

SUPPLEMENTARY SUBMISSION  
To House of Representatives Standing Committee on Legal and Constitutional Affairs  
Inquiry.

Submission No. 52.1
Date Received

Because of time constraints at the inquiry, I was requested to submit a supplementary submission.

My original submission followed the guidelines set out for the inquiry but, in this submission, I would like to deal with the issues in order of my personal priority.

**RECEIVED**  
21 JUL 2007  
BY: LACA

At my age, Estate Planning is a major concern and because of the mobility of the Australian population and the increasingly complex family relationships of the 21<sup>st</sup> century **there must be:**

- 1 a) **National Legislation for Enduring Power of Attorney provision, Advance Medical Directive, the Adult Guardian and wills. Uniform nomenclature must be used across all jurisdictions in Australia.**
  - b) **Forms granting Enduring Power of Attorney must stipulate the limitations of that power and what powers can be legally exercised. This would prevent people granted EPA from claiming that they didn't know about the limitations.**
  - c) **Older people must not be denied the right to die with dignity.** The law must differentiate between "living" and "being kept alive." Doctors must not have the right to intervene in the dying process by artificial means, contrary to the wishes of a person as set out in a legal Advance Medical Directive drawn up in consultation with the person's General Practitioner. People who do want invasive medical intervention can say so on their Advance Medical Directive.
2. a) **The Law must give greater protection for the savings of older people so that people funding their own retirement are not defrauded of a large portion of their savings as has happened all too frequently.**
  - b) **More funding must be made available for the prevention and punishment of fraud. There must be a serious deterrent to what appears to be a deliberate assault on older people's savings.**

I agree with the Australian Securities and Investment Commission's statement that older people must be more cautious and with its focus on education of retail investors particularly "Baby Boomers". If a person is going to become an investor, s/he needs to know how to read and understand a prospectus and how to ascertain the asset backing of a company, etc.

**All people must be alerted to the dangers of internet fraud and of identity theft.**

**They must be advised how to avoid being a victim, for example in the use of ATMs.**

- b) The Financial Planning Association advocates that advisers shown to have deliberately participated in frauds should be deregistered. It is very concerned that members who had been deregistered were reregistered within three months.
- c) The Bridgecorp collapse is the fourth in two years. In the Westpoint collapse the average age of people defrauded was 60 years and the average loss was \$100,000. {The Courier Mail Monday, July 9, 2007.}
- d) **There must be a concerted effort to upgrade the financial literacy of all members of society so that they do not become victims of fraud. The onus is on the investor to take steps to be more financially literate but where do people turn to get advice?**

3a) **Elder Abuse: Older people must be made aware of the need to protect themselves by having legal agreements in matters of housing and property and to ensure fairness to all family members in the area of home care.**

b) Elder abuse, physical, emotional, financial and psychological, is largely a hidden problem. Older people are often ashamed to admit abuse or are frightened to report it.

This is a very difficult and sensitive area **but older people must be confident that if they find the courage to report abuse, they will be treated with respect and fairness.**

c) A particularly offensive form of elder abuse is the reference to older people as a burden on society. Government ministers have made reference to the burden of the ageing population.

Such a statement ignores the great contribution being made by retired people through their voluntary work in the community, their contribution to their families, the informal child care provided by grandparents which allows both parents to work and their contribution to the economy through payment of Goods and Services Tax, and through tourism and their need for health care. It also ignores the fact that many people are electing to work longer, that older people now enjoy better health than previous generations and do not become frail aged the day they retire. It also ignores the growing number of retirees who are funding their own retirement and are still contributing through taxation.

**All levels of government and the community must recognize and acknowledge the contribution made by older people to society.**

3. **All older people need to ensure that they have a legally drawn up will and that that will is kept up to date. The only winners from disputed wills are the lawyers.**

**4. The granting of probate on undisputed wills must be simple and speedy.**

During the hearing in Brisbane on Monday, July 16, 2007, the panel asked contributors to the inquiry if they approved the introduction of legislation to make it mandatory for children to care for aged parents.

My response to that question is that I would hate to be dependent on the care of someone who had to be coerced into providing that care. In fact it would be dangerous, providing a situation whereby through neglect, physical abuse and abuse of medical care, the older person could be killed. It would be particularly dangerous if there were a legacy involved.

I was also surprised to learn that there is an assumption that it is mandatory for parents to make their children their beneficiaries. I always thought it was discretionary: that a person could leave his/her estate to whom so ever he/she pleased.