



COTA South Australia
Submission to the
Joint Committee
on matters relating to
Elder Abuse
in South Australia

March 2017

COTA SA
GPO Box 1583
Adelaide SA 5001

16 Hutt Street,
Adelaide SA 5000
ABN 28 426 218 581

P:(08) 8232 0422
Country callers: 1800 182 324
F:(08) 8232 0433
www.cotasa.org.au



Introduction

This submission responds to the terms of reference for the Joint Committee of the Parliament of South Australia on matters relating to Elder Abuse. We welcome the Committee's inquiry and share its commitment to understand, review and improve our community's responses to older people who experience abuse.

COTA SA is an older people's movement run by, for and with older people. We represent the aspirations, interests and rights of 590,000 older South Australians. In 2017 COTA SA turns 60.

COTA SA reflects the diversity of modern ageing in terms of living arrangements, relationships, income, health, ambitions and aspirations. COTA SA connects with up to 100,000 older people each year in a wide variety of ways. We offer programs and services such as Strength for Life and Peer Education. We have large numbers of individual, club and organizational members, we consult and travel widely throughout the state and we have an active events program including the annual Every Generation Festival. COTA SA is part of the COTA Federation made up of all State and Territory COTAs and COTA Australia, a national policy and advocacy body focused on federal issues such as health, aged care and retirement income.

This submission is consistent with a recent submission made by COTA Australia with input from state and territory COTAs to the Australian Law Reform Commission inquiry *Protecting the Rights of Older Australians from Abuse*.

For further information or advice regarding the content of this document please contact:

JANE MUSSARED

Chief Executive COTA SA

P (08) 8232 0422

M 0408 814 483

E jmussared@cotasa.org.au

Summary of Recommendations

Recommendation 1

COTA SA recommends a South Australian prevalence study as proposed in the Strategy to Safeguard the Rights of Older South Australians Action Plan 2015 – 2021 and urges a cooperative approach with other states and territories and with the federal government. This collaboration between federal, state and territory governments should aim to achieve at a minimum –

- a common definition of abuse
- a national prevalence study
- a national framework for elder abuse prevention
- a clearing house for the compilation, exchange and research of better practice.

Recommendation 2

COTA SA recommends consideration of a single, multi-disciplinary agency with designated responsibility to respond to abuse and coordinate interagency work.

Recommendation 3

COTA SA recommends steps to ensure that older people experiencing elder abuse have access to independent, free legal services and support along with assistive technologies in presenting evidence.

Recommendation 4

COTA SA recommends the establishment of evaluation tools and processes that track the outcomes of reports of abuse that are made to responding agencies. As much as possible these should use nationally consistent definitions.

Recommendation 5

COTA SA recommends the development of forums which provide opportunities for services and agencies to discuss prevalence and to address barriers to reporting and successful responses.

Recommendation 6

COTA SA recommends the development of the next stages of the Elder Abuse Prevention Phone Line following its evaluation in 2016 with attention to addressing access by diverse older people.

Recommendation 7

COTA SA recommends a review of well-being, inclusion and safety net services for older people who do not need or get aged care to ensure vulnerable and isolated older people are not left without support in the post HACC world.

Recommendation 8

COTA SA recommends investment in a suite of peer education modules and approaches that enable older people to be alert to both their own and their peer's rights and responsibilities, and new modules that support financial literacy, independence, and understanding of rights and remedies.

Recommendation 9

COTA SA supports the development of the South Australian Charter of the Rights and Freedoms of Older People and for the Charter to become part of the policies and procedures of South Australian Government departments.

Recommendation 10

COTA SA recommends public awareness campaigns and targeted training programs to encourage reporting and action for those who work with older people in a professional capacity.

Recommendation 11

COTA SA recommends that the State Government lead a campaign to promote new attitudes to our ageing.

Recommendation 12

COTA SA recommends that the State Government works with industry and research to understand the barriers to digital inclusion for large numbers of older people and develop practical support to improve digital inclusion.

COTA SA Responses to the Terms of Reference

a) The prevalence of abuse (including but not limited to financial abuse, physical abuse, sexual abuse, psychological abuse, social abuse, chemical abuse and neglect) experienced by older people in South Australia.

Many commentators have highlighted the lack of systematic Australian research on the prevalence of elder abuse (Kaspiew et al, AIFS 2016; Lacey 2014). The use of multiple definitions of 'elder abuse' is problematic in understanding prevalence and to that end, it is recommended that a definition be agreed.

Elsewhere, in our submission to the Australian Law Reform Commission's Protecting the Rights of Older Australians from Abuse inquiry, COTA has argued that the WHO definition of elder abuse which frames abuse as "occurring within any relationship where there is an expectation of trust" is a "good starting point that should be explored as part of any prevalence study (and related research) and in the development of a National Plan on Elder Abuse including through a consultative process".

The Australian Institute of Family Studies was recently commissioned by the Federal Attorney-General's Department (AGD) to undertake research to scope options for appropriate methodologies for further research to develop an understanding of the prevalence and nature of elder abuse in Australia.

The prevalence of elder abuse is also obscured by the very limited scope of existing studies, making it very difficult to estimate exact figures for South Australia. One estimate compiled from available national data suggests that somewhere between 2 and 5 percent of older people living in Australia have experienced some form of abuse.

Recommendation 1

COTA SA recommends a South Australian prevalence study as proposed in the Strategy to Safeguard the Rights of Older South Australians Action Plan 2015 – 2021 and urges a cooperative approach with other states and territories and with the federal government. This collaboration between federal, state and territory governments should aim to achieve at a minimum –

- a common definition of abuse
- a national prevalence study
- a national framework for elder abuse prevention
- a clearing house for the compilation, exchange and research of better practice.

b) The most common forms of abuse experienced by older persons and the most common relationships or settings in which abuse occurs.

Existing academic literature and reports from services that respond to abuse in Australia emphasise that the abuse of older persons most commonly occurs in family settings and that perpetrators are more likely to be family members (Seniors Rights Victoria 2016, Spike 2015, SA Strategy 2014-21, Lacey 2014).

1 http://www.who.int/ageing/projects/elder_abuse/en/

2 Response to the Protecting the Rights of Older Australians from Abuse Inquiry (Elder Abuse Discussion Paper 83), COTA Submission to the Australian Law Reform Commission, March 2017



COTA SA Responses to the Terms of Reference

COTA SA recognises that the abuse of older persons may take many forms including physical, psychological, financial, social, sexual, chemical and neglect (SA Strategy 2014-2021). Findings presented from Australian services suggest that financial abuse and psychological abuse are the most frequently reported forms of abuse (ARAS 2016; Spike 2015).

COTA SA emphasises the need for further research about the occurrence of elder abuse including in relation to the nature and settings of that abuse in the South Australian context.

c) The types of Government and/or Community support services sought by, or on behalf of, victims of elder abuse and the nature of service received from those agencies and organisations;

COTA SA recognises that the only specialist elder abuse services available to older people are offered through the Aged Rights Advocacy Service (ARAS). These services are available free and on a state-wide basis as confidential advocacy services to older people through the following programs –

- Federal Government funded aged care service advocacy
- Retirement Villages
- Aboriginal Advocacy Program
- Abuse Prevention Program
- Elder Abuse Prevention Phone Line (trial)

A wide variety of other agencies are also involved in preventing and intervening where elder abuse is suspected including SAPOL, Office of the Public Advocate, Legal Services Commission, Public Trustee, SA Domiciliary Care Service, local councils and other home and community services. Considerable work between these agencies and lead by the Office for the Ageing has gone into achieving high levels of cooperation, both in developing policy and in offering practical services to older people experiencing elder abuse.

However, it is time that there was consideration of a single agency with designated responsibility to respond to abuse and coordinate interagency work across the breadth of potential abuse. This would need to consider present barriers to prevention, detection and protection including lack of resources and/or priority and barriers to information sharing imposed by privacy.

Recommendation 2

COTA SA recommends consideration of a single, multi-disciplinary agency with designated responsibility to respond to abuse and coordinate interagency work.

d) The adequacy of the policies, resources, powers and expertise of specialist agencies (including South Australia Police, Office of the Public Advocate, Aged Rights Advocacy Service, Legal Services Commission, Public Trustee, Domiciliary Care South Australia) and other relevant service agencies to respond to allegations of elder abuse.

i) Challenges in obtaining successful legal outcomes

Reports by other agencies have highlighted that even when reports are made the existence of numerous barriers may prevent successful legal resolutions. Drawing on the recommendations of these agencies COTA SA supports the following measures to address these barriers:

- All older people need to have access to legal services that do not represent a conflict of interest, as they do in the case of 'family lawyers' representing or advising both parties (Seniors Rights Victoria 2016).
- Older people also need to have adequate financial support to bring a case to trial (COTA ACT, ARAS 2016). Free or low cost legal services should be available specifically for older people experiencing elder abuse (ARAS 2016). These services would need to be promoted to older people living in South Australia and to sectors that engage with older people.

If they experience certain disabilities older people may need support or assistive technologies in presenting evidence, particularly in court settings (COTA ACT). The Government of South Australia's Disability Justice Plan should consider the needs of older people with cognitive and physical disabilities to ensure that courts are accessible to all.



COTA SA Responses to the Terms of Reference

Recommendation 3

COTA SA recommends steps to ensure that older people experiencing elder abuse have access to independent, free legal services and support along with assistive technologies in presenting evidence.

ii) Information sharing between agencies

Numerous agencies and commentators have emphasised the need for collaboration between agencies to address elder abuse. Data sharing needs to occur in ways that increase understanding of the nature and prevalence of elder abuse in South Australia while protecting the confidentiality of reporters and victims.

COTA SA recommends the establishment of evaluation tools and processes that track the outcomes of reports of abuse that are made to responding agencies. COTA SA further recommends the development of forums which provide opportunities for services and agencies to discuss prevalence and to address barriers to reporting and successful responses.

Recommendation 4

COTA SA recommends the establishment of evaluation tools and processes that track the outcomes of reports of abuse that are made to responding agencies. As much as possible these should use nationally consistent definitions.

Recommendation 5

COTA SA recommends the development of forums which provide opportunities for services and agencies to discuss prevalence and to address barriers to reporting and successful responses.

e) Identify effective ways to improve reporting of and responding to elder abuse to assist in establishing best practice strategies for multi-agency responses

COTA SA supports reporting and responding processes that empower older people and recognise their capacities. Where possible older people should be supported to make reports of abuse on their own behalf.

Reports from agencies and existing academic literature suggest that one of the most significant barriers to older persons reporting abuse is the familial nature of the perpetrator, especially in cases where the perpetrator is the victim's child (COTA ACT, Seniors Rights Victoria 2016).

Persons experiencing abuse are often fearful of getting the perpetrator into trouble (COTA ACT, Seniors Rights Victoria 2016). Alternatively other older persons may fear retribution from family members for reporting including the loss of a home or of other support. This is especially relevant in cases where the victim relies on the perpetrator for accommodation, care or other forms of support. For example victims who reside in Australia on an Aged Parent Visa (subclass 804) face a 10-year wait to access age and disability pensions and may be unwilling to report immigration sponsors (ARAS 2016).

COTA SA urges the next stages in the development of the Elder Abuse Prevention Phone Line following its evaluation in 2016. Future developments of the Phone Line and other reporting mechanisms need to ensure that they are accessible by diverse groups of older persons and others who may report abuse -

- Persons who speak a language other than English need to be able to access an independent translator in order to report (Seniors Rights Victoria 2016).
- Persons who have with disabilities (including sight and hearing loss) need accessible reporting mechanisms (Seniors Rights Victoria 2016).
- Persons who do not have access to online reporting processes must have access to alternative reporting mechanisms.
- Reporting by other community members can be encouraged by public awareness campaigns and targeted training programs for those who work with older people in a professional capacity, see also (f) and (h).

It will also be important that there are effective referral options and pathways for people who are the subject of reports so that each report leads to an acceptable and value adding outcome for the older person.

COTA SA Responses to the Terms of Reference

Recommendation 6

COTA SA recommends the development of the next stages of the Elder Abuse Prevention Phone Line following its evaluation in 2016 with attention to addressing access by diverse older people.

f) Identifying any strength-based initiatives which empower older persons to better protect themselves from risks of abuse as they age.

COTA SA recommends a holistic, multi-faceted approach to empowering older persons including initiatives that:

i) Facilitate the social inclusion of all older people

International literature identifies an older person's social isolation (Kaspiew et al 2016) and physical or cognitive disabilities (Crichton et al 1999; Pillemer et al 2015; Kaspiew et al 2016) as primary risk factors for elder abuse. Strategies to prevent elder abuse should therefore be focused on promoting the social inclusion of all older people, especially those at risk of marginalisation.

COTA SA supports the actions towards building age-friendly communities outlined in the Strategy Action Plan 2015 -2021

COTA SA recognises that the funding of many organisations, programs and services that promote the social inclusion of older people and particularly those most at risk of social isolation (including older people from culturally and linguistically diverse backgrounds and people who identify as Aboriginal and/or Torres Strait Islander) is currently at risk as aged care has become a federal responsibility and federal funding for capacity building services for older people outside aged care are either under review or already reduced. It has been argued that there is constitutional complexity about where in the Australian federation responsibility for safeguarding older people belongs following the appropriation of responsibility for aged care by the Commonwealth.³

In light of the replacement of the Commonwealth/ State shared HACC funding with the aged care focused Commonwealth Home Support Program, well-being, inclusion and safety net services for older people who do not need or get aged care need review to ensure vulnerable and isolated older people are not left without support.

Recommendation 7

COTA SA recommends a review of well-being, inclusion and safety net services for older people who do not need or get aged care to ensure vulnerable and isolated older people are not left without support in the post HACC world.

ii) Work to increase older people's financial independence

Being financially dependent on relatives can increase an older person's risk of abuse and can also act as a barrier to older people reporting any abuse that they experience. COTA SA supports initiatives that help to increase older people's financial independence and improve older people's financial and legal literacy. For more than a decade, COTA SA has developed peer education approaches to empower older people to help one another to better prevent falls, identify and manage depression, plan ahead, use roads and transport well and manage medication.

There is considerable potential to grow this to include improved financial literacy and independence and understanding rights and remedies. COTA SA recommends new investment in a suite of peer education modules and approaches that enable older people to be alert to both their own and their peer's rights and responsibilities.

iii) Provide accessible and independent financial and legal advice to older people

COTA SA supported the development of Knowing Your Rights - a Guide to the Rights of Older South Australians. COTA SA recommends the further promotion of the publication and its key messages. COTA SA recommends the further development of peer education and targeted to needs of particular groups including CALD groups and groups that identify as Aboriginal and Torres Strait Islander.

³ p101, Neglectful to the Point of Cruelty? Elder Abuse and the Rights of Older Persons in Australia, Sydney Law Review, V36:99, 2014

COTA SA Responses to the Terms of Reference

Recommendation 8

COTA SA recommends investment in a suite of peer education modules and approaches that enable older people to be alert to both their own and their peer's rights and responsibilities, and new modules that support financial literacy, independence and understanding of rights and remedies.

g) The effectiveness of South Australian laws, policies, services and strategies, including the South Australian Strategy for Safeguarding Older People 2014 -2021 in safeguarding older persons from abuse

Reports from ARAS (2016) have suggested that many reported cases of elder abuse have involved issues with Power of Attorney. The legislation and processes associated with Power of Attorney may need to be reviewed. COTA SA refers to the findings of the Australian Law Reform Commission's report, Equality, Capacity and Disability, which recommended a shift from the 'best interests' standard to one based on the 'will preferences and rights' of the person, reflecting the paradigm shift toward supported decision making in the Convention on the Rights of Persons with Disabilities (CRPD).

Concerns about ethnocentric biases in the capacity testing processes during the establishment of Enduring Power of Attorney have also been raised. Older people from linguistically and culturally diverse backgrounds may require access to independent translators during these processes.

COTA SA supports the development of the South Australian Charter of the Rights and Freedoms of Older People, as outlined in the Strategy, as a first step towards strengthening policies and initiatives to prevent elder abuse. COTA SA is keen to see how the Charter will be implemented in the policies and procedures of South Australian Government departments.

Recommendation 9

COTA SA supports the development of the South Australian Charter of the Rights and Freedoms of Older People and for the Charter to become part of the policies and procedures of South Australian Government departments.

h) Innovation for long-term integrated systems and proactive measures to respond to the increasing number of older persons, including consideration of their diverse needs and experiences, to prevent abuse.

Abuse awareness and response training should be necessary for all professionals who work with older persons. COTA SA supports the proposed training of the nursing paramedic workforces as outlined in the South Australian Strategy for Safeguarding Older People Action Plan 2015 -2021. However, COTA SA would like to see the expansion of training initiatives to include a broader variety of professions. Training may be particularly relevant for those in the banking and legal sectors given the high reported rate of financial abuse.

Recommendation 10

COTA SA recommends public awareness campaigns and targeted training programs to encourage reporting and action for those who work with older people in a professional capacity.

i) The consideration of new proposals or initiatives which may enhance existing strategies for safeguarding older persons who may be vulnerable to abuse or prevent such abuse, including with reference to international best practice.

There is a need to create a coalition within SA to tackle the conditions within which elder abuse thrives. Understanding of domestic violence has now includes an understanding of the causal relationship between attitudes to women and violence against women (see diagram below).

Scholars and practitioners agree that ageism – the structural devaluation of older people within a society – heightens the risk of abuse for some individuals⁴. Older people tell us that ageism and age discrimination are alive and well. They tell us that "ageism has become so ingrained that even the most well-informed, unintentionally practice it."

⁴ ALRC Elder Abuse Discussion paper, Dec 2016

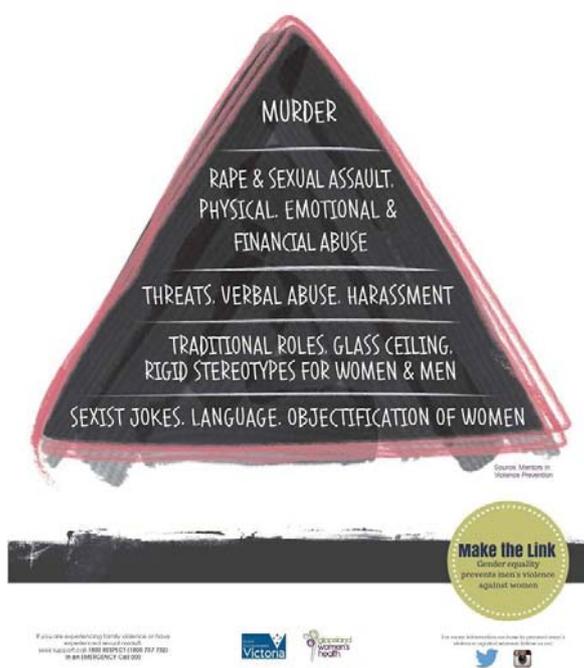
COTA SA Responses to the Terms of Reference

Scholars and practitioners have suggested that ageism may help to create the conditions for elder abuse in three different ways:

- Firstly, the ageist depiction of older people as dependents and a financial burden may be used by perpetrators to justify abusive actions (Crichton et al 1999; Penhale 2003; Tam & Neysmith 2006).
- Secondly, intergenerational conflict between older people and younger relatives over care responsibilities and living arrangements may escalate into elder abuse. Previous studies of intergenerational conflict and elder abuse and neglect have shown that ageist discourses and disrespect have been used against older people in these types of conflicts (Tam & Neysmith 2006).
- Thirdly, ageism in wider society (such as the discrimination against older workers, the lack of appropriate affordable housing for older people) plays a role in creating conditions of poverty and precariousness which leave older people particularly vulnerable to exploitation and abuse (Kaspiew et al 2016).

Scholars have also noted that ageism can intersect with other forms of discrimination including sexism, ableism, racism and homophobia in ways that heighten the risk of elder abuse for particular individuals (Walsh et al 2010). For example, the particular devaluation of older women in sexist discourses can create unequal power relationships between men of all ages and older women that leave these older women at heightened risk of abuse (Penhale 2003).

To end men's violence against women we need to challenge the foundations of violence.



COTA SA recommends that the State Government be urged to lead new attitudes to our ageing, drawing on the very considerable spirit of bipartisanship and cooperation that exists across the South Australian community in relation to elder abuse.

Recommendation 11

COTA SA recommends that the State Government lead a campaign to promote new attitudes to our ageing.

j) Identifying ways to inform older South Australians about online scams to which they may be vulnerable.

Perhaps the most important protective measure that can be taken for older people in relation to on line scamming will be in conjunction with much greater investment in digital literacy and inclusion. For the year ending March 2016, South Australia's Australian Digital Inclusion Index score is 51.6, the second lowest for any state or territory nationwide; only Tasmania has a lower score. Some of our regional and rural areas remain the least digitally included sub-regions in Australia. The index reports Australians 65+ are the nation's least digitally included group.⁵

Governments and businesses worldwide are increasingly offering access to their services online resulting in cost savings to both users and businesses. The perceived lack of interest in using digital services by a majority of Australians aged 65 and over remains a significant barrier to older people accessing services online. In Australia, only 15 per cent of older internet users access government services and health and medical information online. These figures are significantly lower than their UK and US counterparts which are recorded as 30 and 35 per cent respectively.

⁵ 37 Measuring Australia's Digital Divide - The Australian Digital Inclusion Index 2016, Roy Morgan Research, Swinburne Institute for Social Research and Centre for Social Impact and Telstra

COTA SA Responses to the Terms of Reference

COTA SA, through its Conversations with Seniors program, hears that although many older people identify themselves as being "online", this often only means periodic use of email. The wider landscape of social media, finding out information, using ATMs and doing business on line is out of reach for a large number of older South Australians. Many are shouldering the extra costs imposed by business in order that they continue to have access to paper bills and statements, postage and face to face services.

Recommendation 12

COTA SA recommends that the State Government works with industry and research to understand the barriers to digital inclusion for large numbers of older people and develop practical support to improve digital inclusion.



References

COTA SA Submission to SA State Budget 2017-18, February 2017

COTA Response to the Protecting the Rights of Older Australians from Abuse Inquiry (Elder Abuse Discussion Paper 83), Submission to the Australian Law Reform Commission, March 2017

Australian Law Reform Commission into Elder Abuse: Issues Paper Submission by Aged Rights Advocacy Service Inc. (ARAS) August 2016

Lacey, W (2014) Neglectful to the Point of Cruelty? Elder Abuse and the Rights of Older Persons in Australia, Sydney Law Review, V36:99

Elder Abuse in the ACT: Report on a forum held by COTA ACT. 17 June 2015

Kaspiew, R., et al. 2016. Elder abuse: Understanding issues, frameworks and responses. Melbourne, Australian Institute of Family Studies.

Penhale, B. 2003. "Older women, domestic violence and elder abuse: A review of commonalities, differences, and shared approaches". Journal of Elder Abuse and Neglect 15(3 -4): 163 -183.

Submission to the Australian Law Reform Commission on Elder Abuse. Seniors Rights Victoria, August 2016

Tam, S. and S. M. Neysmith 2006. "Disrespect and isolation: Elder abuse in Chinese communities " Canadian Journal of Aging 25(2): 141-151.

Crichton, S. J., et al. 1999. "Elder abuse: Feminist and ageist perspectives " Journal of Elder Abuse and Neglect 10(3 -4): 115 -130.

Pillemer, K., et al. 2015. "Elder Abuse: Global Situation, Risk Factors and Prevention Strategies " Gerontologist 56(S2): 194 -205.

Spike, C. 2015. The EAPU helpline: Results of an investigation of five years of call data. Report for the International Association of Gerontology and Geriatrics Asia & Oceania Regional Congress 2015. Chermside Central, Qld: Elder Abuse Prevention Unit, UnitingCare Community.

Strategy to Safeguard the Rights of Older South Australians 2014 – 2021, Department for Health and Ageing, May 2014