

Elder Abuse Responses

Safeguarding the rights of older
South Australians

Discussion Paper 2017

www.sahealth.gov.au/stopelderabuse

Prepared by
Office for the Ageing



Government
of South Australia



Introduction

People's rights do not diminish with age. Older South Australians have the right to be safe and to be treated with dignity and respect. Decisions about their lives, finances, where they live, health care, lifestyle and relationships are important and older people have the right to make these decisions as they wish.

Sadly, an estimated one in 20 older Australians experience some form of financial, emotional, physical, neglect, chemical and even sexual abuse from someone they know and trust, often a family member, a large proportion of which occurs in the community. For every reported case, it is thought that another five cases remain hidden.

The South Australian Government, together with its non-government partners, has introduced a suite of new initiatives for elder abuse prevention, recognition and response through the implementation of the *Strategy to Safeguard the Rights of Older South Australians 2014-2021* and Action Plan. Recently, there has been a focus on tackling elder abuse through a number of state and national inquiries, including an inquiry undertaken by the Australian Law Reform Commission. The State Government firmly believes that the abuse of an older person is unacceptable. It is never justified.

This paper gives an overview of what elder abuse is, what it looks like, and what actions the government and its non-government partners have taken to safeguard the rights of older South Australians. While we have made some progress, we know that there is still more to be done to stop elder abuse.

That is why, as part of the review of the implementation of the *Strategy to Safeguard the Rights of Older South Australians 2014-2021* and Action Plan, the government wants to hear your views about what is required next to further safeguard the rights of older South Australians and to better respond to elder abuse.

This paper presents three areas of opportunity to build on this work and strengthen our response to elder abuse in South Australia, which we are seeking your feedback on:

Area 1 Strengthening Awareness

Area 2 Increasing Responses

Area 3 Considering Legislation



1 in 20 Australians
experience some form of abuse
from a person they know and trust

What is elder abuse?

Elder abuse occurs when an older person is prevented from exercising their rights. It is any deliberate or unintentional action, or lack of action, carried out by a person in a trusted relationship, which causes distress, harm, or serious risk of harm to an older person, or loss or damage to property or assets.

Elder abuse is more likely to be carried out by a relative or friend, such as a son, daughter, grandchild, spouse or domestic partner; a friend or neighbour; or a paid or unpaid carer.

It is common for abuse to be experienced at home, in places visited regularly, or where services or care are accessed. However, it is not uncommon for elder abuse to remain hidden and continue unsuspected.

There are different types of elder abuse, and often more than one type may be experienced by an older person:

- **Physical abuse** is non-accidental actions that result in physical pain or injury to an older person.
- **Psychological or emotional abuse** is any language or actions designed to intimidate another person and cause fear of violence, isolation, deprivation, or feelings of powerlessness. These actions are intended to undermine a person's identity, dignity or self-worth.
- **Financial abuse** involves the illegal or improper use and/or mismanagement of a person's money, property or resources.
- **Restriction of liberty or controlling behaviour** is the forced isolation of the older person, with the sometimes additional effect of hiding abuse from outside scrutiny and restricting or stopping social contact with others, including attendance at social activities.
- **Neglect** is the failure of a carer or responsible person to provide life necessities, such as adequate food, shelter, clothing, medical or

dental care, as well as the refusal to permit others to provide appropriate care (also known as abandonment).

- **Substance (or chemical) abuse** is any misuse of drugs, alcohol, medications and prescriptions, including the withholding of medication and over-medication, for example sedation.
- **Sexual abuse** is non-consensual sexual contact, language or exploitative behaviour.

Some types of abuse may be subtle and difficult to recognise, and often occur together. For example, it is common for a person to experience emotional or psychological abuse together with financial abuse.

Elder abuse should be considered in the context of ageism, family violence, family conflict, caregiving, gender and sexuality, and culture.

Elder abuse may affect a person in many ways and may cause:

- depression, anxiety, insomnia;
- loss of appetite, dignity, interest in life or personal hygiene;
- feelings of insecurity, guilt, worthlessness, low self-esteem;
- perceptions of fear, powerlessness and helplessness to change the situation;
- fear that confrontation could result in the loss of the relationship, loss of their home and entry to residential aged care, or harm to pets;
- homelessness, or significant loss of property, assets and finances;
- unwanted or premature entry to residential aged care; and
- premature death through neglect.

More information about elder abuse, signs and indicators can be found at Appendix 1.

ELDER ABUSE CAN BE



NEGLECT

Failure to provide life necessities, such as food, shelter, clothing, medical or dental care.



SOCIAL

Forced isolation of older people. Includes restricting or stopping social contact with others.



EMOTIONAL

Language or actions that intimidate, cause fear of violence, isolation, or feelings of powerlessness.



PHYSICAL

Non-accidental actions resulting in physical pain or injury.



FINANCIAL

Illegal or improper use of a person's money or assets.



CHEMICAL

Misuse of drugs, alcohol, medications and prescriptions.



SEXUAL

Non-consensual sexual contact, language or exploitative behaviour.

What has the South Australian Government done to prevent and respond to elder abuse so far?

The South Australian Government, through Office for the Ageing, has taken a strong leadership role in developing and implementing a rights-based response to elder abuse prevention, recognition and response through the *Strategy to Safeguard the Rights of Older South Australians 2014-2021* and its Action Plan 2015-2021.

Raising awareness about elder abuse, its signs and where to seek information and support has been a strong focus. Three *Stop Elder Abuse* media campaigns have been undertaken each year since 2015, raising awareness about elder abuse in the community and in the workforce. In 2017 the new-look campaign focused on raising awareness amongst volunteers and carers, as well as the general community. The Stop Elder Abuse media campaign sends a clear message to the community: that elder abuse can be stopped, and directs people with concerns to call the South Australian Elder Abuse Prevention Phone Line Support and Referral Service or to visit the Stop Elder Abuse website.

Established in October 2015, the South Australian Elder Abuse Prevention Phone Line Support and Referral Service provides free confidential advice, information, support and referrals for callers with concerns, and is staffed on weekdays from 9am-3pm. Over 540 calls from older people experiencing abuse or concerned family members, friends and service providers have been received to date.

Knowing your legal rights is important for safeguarding against abuse. More than 20,000 copies of the new publication *Knowing Your Rights – A guide to the rights of older South Australians* have been distributed across South Australia and downloaded from the website. Ethno-specific information sessions and radio

segments about rights have been delivered by community leaders to older people from culturally and linguistically diverse backgrounds.

Future planning to safeguard rights by completing Advance Care Directives, Wills, Powers of Attorney and organ and tissue donation registration, has been emphasised through the Planning Ahead Week initiative. Working with older Aboriginal people, resources are being developed to support Aboriginal people and communities to help safeguard themselves from abuse.

Policies to support the workforce in preventing, recognising, and responding to abuse have been undertaken through distributing the *Guidelines for organisations to prevent and respond to Elder Abuse*, as well as simulation training for the health workforce.

More information can be found at:
www.sahealth.sa.gov.au/stopelderabuse

What currently exists?

There are a number of services that currently exist that provide important supports and undertake actions to address elder abuse concerns. For example:

- The SA Police have the power to investigate and act in situations where there are actions that are criminal offences such as fraud, assault and battery and criminal neglect.
- If a person is living in a residential aged care facility serious physical and sexual abuse must be reported to the Commonwealth Aged Care Complaints Commissioner under the *Aged Care Act 1997*.
- The Aged Rights Advocacy Service is funded by the Commonwealth Government to provide advocacy support to people with elder abuse concerns.
- The South Australian Government provides further funding to the Aged Rights Advocacy Service to raise awareness and assist older

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people living in the community to live a positive life, safeguard their rights, and prevent and respond to concerns related to elder abuse.

- If a person has been assessed as not having decision-making capacity they may have a guardian and/or an administrator appointed under the *Guardianship and Administration Act 1993*. People in this situation can seek assistance from the Office of the Public Advocate in investigating and seeking to address concerns.
- Under the *Advance Care Directives Act 2013*, the Office of the Public Advocate has the legal authority to help resolve disputes about advance care directives through mediation.
- Under the *Consent to Medical Treatment and Palliative Care Act 1995*, the Office of the Public Advocate has the legal authority to help resolve disputes about health care decisions through mediation.
- The Elder Abuse Prevention Phone Line Support and Referral Service currently provides information and referral to these services and others to try and assist people in the resolution of abuse.
- The South Australian Civil and Administrative Tribunal has the authority to hear and determine matters in relation to guardianship, administration, rental tenancy disputes, and has the power to appoint guardians and administrators through a 'court like' hearing for people with impaired decision-making capacity/mental incapacity and to hear and determine disputes in relation to appointments.

Appendix 2 sets out the powers and responsibilities of existing government and non-government organisations, services and programs.

Where are the gaps?

We know that the Stop Elder Abuse media campaign has been effective in raising the profile of elder abuse, with numbers of calls to the Elder Abuse Prevention Phone Line Support and Referral Service increasing during campaign periods. However, sustaining a raised level of awareness across the community throughout the year without an active media campaign is an ongoing challenge.

In addition, whilst there are a number of services currently available to respond to the various types of abuse, the recent inquiry undertaken by the Australian Law Reform Commission¹ found that the absence of a lead agency to coordinate the provision of services is a key limitation to effectively responding to suspected elder abuse. They also found that older people are often reluctant to report instances of abuse to police, especially where the alleged abuser is a family member or a friend.

With 93% of older Australians currently living in the community, and 70% of people aged over 65 not receiving any aged care services,² the protections of the Commonwealth Aged Care Complaints Commissioner are limited. Similarly, only people with impaired decision-making capacity are within the responsibility of the Public Advocate.

The Elder Abuse Prevention Phone Line Support and Referral Service and the Aged Rights Advocacy Service, whilst providing support, advocacy and referral to services, have no authority to follow up reports of suspected abuse or neglect, particularly where these are raised by concerned family, friends or service providers. This service regularly receives feedback on the need for a more coordinated approach to the way a response to a concern of elder abuse is managed.

The Dispute Resolution Service offered by the Office of the Public Advocate, which includes mediation, has been successful in averting many cases from being subjected to a hearing before the South Australian Civil and Administrative Tribunal. However, the Office of the Public Advocate service

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is authorised under legislation to resolve disputes about an advance care directive or a health consent issue only. This service is not available to people seeking mediation in relation to elder abuse concerns more broadly.

There is reported to be a gap in terms of the lack of a service that can follow up reports of suspected abuse or neglect, particularly by concerned third parties. For example a neighbour might be concerned about the person next door and suspect that they may be experiencing some kind of abuse but may not think that they should or can report the matter to police. There is also a gap in being able to follow up with a person who has been referred to a service or provided with information and advice, to see if these recommendations have helped or if further support is required.

A one size fits all approach to responding to concerns of abuse is unlikely to address the complex nature of abuse. Different types of abuse (financial, psychological, physical, sexual and social abuse and neglect) often require the involvement and coordination of a number of different services to effectively support a person experiencing multiple types of abuse to ensure an effective long-term solution for the person. The lack of this approach has been identified as a significant gap in our current system, with no single agency or organisation responsible for responding to reports or concerns of abuse or coordinating and following up with the person to make sure they are OK.

The purpose of this discussion paper is to explore whether a layered approach to responding to elder abuse in South Australia could provide improved mechanisms for early intervention in resolving more cases of abuse in a way that supports the affected adult and preserves relationships that are important to them.

¹ Elder Abuse - A National Legal Response (ALRC Report 131, 2017).

² Older Australians at a Glance (Australian Institute of Health and Welfare, 2017).



IN SOUTH AUSTRALIA

50% of cases are **financial abuse**

75% of cases are **emotional abuse**

80% of abuse is by a **family member**

65% of victims live in the **family home**

19% of cases involve **Dementia**

Area 1 – Strengthening Awareness

Raising awareness about what elder abuse is, its signs and promoting the Elder Abuse Prevention Phone Line Support and Referral Service is a necessary step in preventing and responding to elder abuse in our community.

As well as targeting the general community and people who are at risk of or experiencing elder abuse, increasing awareness and the capacity and confidence of service providers and others in positions to see the signs, will also help prevent and respond more effectively to elder abuse.

Social media campaign

In addition to the annual Stop Elder Abuse media campaign, additional social media campaigns could be undertaken at regular intervals throughout the year to continue to raise awareness of the types and signs of elder abuse, and promote the Elder Abuse Prevention Phone Line Support and Referral Service.

Whole-of-government elder abuse prevention policy

It is recognised that many South Australian Government agencies are involved in activities that contribute to safeguarding the rights of older people and preventing and responding to elder abuse. Therefore, it is proposed that a whole-of-government elder abuse prevention policy be developed to safeguard older people's rights and prevent abuse, based on *The South Australian Charter of the Rights and Freedoms of Older People*.

Appendix 3 outlines the Charter.

It is proposed that this policy would clarify the role of South Australian Government workers in preventing and responding to elder abuse, with scope to accommodate a range of state government activities relevant to each agency including workforce

education, community awareness raising, direct intervention and data collection.

In addition to input from state government departments, development of the policy could be informed by a number of sources, including:

- The recommendations from the Australian Law Reform Commission Inquiry and the findings of the South Australian Joint Committee into matters relating to Elder Abuse.
- Research undertaken by the University of South Australia on data collection practices of key government and non-government organisations (2017), commissioned by Office for the Ageing.
- Key initiatives undertaken to raise awareness about elder abuse and strengthening measures that support elder abuse prevention and response.
- International policy examples and previous work undertaken in South Australia to develop a whole-of-government policy to safeguard older persons from abuse, prepared by the University of South Australia.

The development of this policy would support the South Australian Government's ongoing commitment to safeguarding older people and upholding their rights to safety, dignity, autonomy and valuing their contributions in our communities.

It is proposed that the social media campaign and whole-of-government elder abuse prevention policy would complement the current policy and program activities being undertaken through the Strategy to *Safeguard the Rights of Older South Australians 2014-2021* and its Action Plan 2015-2021.

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 campaigns?

Area 2 – Increasing Responses

People experiencing elder abuse often say that they are looking for ways to make the abuse stop. Therefore, in addition to continuing to raise awareness about elder abuse, it is proposed that responses to cases of elder abuse could be strengthened through the addition of mediation services for those who choose to participate.

Mediation is an approach that can support people to have important conversations about their needs and wants. Mediators with specialist skills and knowledge can assist older people, their families and significant others with difficult conversations, to make plans and to reach mutually agreed outcomes to disagreements – outcomes that work for the older person, respect their rights and enhance their safety. In some cases, mediation may assist families to resolve issues early on, while still maintaining the relationships of the people involved and preventing further abuse occurring in the longer term.

It is proposed that organisations that provide existing mediation services for older people could be commissioned to take referrals from the Elder Abuse Prevention Phone Line Support and Referral Service to assist older people and their families to:

- Prevent or resolve family conflict;
- Have difficult conversations;
- Plan for the future (including medical, health, financial or living arrangements);
- Resolve issues in ways that improve their relationships; and
- Make decisions that respect and safeguard the interests, rights and safety of the older person.

Developing a referral pathway to mediation services targeted specifically for people experiencing elder abuse would ensure that vulnerable older people are able to access these

services when needed, regardless of income or other factors.

The Australian Law Reform Commission report notes the value of mediation services or facilitated conversations, which may prevent an issue needing to be escalated to a higher level. However, it should be noted that not all cases of elder abuse are suitable for resolution through mediation.

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? Are there other services that should also be included for referral?



Area 3 – Considering Legislation

Whilst elder abuse is often described as a 'hidden' issue, with an estimated one in five cases going unreported, when someone does seek help there is an expectation that their concerns will be investigated. Earlier in 2017, the Australian Law Reform Commission recommended that each state and territory introduce safeguarding laws that give adult safeguarding agencies a central safeguarding and support role for 'vulnerable adults', with legal authority to investigate reports of suspected abuse, harm or neglect, and coordinate multi-disciplinary agency support, responses and follow-up.

The ALRC Report acknowledged that properly enforced criminal law is the primary state protection against elder abuse and argued that adult safeguarding laws are a further way the state can seek to protect at-risk adults from abuse.

The recommendations of the ALRC are consistent with the earlier *Closing the Gaps* Report³, which recommended that South Australia should consider enacting comprehensive legislation to safeguard the rights of 'at-risk adults', who may not be able to safeguard their own rights, or need someone to 'walk alongside them' to do so.

These reports suggest an approach to safeguarding the rights of vulnerable adults that is holistic in nature, ensuring that people's rights are upheld and are able to be supported to navigate across legislative, regulatory and service systems as necessary.

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

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

Elder abuse and people from Aboriginal and culturally and linguistically diverse backgrounds

Cultural background, values, beliefs and other complex factors may affect the way abuse appears, how it is described, how it may be perceived, and how it should be responded to. Information and support from bilingual workers, professionals, multicultural communities and agencies and key people from diverse communities can provide important background information to help understand and respond to concerns.

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?

³ Closing the Gaps: Enhancing South Australia's Response to the Abuse of Vulnerable Older People, 2011, Report for the Office for the Ageing and Disability Services, prepared by the Office of the Public Advocate in collaboration with the University of South Australia.



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How would this work?

This Discussion Paper outlines a number of approaches for strengthening responses to elder abuse in South Australia, including strengthening awareness about elder abuse, increasing responses through mediation and considering legislation.

The outcomes of the community consultation will need further discussion with other government departments, such as the Office of the Public Advocate, the Legal Services Commission, SA Police, SA Health and community services so that these services work together without duplicating effort.

How to have your say

We want to hear from all South Australians about where the government should be focusing its efforts to support and safeguard the rights of older South Australians.

Your feedback will help the South Australian Government make decisions about whether to proceed with some or all of the proposals outlined in this paper, and if so, how this might occur.

You can make a written submission by answering the specific questions set out below, or making any other comments you think are important on the topic. You can submit your response:

- Online by visiting the YourSAy website: www.yoursay.sa.gov.au
- Emailing to: officefortheageing@sa.gov.au
- Faxing to: (08) 8264 8499 or
- Posting to: PO Box 196, Rundle Mall
Adelaide SA 5000.

For enquiries about the Discussion Paper and the consultation process please contact:

Office for the Ageing

Telephone: (08) 8204 2420

or email: officefortheageing@sa.gov.au

All responses to the Discussion Paper must be received by 5pm (ACDT) on Monday 8 January 2018.

Consultation questions

The State Government is considering where to focus its future efforts to best support and safeguard the rights of older South Australians who may be experiencing abuse or neglect, including strengthening awareness, increasing responses through mediation and considering legislation.

Responses are sought on the following questions:

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 campaigns?

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? Are there other services that should also be included for referral?

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

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

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?

Question 6: Any other comments?



Appendix 1 – Elder Abuse: signs and indicators

Physical Abuse

Behaviour

- ▶ physical actions
- ▶ coercion, bullying
- ▶ physical restraint
- ▶ locked up in a room
- ▶ confined to chair or bed
- ▶ being hit, slapped, burnt, pushed, punched, pinched, bit, arm twisting, cutting, hair pulling.

Signs/Indicators

- ▶ carer/relative – overly protective or controlling, conflicting stories, delay in seeking care or reporting an injury, does not leave person unattended, older person described as ‘accident prone’ or having a history of sustaining injuries
- ▶ physical – injuries in different stages of healing, broken bones, sprains, or dislocations, abrasions, welts, rashes, blisters, lacerations, swelling, signs of being restrained, weight loss, hair loss, poor hygiene
- ▶ arousal – lack of awareness, drowsiness, vagueness, confusion, sleepiness
- ▶ behavioural – cringing or acting fearful, agitation, catatonia, frequent requests for care or treatment for minor conditions, unexplained anger, fear or shutting down behaviour around the carer or relative.

Financial Abuse

Behaviour

- ▶ forgery
- ▶ stealing
- ▶ forced changes to a will or Enduring Power of Attorney
- ▶ unusual transfers of money or property
- ▶ withholding funds from the person
- ▶ incurring debts for others which the person is responsible for
- ▶ failure of others to repay money lent
- ▶ lack of financial information provided to an older person by their Power of Attorney.

Signs/Indicators

- ▶ unpaid bills, inability of the person to pay for necessities
- ▶ defaulting on payments (e.g. rent, service fees)
- ▶ missing documents
- ▶ credit cards or personal belongings and unusual activity in bank accounts
- ▶ changes to a will or other documents when appearing legally incapable or subject to possible coercion
- ▶ confusion regarding assets property and income
- ▶ being accompanied by another person when attending financial institutions or using ATM and the other person is reluctant to allow a conversation with the person about transactions
- ▶ being overcharged for repairs or services
- ▶ overdrawn or depleted accounts.

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Psychological/emotional abuse

Behaviour

- ▶ pressuring, intimidating or bullying
- ▶ name-calling, degrading or humiliating
- ▶ threatening to harm the person, other people or pets
- ▶ verbal abuse, insults or harsh commands
- ▶ silencing and emotional blackmail
- ▶ talking about not coping as a carer
- ▶ repeatedly telling an older person they have dementia, are a burden or unwanted
- ▶ treating the person like a child.

Signs/Indicators

Behaviours may fluctuate, and may show improvement temporarily around some people, reverting back when abuser returns.

- ▶ depression, sadness, tearfulness
- ▶ confusion, disorientation
- ▶ social isolation and withdrawal
- ▶ feeling helpless and ashamed
- ▶ insomnia, unexplained paranoia
- ▶ fearfulness, intimidation, nervousness, anxiety
- ▶ marked passivity, reluctance to make decisions
- ▶ changes in self-esteem, lack of confidence
- ▶ anger, frustration
- ▶ rocking behaviour
- ▶ changes in behaviour around the abuser
- ▶ apathy, listlessness.

Social abuse/restricting liberty

Behaviour

- ▶ restricting, stopping or discouraging social contact with others such as family or friends or in religious or cultural practices
- ▶ preventing, stopping or restricting activities – either in the community, or residential aged care facility
- ▶ withholding mail
- ▶ prohibiting, preventing access or not disclosing phone calls
- ▶ listening in to calls.

Signs/Indicators

- ▶ loss of interaction with others
- ▶ sadness and grief of people not visiting
- ▶ worried or anxious after a particular visit by specific person(s)
- ▶ appears shamed
- ▶ low self-esteem, or is very sad
- ▶ withdrawn
- ▶ passive (not wanting to participate, listless, uninvolved)
- ▶ repeated unanswered phone messages.

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Sexual Abuse

Behaviour

- ▶ physical actions - rape, sexual assault, indecent assault, sexual harassment
- ▶ non-physical actions - obscene language or viewing obscene material or making obscene phone calls in the presence of the person without their consent.

Signs/Indicators

- ▶ physical – unexplained bruising, sexually transmitted diseases, infections, internal injuries, frequent incontinence, difficulty walking, human bite marks, scratches, bruises, pain on touching, choke marks on throat, burn marks, injury to face, neck, chest, abdomen, thighs or buttocks, trauma, including bleeding around the genitals, chest, rectum or mouth, torn or stained clothing
- ▶ arousal – lack of awareness, drowsiness, vagueness, confusion
- ▶ behavioural – fearfulness, agitation, disturbed sleep, withdrawal, lack of awareness
- ▶ medical – similar to physical
- ▶ carer/relative – overly protective or controlling, conflicting stories, attends appointments with older person, does not leave the older person unattended, requests behaviour that may be unusual.

Chemical Abuse

Behaviour

- ▶ inappropriate use (underuse or overuse) of prescribed medication
- ▶ failure to provide or supervise medication
- ▶ taking prescriptions or dispensed medications for addiction or financial gain
- ▶ If the carer is a substance abuser, he/she may be giving drugs or alcohol to the older person.

Signs/Indicators

- ▶ over-sedation, reduced physical or mental activity, grogginess or confusion
- ▶ pills scattered about may be signs of inappropriate use of drugs, medications and/or alcohol
- ▶ medical – reports of drug overdose, medication missing or not taken, poor management of medical conditions, repeated accident or emergency department presentation, frequent falls.

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Neglect

Behaviour

- ▶ lack of social, cultural, intellectual or physical stimulation
- ▶ lack of attention to basic needs
- ▶ lack of safety precautions or supervision, injuries not been properly cared for
- ▶ inappropriate medication management
- ▶ repeated excuses for older person's absence or not returning messages.

Signs/Indicators

Observations of neglect can be camouflaged by overly attentive behaviour in the company of others. Signs include:

- ▶ inadequate nutrition, accommodation, clothing, inadequate medical or dental care
- ▶ poor personal hygiene and skin integrity, exposure to unsafe, unhealthy, unsanitary conditions
- ▶ malnourishment and unexplained weight loss
- ▶ hypothermia or overheating
- ▶ the person left alone or unattended for long periods.

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Appendix 2 – Powers and responsibilities of existing government and non-government organisations, services and programs

Organisation	Government or Non-Government Organisation	Legislative mandate, service or program	Legislation
Office for the Ageing (OFTA), SA Health	Government	▶ Is responsible (among other things) for developing and implementing state Ageing Plan: Prosperity through Longevity 2014-2019 ▶ Developed and is implementing the <i>Safeguarding the Rights of Older South Australians Strategy 2014-2021</i> and <i>Action Plan 2015-2021</i>. The Strategy and its Action Plan are underpinned by the South Australian Charter of the Rights and Freedoms of Older South Australians and takes a continuum, whole of community approach to elder abuse: from prevention, recognition and response and recognises the diversity of older South Australians. Actions are set out under four themes: 1. Raising awareness 2. Strong community connections 3. Responding to vulnerability, risk and abuse 4. Policies and beyond.	<i>Office for the Ageing Act</i> This Act establishes the Office for the Ageing and sets out its purposes in relation to assisting in the development of state ageing policy, foster and seek involvement of older people in policy making, contribute to ageing programs and services, represent the interests of older South Australians, collect data and undertake or commission research into ageing matters. <i>Retirement Villages Act 1987</i> OFTA administers this Act which regulates retirement villages and the rights of residents. OFTA provides a mediation service for dispute resolution and also funds the Retirement Village Residents Advocacy Service.

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Legal Services
Commission
of South
Australia

Government
funded

- ▶ Provides free legal advice, community education and legal representation
- ▶ Is an active member of the Alliance for the Prevention of Elder Abuse (APEA) (more information here: www.apea.org.au).
- ▶ Actively promotes elder abuse prevention strategies such as Planning Ahead⁴.

⁴ Planning Ahead, a safeguarding initiative, raises community awareness about the importance of planning ahead for future lifestyle, accommodation, health and financial matters, wills, organ and tissue donation and the legal tools available – www.sahealth.sa.gov.au/planningahead.

Office of
the Public
Advocate

Government
statutory agency

Legislative mandate:

- ▶ Speaks for and promotes the rights and interests of people with impaired decision-making capacity (mental incapacity)
- ▶ Speaks for and negotiates resolution of problems of individuals arising from their incapacity
- ▶ Supports and promotes the interests of carers of people with impaired decision-making capacity/ mental incapacity
- ▶ Resolves disputes using mediation in relation to advance care directives and health care matters.

Is a member of APEA and raises awareness and education about elder abuse, including prevention strategies such as Planning Ahead.

*Guardianship and
Administration
Act 1993*

This Act establishes the Office of the Public Advocate. Under this Act, the Office of the Public Advocate can advocate on behalf of a person with impaired decision-making capacity and be appointed as a guardian for person with impaired decision-making capacity/mental incapacity.

*Advance Care Directives
Act 2013*

Under this Act the Office of the Public Advocate has the legal authority to help resolve disputes about advance care directives through mediation.

*Consent to Medical Treatment
and Palliative Care Act 1995*

Under this Act the Office of the Public Advocate has the legal authority to help resolve disputes about health care decisions through mediation.

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South Australia Police	Government	Legislative mandate: ▶ Responds to incidents of elder abuse if deemed a criminal offence. ▶ Administers the Home Assist Program, a Commonwealth Home Support Program (CHSP) funded by the Australian Government. The aim of the program is to improve home security and personal safety of eligible service users to allow them to remain safely in their homes. SAPOL works together with local Councils, health services and other agencies to support CHSP service users (more information here: www.police.sa.gov.au/services-and-events/community-programs/home-assist). ▶ Issues and enforces intervention orders including those related to abuse of older people.	<i>Criminal Law Consolidation Act 1935</i> Contains and defines acts which are considered major criminal offences, including (but not limited to) criminal neglect, assault, causing harm/serious harm, failing to provide food, theft etc. The Act covers the worst cases of elder abuse, however, there are questions about the extent to which elder abuse is prosecuted in South Australia. <i>Intervention Orders (Prevention of Abuse) Act 2009</i> This Act provides a mechanism for intervention orders, in cases of family or domestic violence; may be considered elder abuse. <i>Summary Offences Act</i> Makes provision for certain offences against public order and for other less serious offences and makes provision for powers of police officers in relation to investigation of offences, including the power of police to enter and search premises for those whom they believe need urgent medical or other assistance.
Health and Community Services Complaints Commission	Government Statutory Authority	Legislative mandate: ▶ Help resolve disputes in relation to health and community services ▶ Make recommendations for policy and system reform where deemed necessary.	<i>Health and Community Services Complaints Act 2004</i> This Act establishes the Commissioner and provides that this Office can help resolve disputes in relation to health and community services.

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South Australian Civil and Administrative Tribunal (SACAT)	Government Statutory Authority	Legislative mandate: ▶ Hears and determines cases involving people with a mental incapacity who may need a guardian and or administrator appointed to make financial, health/ lifestyle decisions on behalf of the person ▶ Hears and determines cases involving disputes about financial powers of attorney, advance care directives and consent to health care matters.	<i>South Australian Civil and Administrative Tribunal Act 2013</i> This Act permits the SACAT to hear and determine matters in relation to guardianship, administration, rental tenancy disputes. <i>Guardianship and Administration Act 1993</i> This Act gives the SACAT powers to appoint guardians and administrators through a 'court like' hearing for people with impaired decision-making capacity/mental incapacity and to hear and determine disputes in relation to appointments. <i>Consent to Medical Treatment and Palliative Care Act 1995</i> Under this Act, the SACAT can decide disputes in relation to health care, and can consent to health care on behalf of a person with impaired capacity as a last resort.
Supreme Court	Government		<i>Aged and Infirm Persons Act 1940</i> This Act protects the property of older or 'infirm' persons if they are unable to safeguard their own property. <i>Powers of Attorney and Agency Act 1984</i> The Court can hear and determine matters in relation to Enduring Powers of Attorney in cases of dispute or wrong doing.

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Department for Communities and Social Inclusion	Government		<i>Disability Act</i> <i>Carers Recognition Act 2005</i> This Act recognises the rights of carers and contains a charter of carer rights. <i>Supported Residential Facilities Act 1992</i>
Coroner	Government		<i>Coroner's Act 2003</i> This Act enables the Coroner to make a finding as to the cause of death in relation to reportable deaths. In cases involving abuse of a vulnerable older person, the powers of the Court can extend to making recommendations which might prevent similar cases in the future.
Aged Rights Advocacy Service	Non-Government Organisation and Government funded	▶ Provides free, independent and confidential advocacy services to older people and their representatives receiving or seeking to receive Commonwealth Government funded aged care services. ▶ Provides free, independent and confidential advocacy services to older people living in the community who are at risk of or experiencing abuse from family or friends. ▶ Actively promotes elder abuse awareness, education and prevention strategies.	The <i>Aged Care Act 1997</i> enables the funding of advocacy services to support the provision of aged care. Advocacy seeks to ensure the rights of consumers are supported and that they are empowered to make informed decisions about their care. This is delivered by ARAS through the National Aged Care Advocacy Program. The <i>Aged Care Act 1997</i> also provides for access to residential aged care facilities for advocates under this program.

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- ▶ Provides the Elder Abuse Prevention Phone Line and Referral service that provides information, referrals to other organisations/agencies and to advocacy support (*funded through OFTA*).
- ▶ Provides the Retirement Village Resident Advocacy Service that provides support and advocacy to Retirement Village residents in matters relating to the *Retirement Villages Act 1987* (*funded through OFTA*)
- ▶ Is an active member of the Alliance for the Prevention of Elder Abuse (APEA) (more information here: www.a pea.org.au) and a member of the Older Persons Advocacy Network (OPAN).

Relationships
Australia (SA)

Non-Government
organisation,
with Government
funding

- ▶ Provides a pilot mediation service for older South Australians; earlier family mediation enables an older person's needs and wants to be known in advance of incapacity which may prevent abuse occurring in the longer term.

N/A

Appendix 3 – South Australian Charter of the Rights and Freedoms of Older People

Dignity and self-determination	1. Older people have the right to be treated with dignity and humanity and to be free to exercise personal self-determination. 2. Older people have the right to freedom of movement and to choose their place of residence. These rights shall only be restricted in accordance with law, where such restriction is necessary to protect public health, public order and the rights and freedoms of others.
Liberty and security of the person	3. Older people have the right to be free from torture or other forms of cruel, inhumane or degrading treatment. 4. Older people have the right to liberty and security and to be free from exploitation and physical, social, psychological, financial and sexual abuse. No person shall be deprived of their liberty except in accordance with procedures established by law.
Equality and non-discrimination	5. Older people have the right to exercise their rights free from all forms of discrimination, whether on the basis of age, sex, colour, sexual orientation, religion, political opinion, educational qualification, national origin or ethnicity. 6. Older people have the right to recognition before the law and to be treated equally before the law.

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Standards of living and care	7. Older people have the right to food to nurture them nutritionally and emotionally, adequate clothing and shelter, adequate means and resources, to enjoy the highest attainable standards of physical and mental health and the right to a dignified death.
Privacy and family	8. Older people have the right to be free from arbitrary or unlawful interference with their privacy, family, home or correspondence. 9. Older people have the right to a family life and to have their family unit respected by others, including government agencies and officials.
Social and economic participation	10. Older people have the right to freely associate with others and to participate fully in the social, economic and cultural life of their community.
Freedom of thought, conscience, spirituality, religion and expression	11. Older people have the right to exercise freedom of thought, conscience, spirituality and religion. 12. Older people have the right to freedom of opinion and expression and to seek, receive and impart information and ideas, and to lifelong learning. Older adults have the right to seek, and be provided with, personal information about them held by government agencies or officials.

Appendix 4 – Risk factors for abuse

Ageism	Ageism includes discrimination and assumptions of vulnerability, frailty and dependency which affect the value, respect and opportunities older people are provided for self-determination and to actualise their rights. Perceptions that devalue older people may contribute to feelings of worthlessness, dependency, isolation and lack of self-esteem, and increase opportunities for elder abuse.
Dependency	Opportunities for abuse increase for people who are dependent on others for assistance or social, emotional, physical, financial or spiritual support. This does not mean that all older people who depend on others will be abused. Personal dignity, assets and finances, freedom from harm and wellbeing can still be maintained, even when a person's autonomy is affected.
Family dynamics and living arrangements	Shared living arrangements and providing care have advantages and challenges. Increased social contact, independence, and living in the community for longer are obvious and important benefits. Close proximity of shared living arrangements and carer responsibilities may heighten stress, tension and family conflict, increasing the likelihood of mistreatment and opportunities for abuse.
Gender	Abuse happens to both older women and older men. Statistics suggest more women are abused than men, although more men are experiencing abuse by family members, commonly by adult children. Women's family, social and cultural roles are important factors contributing to power imbalances and shifts in control which can increase risk of abuse. For example, an older woman who has historically relied on others to manage her financial affairs may have limited awareness or financial literacy, and is at greater risk of financial abuse by relatives, friends or neighbours.
Financial/ economic hardship/ and wealth	Financial difficulties, regardless of age, can impact on the risk of an older person being financially abused. If there are unresolved financial issues in a family, or if a carer has financial issues, a vulnerable adult may find their resources inappropriately targeted, particularly if they are asset-rich.
Social Isolation	Isolation of both older people and carers is a known risk factor for abuse. Adults who are socially isolated are less likely to be aware of available health and community support services or access these in a timely way. Examples include restricted or minimal contact with others, spiritual support, sharing time with friends, family or neighbours. When combined with factors such as cultural diversity, older age and frailty, and poor health literacy, isolation is associated with increased risk for mistreatment and elder abuse.

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Substance or alcohol abuse	Substance abuse, including drug and alcohol dependency, affecting the older person, their carer or a family member, can contribute to unhealthy relationships and behaviours, and is linked to increased risk of abuse of older people in family relationships. Substance abuse that is a long-standing issue in families can be an indication that early supports and strategies may be necessary to minimise the potential for elder abuse to occur or escalate.
Mental health or psychological conditions	Mental health issues and/or some psychological conditions have the potential to affect people's behaviour in a wide range of ways. Depending on individual circumstances, this can include the ability to control anger, frustration, fear and impulse. Mental health conditions can be a risk factor for abuse if a family member, carer, or older person themselves has a mental health condition. People with a mental health condition may have feelings of low self-esteem or self-worth, or could be more vulnerable due to the effects of medication.
Carer stress	Without the assistance of unpaid carers, more older people would rely on residential aged care facilities for their care. Unpaid carers can be responsible for a range of tasks and decisions. Some carers may feel they do not have a choice, whilst others do not identify themselves as a carer but rather see themselves as a good spouse, daughter/son, sibling or friend, or fulfilling cultural expectations. Caring for another person, whether a family member, neighbour or friend, is both rewarding and challenging. Special demands on carers often mean they juggle or struggle with responsibilities, frustrations, lack of resources, or compromising their own needs. Older carers may feel isolated or have problems with their own health. These pressures can increase the risk of abuse – to those being cared for or to carers themselves.
Caring for a person with dementia	Dementia or memory loss and confusion can affect a person's communication, understanding, judgment, behaviour, personality and abilities. Dementia can progress quickly or slowly, affecting dependency, fatigue, frustration and management of stressful situations. These pressures can increase harm or distress to both the carer and the person with dementia, particularly if carers are managing their own health conditions. Some situations may involve an older person perceiving harm or feeling distress where no harm is present, nor was intended. Dementia or cognitive impairment, or unmet need, can result in extreme reactions in ordinary situations. Carers pushed beyond their capabilities may not intend to be verbally or physically abusive. Caregivers may not intend to neglect the person in their care, or ignore their needs. Respite breaks can be very helpful in managing dementia or cognitive impairment, both for the older person and for carers. There can come a time when an older carer, with their own health issues, can no longer care for a person with dementia in the family home. This is when family members, friends and professional workers can provide timely support to both older people, enabling successful transition to new care arrangements.

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Dementia or memory loss	Dementia, Parkinson's disease and some illnesses related to memory loss and confusion, can decrease a person's independence, and ability to control their circumstances, decisions and interests. People with dementia can conduct their own lives and financial affairs, requiring increasing supports later on as the disease progresses. People with dementia who live alone may need particular support to ensure their immediate and long term decisions around accommodation, financial management, safety, wellbeing, and management of risks and vulnerabilities to minimise opportunities for mistreatment or abuse by others.
Cultural and Linguistically Diverse background	Cultural expectations, values and beliefs influence families in many ways. They contribute to communication, relationships and obligations, decision-making, sharing of finances and resources, problem-solving and help-seeking behaviours. In many diverse communities, value and respect of older people is highly regarded and responsibility for their care is an accepted family obligation. However, cultural diversity can increase the risk of elder abuse when combined with other factors such as lower English literacy, frailty and older age, limited awareness of community information and support, greater dependency on family, and mistrust of external support.
Aboriginal background	Abuse of older people goes against cultural values in the Aboriginal communities. Elders are highly regarded and respected custodians of traditions and law. Older Aboriginal people have multiple responsibilities in their community, including family roles and kinship care. This increased responsibility and community leadership may increase the risk of abuse of older Aboriginal people, particularly when multiple factors are present.

Appendix 5 – Abuse response principles

Respect for older people's rights, dignity, wishes and decisions	Older people have the same rights and freedoms as other community members. Older people's decisions and wishes about finances, living arrangements, health care, lifestyle and relationships should be respected.
Empowerment, informed choice and self-determination	Older people have the right to access information to help them make informed decisions. Empowerment, independence and self-determination, and respect for personal risks and life choices made, are to be valued and supported.
Importance of relationships and community connections	Acknowledge and respect an older person's existing relationships and wishes. With the exception of situations requiring responses to immediate risk or harm, access to information and services supportive of their wishes and relationships is to be actively supported.
Capacity for decision making	Capacity to make decisions is presumed and actively supported; older people are supported to participate in their own decisions, for as long as possible.
Partnerships and collaborations	No single department or agency is responsible for preventing and responding to abuse. More effective responses are achieved when agencies collaborate toward holistic and responsive multidisciplinary outcomes consistent with the older person's wishes.
Least invasive and applied incrementally	Actions take into account risk to safety and wellbeing, freedom of choice and rights, and are implemented incrementally to minimise intrusion and harm.
Diversity informs responses	All responses planned and implemented are informed by diverse cultural values and their impact on individuals and families and communities.

**If this Discussion Paper has raised concerns for you
call the SA Elder Abuse Prevention Phone Line**

1800 372 310

**for free confidential advice and support
or visit sahealth.sa.gov.au/stopelderabuse**

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Notes



For more information

Office for the Ageing

SA Health

PO Box 196

Rundle Mall

Adelaide SA 5000

Phone 08 8204 2420

Email officefortheageing@sa.gov.au

www.sahealth.sa.gov.au/stopelderabuse



**Government
of South Australia**