniors, I believe the Inquiry to be very timely, given the increasing reports of financial abuse of older people. The need for older people to be able to access information and independent legal advice on a range of issues to prevent abuse and exploitation must be a priority for governments.

Please find enclosed the Department of Communities' submission to the House of Representatives Inquiry into Older People and the Law.

If you require any further information or assistance in relation to this matter, please contact Director, Office for Seniors, Department of Communities on

I trust this information is of assistance.

Yours sincerely

Warren Pitt MP
Minister for Communities, Disability Services, Seniors and Youth

Enc

13th Floor 111 George Street
Brisbane Queensland 4000
GPO Box 806 Brisbane
Queensland 4001 Australia
Telephone +61 7 3235 4280
Facsimile +61 7 3210 2186
Email CandDS@ministerial.qld.gov.au
Website www.communities.qld.gov.au
Website www.disability.qld.gov.au
DOC ABN 38 872 506 567
DSQ ABN 25 791 185 155



Queensland Government

The Honourable Warren Pitt MP
Member for Mulgrave

Our reference A/06/03693
COM 00085-2006

Submission No. <u>96</u>
Date Received

Minister for
Communities,
Disability Services
and Seniors

9 8 NOV 2006

NH

Ms Cheryl Scarlett
The Secretary
House of Representatives Standing Committee
on Legal and Constitutional Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

RECEIVED
18 DEC 2006
BY: *LAC*

Dear Ms Scarlett

I refer to the letter from the Honourable Peter Slipper MP of 20 September 2006 concerning the House of Representatives Inquiry into Older People and the Law.

As the Queensland Minister with portfolio responsibility for seniors and a personal interest in the safety and well being of Queensland seniors, I believe the Inquiry to be very timely, given the increasing reports of financial abuse of older people. The need for older people to be able to access information and independent legal advice on a range of issues to prevent abuse and exploitation must be a priority for governments.

Please find enclosed the Department of Communities' submission to the House of Representatives Inquiry into Older People and the Law.

If you require any further information or assistance in relation to this matter, please contact Director, Office for Seniors, Department of Communities on

I trust this information is of assistance.

Yours sincerely

Warren Pitt MP
Minister for Communities, Disability Services, Seniors and Youth

Enc

13th Floor 111 George Street
Brisbane Queensland 4000
GPO Box 806 Brisbane
Queensland 4001 Australia
Telephone +61 7 3235 4280
Facsimile +61 7 3210 2186
Email CanDS@ministerial.qld.gov.au
Website www.communities.qld.gov.au
Website www.disability.qld.gov.au
DOC ABN 38 87 506 567



**Queensland
Government**

The Honourable Warren Pitt MP
Member for Mulgrave

Our reference: A/05/03693
COM 00085-2006

Minister for
**Communities,
Disability Services
and Seniors**

14 NOV 2006

The Honourable Peter Slipper MP
Chairman
House of Representatives Standing Committee
on Legal and Constitutional Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Mr Slipper

Thank you for your letter of 20 September 2006 concerning the House of Representatives Inquiry into Older People and the law.

As the Queensland Minister with portfolio responsibility for seniors and a personal interest in the safety and well being of Queensland seniors, I believe the inquiry to be very timely, given the increasing reports of financial abuse of older people. The emergence of electronic banking has created the potential for the exploitation of older peoples' assets by individuals who are geographically distanced from the older person, necessitating new responses and national approaches to safeguarding older people and their assets.

New financial products being targeted at seniors such as reverse equity mortgages, have associated risks, particularly when older people and their families are not sufficiently informed about all aspects of these initiatives. The need for older people to be able to access information and independent legal advice about this and a range of other issues to prevent abuse and exploitation, must be a priority for governments.

I am very pleased to support the inquiry and have contributed a submission for the Committees' consideration.

If you require any further information or assistance in relation to this matter, please contact
Director, Office for Seniors, Department of Communities on

Yours sincerely

Warren Pitt MP
Minister for Communities, Disability Services, Seniors and Youth

13th Floor 111 George Street
Brisbane Queensland 4000
GPO Box 806 Brisbane
Queensland 4001 Australia
Telephone +61 7 3235 4280
Facsimile +61 7 230 2186
Email CanSDS@ministerat.qld.gov.au
Website www.communities.qld.gov.au
Website www.disability.qld.gov.au

**Department of Communities' Submission to the House of Representatives
Standing Committee on Legal and Constitutional Affairs – Inquiry into Older
People and the Law**

The experience of the Seniors Advocacy Information and Legal Service (SAILS), a specialist seniors' legal service which has been operating in Brisbane since 2003, is that many older people are reluctant to engage with the legal system. Older people who have accessed SAILS often present with a complex set of issues which require the establishment of a relationship of trust with the worker/agency before they are willing to disclose important information about abuse or exploitation.

SAILS' experience is that general legal services often lack the capacity to spend the time required in order to build rapport and appropriately respond to the needs of older people or that older people frequently lack the financial capacity to pay for legal services.

The need for specialist seniors' legal services available and accessible to all older Australians has been strongly advocated for by the Queensland branch of the Australian Pensioners' and Superannuants' League which support pensioners and people on low and or fixed incomes, including those who may be relatively asset rich but income poor, and for whom access to legal services is often unaffordable.

Research undertaken by the University of Queensland has highlighted the need for improved levels of financial literacy, in particular around asset management practices by older people and their asset managers. The need for more community awareness and education about protective asset management practices to improve the safety of older people and their assets is recognised.

The confidence, often lacking in older people to take whatever steps might be necessary to ensure their safety is enhanced through prevention and early intervention strategies such as described above and has the potential to lessen the need for stronger legal interventions to address issues of abuse and exploitation after the fact. A coordinated national approach to the development of information and educational resources appropriate to the target group is recommended.

The work undertaken by the Positive Ageing Task Force in developing a draft Discussion Paper for the Development of an Elder Abuse Prevention Policy Framework highlighted the need for:

- *An agreed set of principles, that are consistent with international developments, to guide [elder abuse prevention] policy and program development and outcomes in each jurisdiction; and*
- *A framework for the development of strategies and protocols that will aid the identification and resolution of across jurisdictional issues.*

With the evolution of electronic banking, new forms of financial abuse have also evolved which allow the perpetrator to defraud an older person while living interstate. It is important that legislative frameworks are compatible between jurisdictions, in order to allow the perpetrator to be brought to justice and make possible the recovery of the older persons' assets.

-2-

Financial products such as reverse equity mortgages are being promoted heavily to older people as a means of their accessing the quality of life they may have hoped for. Older people are not always made aware of the compounding effect of interest and other charges associated with these offers and the potential for the value of asset to be eroded over time. There is a need to better educate older people and their families about the risks as well as the benefits of these products and for overarching consumer protection mechanisms to be developed to ensure older people are making fully informed decisions.

The need for agreement and consistency across definitions of elder abuse, principles to guide policy and program development and outcomes in each jurisdiction cannot be over emphasised.

There is a need for nationally consistent provisions for "enduring power of attorney" and other substitute decision making mechanisms in order that family members and others who perform this function are not denied the capacity to execute this function as a result of their living interstate.

It is also critical that substitute decision makers are not able to exploit their decision making powers as a consequence of loop holes created by inconsistencies in the application of the guidelines across jurisdictions.

In each of the issues referred to above, the overriding need is for national approach which recognises the need for and enables consistent application across jurisdictions, whether it be:

- agreement around definitions of abuse;
- development of principles to guide policy and program development;
- a clearing house to facilitate the development of educational materials covering a range of legal issues relevant to older people, as part of prevention and early intervention approach to tackling elder abuse in all its forms; or
- substitute decision making regimes that protect the vulnerable party, a need for national consistency remains a constant.

New mechanisms to enable the development of the above through the combined efforts of the commonwealth, state and territory governments may need to be considered and resources committed to enable this to happen. With the ageing of the population there is an imperative that this work needs to occur sooner rather than later, to enable the growing number of older Australians to be afforded their right to live free from abuse and exploitation.