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Office of the
Public Advocate
Queensland Government

Submission No. 76
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NH
Attention: Cheryl Scarlett

Standing Committee on Legal and Constitutional Affairs
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Ms Scarlett,

Re: Inquiry into Older people and the law

Thank-you for the opportunity to comment on the adequacy of the current legislative regime which address the legal needs of older Australians. In this regard please find enclosed our submission.

I look forward to receiving the report of the Committee in due course.

Yours Sincerely,

Michelle Howard
Public Advocate - Queensland

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS – Inquiry into Older people and the law

Submissions of the Public Advocate

PART ONE INTRODUCTION

The Public Advocate welcomes the opportunity to comment on the adequacy of current legislative regimes which address the legal needs of older Australians. Our Office has particular interest in the specific areas being examined by the Committee, particularly where the issue of age and incapacity for decision making intersect.

The Office of the Public Advocate was created under the *Guardianship and Administration Act 2000* (Qld) to provide systemic advocacy for adult Queenslanders who have impaired decision-making disability. This includes people with a mental illness/psychiatric disability, an intellectual disability, an acquired brain injury, or some form of dementia. Under the *Guardianship and Administration Act 2000* (Qld) it is the role of the Public Advocate to:

- Promote and protect the rights of adults with impaired capacity for a matter
- Promote the protection of the adults from neglect, exploitation or abuse
- Encourage the development of programs to help the adults reach the greatest practicable degree of autonomy
- Promote the provision of services and facilities for the adults
- Monitor and review the delivery of services and facilities to the adults.

In Queensland, approximately 12% of the state's population are aged 65 or older. By the year 2051 that will grow to between 26-38 %.¹ This population is highly vulnerable to experiencing fraud and financial abuse, indeed elder abuse affects approximately three to five per cent of the population and it is anticipated that the numbers of people will continue to grow.² The financial cost of elder abuse to the community and governments is under researched in Australia. The most comprehensive study available shows that in New South Wales, elder abuse increased costs of services provided to people affected by elder abuse by \$311 per person per week. This adds around \$300 million per year to service costs for older people.³

A review of the literature continues to identify the need for further research at state, national and international levels. A full understanding of elder abuse must also move beyond individual risk factors, and concentrate upon the problem as a function of a broader social structural issues such as poverty, isolation, ethnicity and gender.⁴

¹ Annual report, Commissioner for Complaints, 1 July 2005 – 30 June 2006, p 1.

² The Strategic Plan for the Prevention of Elder Abuse in Qld, Qld Government, Department of Families., p. 4.

³ Ibid (ref. : Mc Callum, J. and Suet- Lam – Mui (1996) 'Costing Abuse of Older People: Towards Cost Effective Responses' *Confronting Abuse: the Way Forward, Conference Papers and Proceedings*, the NSW Advisory Committee on Abuse of Older People in their Homes, Wesley Centre, 2-3 May 1996, Sydney).

⁴ Abuse of Older People: Crime or Family Dynamics? *Australian Institute of Criminology – trends and issues in criminal justice*, May 1999.

In 2001, The Task Force comprising individuals representing key Queensland government, community, legal and academic sectors was formed to further recommendations which were made at a forum on Elder Abuse held in February 2000. The aim was to produce a multi-sectorial, cohesive strategic plan for the prevention of and response to elder abuse in Queensland. A Strategic Plan was developed setting out five key areas for preventing and responding to elder abuse with realistic, attainable and measurable goals.⁵

Part One – Fraud

Australians have never lived so long and had so many assets in their retirement. Around 80% of old people are home-owners and very few have debt. Unlike previous generations, they've been actively encouraged by government to build up their savings in order to support themselves during retirement. This fact alone makes older people a target for financial abuse and fraud.⁶

Research conducted by the National Seniors Productive Aging Centre (NSPAC) have found fraud to be a growing area of concern that requires urgent attention because it is occurring largely unnoticed and stands out above all other areas of crime targeting the over 50's. Professor Dann, NSPAC's head of research considers much more research is needed in this area.

Professor Dann has identified three types of fraud causing concern in the community. Consumer fraud where older persons are victims of scams, financial fraud which often borders on elder abuse, (an example is where people in a position of trust get access to an elderly person's finances and abuse this trust), and identity fraud. Identity fraud is becoming increasingly common due to technological advances and can occur for some time before anyone finds out.⁷

Professor Dann also notes that police have also identified fraud as a major concern but it is often difficult to prove fraud has occurred and some activities are more unethical rather than illegal.⁸

The appointment of an administrator is often one of the most protective measures put in place to prevent the occurrence or continuance of fraud, whether this is on a small scale or large scale. The Australian Guardianship and Administration Committee (AGAC) has noted in its submission to this Committee typical incidents of fraud and financial abuse which often occur prior to the appointment of an administrator. It unfortunately the case that many older people experience and are exposed to fraud and financial abuse prior to the appointment of an administrator and are not be availed this protection until this event. It is the Public Advocate's view that there is a need to examine more protective mechanisms for older people to prevent the incidence of fraud and financial abuse. Some examples of where this is needed are as follows:

⁵ Ibid, p 4.

⁶ Background Briefing, radio National 22/01/06, <http://www.abc.au/rn/talks/bbing/stories/s1539285.htm> , p.1

⁷ Ibid.

⁸ Ibid.

Use of P.I.N. and corresponding responsibility of banks to monitor

The example given by AGAC of use of person's P.I.N. raises the issue of what measures banks can take prevent fraud and financial exploitation. For example it may be appropriate to monitor transactions of older people for irregularities in bank account use and to make inquiries with the customer where concerns are raised. This practice is often adopted by banks in relation to credit card use, but does not appear to be the practice in relation to other banking transactions. With the increased closure of over the counter services for older people, EFTPOS transactions may be the only means of accessing funds for some people. There is clearly a tension which exists between privacy and protection. Older people, however, are often vulnerable to having large amounts of their funds removed in this way, particularly where they have failed to invest life savings in a more secure and inaccessible accounts.

Need for banking reform

In California, legislation has recently been introduced making it compulsory for banking and financial staff to report any suspected cases of financial abuse. Where a report is made, adult protective services are called in to investigate.⁹

It is our submission that the Federal government consider regulations that may be imposed on banks to create greater protection for all people in these circumstances.

Centrelink nominee arrangements:

AGAC has highlighted the tension which appears to exist between state and federal authorities in regarding who has authority to access Centrelink payments on behalf of another. It is the Public Advocate's view that there is a clear need for Centrelink to acknowledge the authority of any state based Guardianship and Administration order appointing an administrator for financial decisions. It is of great concern that a person's income may be placed at risk by a failure of a Commonwealth based authority to acknowledge the duly appointed decision-maker.

Undue pressure to make wills or gifts:

This is another frequent area of fraud and financial abuse for older people as described in the AGAC submission. There is a need to consider what protective measures to prevent this form of abuse can be implemented. Whilst the Public Advocate does not, in this preliminary submission offer possible solutions, there is a need to research measures that may usefully be employed to ensure greater protection including education campaigns for elderly people and service providers as well as lawyers who may prepare these documents.

Another issue which is closely related, are the consequences which may flow for elderly people who make significant gifts (such as the family home or large sums of money) and the resultant effect on the pension. Many older people are unaware of the consequences for them financially by divesting themselves of property. It is the Public Advocate's view that there is a need to conduct research into the use of Centrelink legislation in this respect, with a view to ensuring that the law is exercised a protective way for the elderly people concerned.

⁹ Op Cit Background Briefing, p13.

The “Granny Flat” example is a common example where elderly people pay substantially for the construction costs. It is rare for elderly people to avail themselves of legal protections such as entering into deeds of agreement or “family agreements” to cater for the situation where they may need to receive supported accommodation. Not only may the older person’s pension be reduced because a perceived gifting of assets to the family member in these circumstances but there may also be no remaining funds to pay an accommodation bond at the nursing home in due course.

A major deficiency evident in Queensland is the failure to prosecute when family or other people have fraudulently deprived an older person of their assets, for example in the context of an enduring power of attorney. The Public Trustee of Queensland’s anecdotal evidence provided to our Office is that the police are unwilling to even investigate allegations of fraud under the amount of \$500 000. Effectively the crime of fraud can be said to be non-existent where the prosecution of such offences is so minimal.

Compensation for fraud or misappropriation of assets is possible via the *Guardianship and Administration Act 2000* and the *Powers of Attorney Act 1998*. Applications to the Guardianship and Administration Tribunal or the Supreme Court can be made by an interested person. Alternatively, the Tribunal can make an order of its own initiative where it sees fit. These applications, however, are relatively rare and pose their own problems. Enforceability is only available via registration of the Order in a Court. Often assets have already been squandered before recovery is possible so an application is not made.

Part Three - Financial Abuse

Many of the issues raised in the discussion on “fraud” are of relevance here. Dr Cheryl Tylse, a senior lecturer at Queensland University specialising in asset management for the elderly, considers that financial abuse is getting worse from both family (who are interested in inheriting property) and the market which is engaged in trying to sell financial products such as reverse equity mortgages or financial planning, or accommodation such as retirement village products.¹⁰ The Elder Abuse Prevention Unit (Qld) has recorded a loss of up to \$90-million in Queensland over a two and a half year period.¹¹

While psychological abuse is the most common form of abuse, financial abuse is identified as the fastest growing type of abuse. The risk of experiencing financial abuse is no doubt increased by the fact that most older people in Australia live independently. In 1993, 94 per cent of people 60 years and over lived in private dwellings, either with their spouse, on their own or with other relatives or friends.¹² One in three adult Australians actively assist an older person with their finances.¹³ The informal network – family, friends and neighbours – is overwhelmingly the principle source of assistance to older people living in the community, whilst the formal care network, organised mainly through the Home and Community Care (HACC) program, plays a significantly smaller and usually supplementary role.¹⁴

¹⁰ Op cit Background Briefing, p.2.

¹¹ Ibid, p 3.

¹² Op cit Abuse of Older People, p.2.

¹³ Ibid, p 5.

¹⁴ Ibid.

Studies show that victims of elder abuse are primarily women with a disability and that increased disability leads to a greater likelihood of abuse. The majority of abusers are relatives of older people.¹⁵

Where the person responsible for the financial abuse has a role of carer or comes within the support network, it is understandable that the older person may not consider the behaviour as a crime or something serious enough to warrant public intervention.¹⁶

Reporting of abuse is often very difficult for those who have extreme physical or mental impairments. Those who are socially isolated, may have no opportunity to report abuse or no one whom they can tell. If the complaint is voiced to an independent person, often there is a lack of knowledge about where to access help, or what systems exist.¹⁷ Some older people put themselves at risk because of their lack of financial knowledge and poor financial management by carers and relatives.¹⁸ It is recommended that further research be conducted to assess the extent of knowledge the community has about the protective steps can be taken when an allegation of financial abuse is made and whether there are sufficient protections available to this vulnerable cohort.

The Elder Abuse Prevention Unit has identified the potential for financial abuse via a range of methods which include:

- Misappropriation of money, valuables or assets
- Forced change to legal documents
- Denial of access to personal assets
- Forging signatures on cheques
- Misusing Enduring Powers of Attorneys (EPOA's)

The potential for financial abuse arises in many circumstances including the following:

- EPOA's
- Nominees for Centerlink
- Bankcard, cheque book or withdrawal forms
- Transferring house title to a family member/friend
- Reverse mortgages – particularly where the benefit of the loan maybe for someone else (compound interest applies where the mortgage is not repaid so a loan of \$10,000 is likely to double within 10 years) there may be no money left to pay an accommodation bond
- Contributing to the cost of building a granny flat
- Going guarantor for adult children
- Informal loans, verbal agreements
- Being pressured to sell or keep the family home

Transactions which involve such features may not be immediately discernable as fraudulent or exploitative. Of course, an elderly person has the right to make decision

¹⁵ Ibid, p. 6.

¹⁶ Op cit Abuse of Older People, p3.

¹⁷ Ibid, p3.

¹⁸ Ibid, p 9.

which is not financially prudent, however elderly parents may come under a variety of pressures to divest themselves of assets to children who have a false sense of entitlement to receive their inheritance in advance and the decision may not be made freely and voluntarily. Problems arise where the elderly person has limited capacity to replace lost assets and may have no guarantees of the support from the family member or friend who is benefiting. Life expectancies and future needs are often not factored into the equation when making the decision to divest assets and also there is frequently a lack of understanding about the implications for pension entitlements.

Financial abuse by family or friends may be carefully planned and premeditated but is rarely perceived as a crime and anecdotally, orders for compensation are infrequent.

Many of these issues are compounded where an elderly person has limited or no English skills and is totally reliant on family members for support. Older people from non-English speaking backgrounds mainly experience abuse in the form of financial abuse. This abuse is under-reported for reasons of fear, isolation, lack of knowledge, lack of access to appropriate services and /or shame.¹⁹ Some of the literature does suggest that older people of diverse cultural, linguistic and religious backgrounds are more vulnerable as a result of their greater dependency on their family for support.²⁰

There has been limited research conducted on the issues of abuse of older people from CALD backgrounds. More research is needed so as to identify and address the needs of this group.

There is a need to review the banking laws with the view of imposing some form of regulation of banks and financial institutions to ensure protection of older people, particularly with impaired capacity. This should include a consideration of laws which place some duty of care or onus on banks to consider the capacity of customers to make transactions, review unusual transactions and requirements to report where abuse is suspected. Currently, banks have no regulatory regime in place in this regard and have only voluntary guidelines which have been developed by the Australian Banking Association.

Part Four - General and enduring 'power of attorney' provisions

Enduing powers of attorney have been identified by the Public Trustee of Queensland as the main source of financial abuse. This is often in the context of a certificate of capacity being provided by a General Practitioner without an adequate capacity assessment being made.²¹

The Public Advocate acknowledges the complexities associated with assessing capacity. There is a need to examine the measures medical and other health professionals could take to ensure any assessment of capacity is done in a thorough and responsible manner. For example, health professionals should make some inquiries with the patient about their understanding of the EPA and what safeguards

¹⁹ Research on Abuse of Older People from a non-English Speaking Background, Prepared by E. D'Urso and Associates for the NSW Advisory Committee on Abuse of Older People, Aging and Disability Department, p. 6.

²⁰ Ibid.

²¹ The Public Advocate has regular meetings with the Public Trustee of Queensland and is also involved in several reference groups where issues of concern are raised.

(if any) have been put in place to protect them. It may be that training or some other form of education for health professionals on capacity reports should be available to improve the standard of capacity certificates/reports in this respect.

The ease with which a person can acquire EPA forms facilitates abuse. Dr Tilse notes that in some states enduring power of attorney kits can be purchased at supermarkets. Effectively a person can sign over full responsibility for financial affairs whilst shopping. Dr Sue Field from the Elder Law Centre at the University of Western Sydney notes the lack of scrutiny once a person has signed an EPA. There is no checking mechanism, because there is no requirement or facility to register a power of attorney (unless the attorney wants to engage in a land transaction).²² This is unlike the United Kingdom where, once you start exercising the enduring power of attorney, you are required to advise other immediate members of the family.²³

The Public Advocate is a partner with the University of Queensland, Social Work Department in examining the Management of Assets of Older People²⁴. The following statistics are quoted from the findings of this research:

- 11.65% of the Australian population have a valid EPA in place. Queensland has the highest proportion of population in Australia with a valid EPA in place with Queenslanders at 16.3%.
- 11.1 % of people living in capital cities in Australia and 14.45% of people living outside the state capitals had given an EPA to someone (note this excludes figures for NT and Tasmania which did not differentiate capital/non-capital city residence). Queensland has the highest percentage of any state (17.6%) of people living in the capital city who have given an EPA, and the second highest (16.8%) (after SA) of those living outside the capital city who have given an EPA to another person.
- Nationally of those who had given an EPA 8.2% were aged under 35, 45.5% were aged 35 -64 and 45.5% were 65 and over. Queensland showed a similar pattern with 12.9% of EPA donors aged under 35, 44.1% were 35-64 year olds and 42.4% were aged 65 and over. This might be expected given the distribution of relatively young people within Queensland's population compared with other Australian states.
- Nationally, 10.8% of men and 13.5% of women had given an EPA.
- Nationally, the majority of EPA donors had a secondary school or a tertiary education.
- When assisting with asset management, 16.3% of the sample of asset managers used an EPA. Just over two percent (2.4%) of asset managers were appointed as an Administrator of financial manager by a Guardianship and Administration Tribunal or Board or Court.

With such significant numbers of people relying on EPA's as a means of substitute decision making, it is critical that this method of financial management has adequate

²² Op Cit Background Briefing, p10.

²³ Ibid, p.11.

²⁴ This was supported by the Australian Research Council in partnership with the Queensland: Department of Families, Public Trustee, Guardianship and Administration Tribunal, Adult Guardian, and Public Advocate. ARC Linkage Grant LP0216561 Management of Assets of Older People
Principal Investigators Dr C Tilse, Dr J Wilson; Dr D Setterlund and Professor L Rosenman.

safeguards in place in the event of incapacity. Significantly, this study has shown that elderly people with enduring powers of attorney are equally susceptible to financial abuse as elderly people without enduring powers of attorney. Often recovering the loss suffered by the donor is very difficult as the asset may have been dissipated and police may be reluctant to become involved as they are often of the view that such matters are civil rather than criminal. In Queensland the Tribunal has power to make a compensation order, but is reliant on the civil courts to register the orders and enforcement procedures to be enacted. This can be a lengthy and time consuming process.

The Public Advocate notes the issues raised in the AGAC submission and supports the submission for the need national uniform EPA laws. The Public Advocate also considers a national register to identify when the attorney has commenced using the EPA and a requirement to notify family members of the commencement date of use are also necessary. This would avoid any ambiguity about when the EPA has commenced, how many EPA's are in operation and hopefully promote understanding for attorneys and donors.

Part Five - Family Agreements

Family Agreements (otherwise known as Independent Care Agreements, Personal Services Contracts or Lifetime Care Contracts) are arrangements in which (usually) older people transfer property, or pay compensation in exchange for a promise of "care for life".²⁵ Whilst these agreements are not commonly used, they are an important safeguard for older people who may have invested their life savings into the building of a granny flat of a family member's home in exchange for services to be provided by the family. If the care arrangement breaks down, such agreement should provide for the funds to be returned (at least on a pro-rata basis).

There is little statistical or empirical evidence in Australia of families systematically formalising or documenting any such agreements. This is significant given that 15.4% of people 65 years and older live in family households with their children, relatives or friends.²⁶ Clearly, there is a need to raise awareness of the risks older people take by not entering into some formal agreement to protect themselves financially in the event the arrangement breaks down.

For many families there is a psychological barrier to formalising care arrangements in a legally binding contract around a family care arrangement where trust is thought to be sufficient. There is little awareness of the tragic consequences which can flow where there is no agreement in place, for example the non-return of money if the arrangement breaks down.

One of the down sides of Family Agreements is that there are, potentially, significant income tax and social security implications following the transfer of assets or payment of compensation from a parent to an adult child in return for care. In order to encourage such arrangements, however, the Government may very well see the benefits of discounting members willing to take on this responsibility.²⁷

²⁵ The Family Agreement- A collision between Love and the Law" Brian Herd , Carne Reidy and Herd Lawyers, p.10.

²⁶ Ibid (quoting the 1996 Census data)

²⁷ Ibid.

The Public Advocate recognises the desire of many elderly citizens and their families to avoid institutionalised care arrangements of nursing homes and hostels and strongly supports the making of appropriate other support arrangements. Older people deserve adequate protection from financial abuse in the event their private care arrangements breaking down. It is the Public Advocate's view that there is a need to review the law. The common law presumption of advancement and resulting trusts should be closely considered. Consideration of protective legislation is needed to protect property rights. It may be that legislation similar to legislation creating and protecting rights and protections for people in de-facto relationships is desirable. However, given the very preliminary nature of this submission, this possibility and others that could be considered are not explored further.

Part Six – Barriers to older Australians accessing legal services

Queensland has recently opened a community legal service for seniors, the first of its kind in Queensland – the Seniors Advocacy Information and Legal Service (SAILS). This service performs a range of functions including:

- Undertaking court representation and support in certain circumstances
- Providing crisis and short –term counselling including development of safety plans
- Referral to other legal and/or support organisations
- Providing information, advice and support to service providers
- Arranging pro-bono legal assistance (where possible) for more complex legal matters such as recovery of money or property
- Providing community legal education

This service provides much needed legal services to older people who may be experiencing legal problems, particularly in relation to fraud and financial abuse. It is a first in Queensland but is limited by its resources. The service has only one solicitor and one social worker dedicated to elder legal issues, but their funding is limited and they only have the ability to operate within the Brisbane metropolitan area.

Margaret Arthur, solicitor at SAILS considers there is a need for a national service that can co-ordinate and overview the many aspects of Commonwealth and State law impacting on elderly people. A national body would be able to advocate at the Commonwealth level.²⁸

In addition, Queensland Aged and Disability Advocacy (QADA) has recently received funding to employ a solicitor to support adults with impaired capacity through the Guardianship and Administration Tribunal process.

However, to receive assistance from either of these legal services, the adult must be in a position to provide instructions because of impaired decision making capacity. This means that there is a significant gap in the provision of legal services for those adults who are unable to provide instructions. Currently there is no legal service funded to perform this role. Consideration needs to be given to the creation of a state-wide or national legal service for older people or a commitment by Legal Aid to provide

²⁸ Op Cit Background Briefing, p.8

services to this group to ensure they are able to gain the protection of the law, acknowledging that instructions may have to be obtained either a litigation guardian or other substitute decision maker for legal matters.

Despite the introduction of SAILS and QADA, access to the legal system for older people may be a daunting process. Anecdotally, many older people are dependant on family members, friends or carers to take them to see a solicitor to have a will or EPA drawn up. Often it is the family member/friend, carer who has located the solicitor made the appointment and provided the transport. The solicitor may know the family member or have acted for them in the past. Solicitors may be instructed to appoint the family member/ friend/carer as the Attorney or beneficiary under the will. The Public Advocate is anecdotally aware of instances where the older person has been pressured into arrangements in such circumstances and there has been no real investigation by the solicitor about the possibility of duress or impaired capacity resulting from vulnerability or undue pressure.

The Public Advocate suggests that consideration be given to comprehensive training about disability and capacity, and the laws relating to substitute decision making for all members of the legal profession.

Another issue the AGAC submission has highlighted is the difficulty in prosecuting fraud and stealing offences committed against older people. The Queensland Law Society's Elder Law Section and the Public Advocate have commenced a joint project to investigate, research and produce a report in relation to the law in Queensland and elsewhere in respect to elder law. The aim of the report is to raise awareness of the current deficiencies in the Queensland and Federal laws and to highlight where those deficiencies have been addressed in other jurisdictions. The Report hopefully will sponsor debate for appropriate law reform.

Part Seven – Discrimination

Although elder abuse has been described as just a spectrum of violence that occurs where there is an imbalance of power as a consequence of living in a patriarchal or male dominated society, a gendered analysis of violence and abuse becomes blurred somewhat in relation to older populations.²⁹ However, a major 1998 incidence study conducted by the National Centre of Elder Abuse (NCEA) found that overall a disproportionate number of older women are victims of abuse than men, although older men were more likely to be victims of abandonment.³⁰

Other than gender, age discrimination or 'Ageism' is a factor that should be considered when examining abuse in older populations, particularly in western societies where patronising stereotypes of older people are portrayed in the media creating a fertile ground for age discrimination which has the effect of devaluing and disempowering the group it is directed against.³¹ This discrimination is compounded where existing disadvantage already exists, for example, the person lacks English skills, lacks access to culturally appropriate services, lives in a remote or rural community or has little natural support networks.³²

²⁹ Elder Abuse Prevention Unit - Definition, <http://www.eapu.com.au/?TM=3>,

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

Another compounding feature is the increased risk of acquiring a disability with age. Older people tend to need more assistance with their activities of daily living and increased access to health and community services. Chronic disease, illness and disability are compounding factors of discrimination. The report, *Elder Abuse in Western Australia* (November, 2002), completed by Curtin University's Freemasons Centre for Research into Aged Care indicated that 75% of people aged 65 and older who experienced abuse had a decision-making disability (i.e. dementia, intellectual disability, mental illness or acquired brain injury).³³

For those with little or no English skills, are who have little or no familiarity with services (e.g. banking) and/or are not entitled to government services (e.g. Centrelink or Medicare) because of their visa status, age serves to compound the disadvantage. Such people rely heavily on others and their care and support. This lack of independence can make some CALD seniors vulnerable to abuse and means they see few ways out of the situation.³⁴

The Public Advocate considers there is a need for a range of responses to be explored and considered to cater for the differing needs of the various communities. In July 2006 in Western Australia, the Office of the Public Advocate published the results of its Project to Research Elder Abuse in Culturally and Linguistically Diverse Communities. This project has identified a number of ways to address or prevent elder abuse within CALD communities to include:

- Education, awareness raising, training with seniors and ethnic service providers about what constitutes elder abuse and how to report it as well as adequate resources are all critical elements to effectively combat abuse.
- A casual pool of trained CALD workers, from across the different CALD communities, be established to work specifically in the area of elder abuse,
- A need for a high level of professionalism
- Information to be available in different languages
- Cross-cultural intergenerational counselling
- A compulsory register of Enduring Powers of Attorney.
- A register of 'significant others' in an older person's life.
- The need to conduct further research to determine the incidence of abuse and to explore the key risk factors for CALD seniors to be undertaken.

³³ Care and Respect: Project to Research Elder Abuse in Culturally and Linguistically Diverse Communities, Office of the public Advocate, July 2006, p 11.

³⁴ Ibid. p33.

- That statistical data be used to identify and target CALD seniors for services and programs relating to elder abuse and that an up-to-date statistical profile of CALD seniors be maintained for the purposes of research, strategy development, program/service delivery and evaluation.
- Campaigns be developed to break through the “culture of secrecy” about elder abuse in general.
- That a culturally appropriate community education campaign be developed which targets CALD seniors, CALD communities and service providers and which raises awareness of services available to be developed and conducted.
- A lead government agency be appointed to develop and coordinate a whole of government approach to the prevention and response to elder abuse, and a particular focus be given to addressing elder abuse in CALD communities.
- Partnerships be developed with agencies in the non-government sector to formulate local initiatives to combat elder abuse.
- That a position be created and resourced in a government or non-government agency with responsibility for promoting the interests of CALD seniors and the prevention of elder abuse in CALD communities.
- The Commonwealth Department of Health and Aging expand funding for programs (such as the Community Partnership Program), which can assist with preventing and responding to elder abuse in CALD communities by improving links between CALD and mainstream agencies and access for CALD seniors to aged care services.
- That service providers and policy makers, particularly those working in the aged care and family/domestic violence areas, receive cross-cultural training, training about the CALD sector and training about issues for CALD seniors and communities.
- That a telephone hotline/helpline services providing readily accessible assistance to seniors who wish to discuss concerns about elder abuse be made available. Interpreter services will need to be readily available to the hotline to ensure that CALD seniors who have difficulty with English can access the service.
- That resources be allocated to increase the number of social activities and programs available to CALD seniors to prevent social isolation and decrease the risk of elder abuse.
- That DIMA provides more information and assistance to parents coming to Australia to join their children. This information could include the kinds of problems they may encounter and, in particular, make them aware of the need to clarify expectations and have clear agreements on matters related to their support once in Australia.

Conclusions:

To eliminate elder abuse against seniors who, by virtue of age and impaired capacity, are vulnerable to discrimination, exploitation and abuse requires a range of initiatives. It requires support from government and all the relevant stakeholders. Legislation is only a small part of the solution, ongoing research to understand the issues, training and education and funding are all critical to the success of any initiatives to eliminate this problem.

We look forward to providing a more detailed submission once there is clarification around the areas of interest of the Committee.