



EXECUTIVE OFFICE – LOCAL MISSION

197 Archer Street North Adelaide SA 5006

Tel 08 8267 7300 Fax 07 8267 7310

localmission@lca.org.au

www.lca.org.au/local-mission

Introduction

This submission has been written by the Lutheran Church of Australia's Committee for Ministry with the Ageing. The Committee for Ministry with the Ageing provides support and advice to Lutheran Aged-Care facilities, as well as to Lutheran congregations and agencies, in the area of ministry and care with, and for, the ageing. There are currently 34 Lutheran aged care facilities in Australia, catering for over 4000 residents. There are over 300 congregations of the Lutheran Church of Australia caring for over 14000 baptised members.

Lutheran Aged and Community services are an expression of the caring witness of the Lutheran Church of Australia and are communities:

- That acknowledge God as creator and join in the ongoing creation and care of the world and all people.
- That respond to people in need with care and compassion.
- Lutheran Aged and Community Services are communities that act justly and for the good of all.
- That love and serve people by catering for their physical, material, social, emotional and spiritual needs.
- Whose acts of service are offered graciously and unconditionally.
- That acknowledge that the calling to care comes from God.
- That are accepting and inclusive, founded on Christian values.

Christian teachings (and Christian values) promote respect for elders, therefore

- all people have dignity because God creates them in his image; their dignity remains *even if their capabilities diminish*
- we are called to honour our elders.

The need for laws, penalties, compliance and accountability to deter elder abuse is a sign of failure to promote, internalise and live out these Christian teachings and values.

Proposal 2–1

A National Plan to address elder abuse should be developed.

The Lutheran Church of Australia supports this proposal.

We offer the following commentary to assist in the development of a National Plan.

The Committee for Ministry with the Ageing have concluded that the actions detailed for a national plan are heavily weighted to the severe end of the continuum of abuse. In the words of a very experienced Director of Nursing:

It feels like a good response to the small number of people who are just money pinching or nasty miscreants, but a poorer one where support and assistance to those who have simply gone astray is concerned.

During my working life, I was a legal custodian to the frail elderly under my care (a Director of Nursing thing). Albeit I seldom had to think about this too much, staff did alert me if relatives were choosing their own monetary gains over the quality of life of their financially able loved one. I always found a friendly chat together with a comment about the potential of a report to the then Guardianship Board was enough to remedy the situation.

Having said this, it is my experience that most families or carers will go a long way to support and assist their frail elderly relative or friend. I am of the view that a goodly portion of alleged mistreatment of the elderly is a combination of ignorance of the ageing process combined with an extremely frail, needy and sometimes forgetful person who is struggling. For many people their parent/s may appear to be wilful and terribly annoying and strange when in fact they are simply ageing and may also have some memory loss. One does not have to have a diagnosis of dementia to be awfully forgetful...it just comes with old age.

As a Justice of the Peace, I also assisted with Powers of Attorney (POA), Medical and Guardianship type documents. I did find that many families or friends were trying to get these in place when the horse had already bolted in that the elderly person concerned was mentally beyond giving lawful consent (i.e. fully understanding what they were signing). For this reason, I always asked for a doctor's advice as to the mental status of the resident before agreeing to sign off documents being drafted. Now these experiences are important as they suggest that both Justices of the Peace and General Practitioners can play a part in reducing elder abuse. GPs can vet the capacity of the elderly frail person and the JPs can be encouraged to play a role in making sure documents being signed do not disadvantage a vulnerable older person.

As Lutherans, we acknowledge God as creator and join in the ongoing creation and care of the world and all people. We believe that people are created, precious and loved children of God. We are, however, broken and imperfect people. Never the less God calls us to love and serve our family, friends and others, including our elders.

What the discussion document lacks is a framework to support our community to do the right thing. It goes straight to remedial action and control mechanisms rather than processes that may help our community to correctly assist the elderly as their personal circumstances change. Getting it right initially, and conciliating as things change or where there may be disputes between the parties, would be a more wholesome approach from our Christian perspective.

The Committee for Ministry with the Ageing suggests:

1. Discussion on elder abuse include a set of 'reasonable' standards (rights) related to older people regardless of their health and other status. These standards would be a guide and form a tool to measure actions of the agents and families concerned.
2. Discussion on elder abuse include a range of options to educate and support families/carers entering agreements. This can be through the web, councils and libraries etc. Such support would be resource intensive at the front end, however, preventative measures are likely to reduce the need to appeal to the measures seen in the discussion document.

3. Discussion on elder abuse should include conciliation opportunities where disagreements between parties exist. We do not see this at the level of Public Advocates in the first instance. Rather this should occur at a much lower level where mutually agreed changes can be implemented. Legal efforts would then be limited to those times when things go off the rails. Ultimately, one would hope only the significant issues would need to be addressed through the control mechanisms cited in the discussion document. Perhaps the web could become a user-friendly resource and repository for formal and less formal agreements.
4. Discussion on elder abuse should ensure that people undertaking powers of attorney type roles should be given adequate information and education about their obligations. Anecdotally, there are many instances where families believe signed documents are a ‘licence’ for financial abuse when this is far from the truth.
5. The redrafting of documents (e.g. POA, POG, MPOA) to ensure they are understood by the frail elderly. Documentation should include an area for the person gaining support to stipulate what they expect out of the arrangement. Prompts would help with identification of these areas. Then if circumstances change all are clear about the expectations and a renegotiation can occur.
6. JPs could be encouraged or educated to ensure the expectations noted above are evident in the documentation. Further training of JPs would make this a powerful tool in the drafting of agreements and place the older person’s rights front and centre.
7. Because POAs etc. are often written and signed when an emergency arises a ‘gate keeper role’ by GPs, or other authorised medical practitioners, be considered. GPs could verify that an elderly person is capable of signing legal documents. In aiming to reduce the number of incidents of signing documents by confused people, a GP signature could be required to assure all of the older person’s capacity to authorise. The additional signature of an authorised medical practitioner could be mandated for documentation for persons over a certain age or for persons who have been hospitalised within a certain period.

Proposal 2–2

A national prevalence study of elder abuse should be commissioned.

The Lutheran Church of Australia supports this proposal.

Proposal 3–1

State and territory public advocates or public guardians should be given the power to investigate elder abuse where they have a reasonable cause to suspect that an older person:

(a) has care and support needs;

(b) is, or is at risk of, being abused or neglected; and

(c) is unable to protect themselves from the abuse or neglect, or the risk of it because of care and support needs.

Public advocates or public guardians should be able to exercise this power on receipt of a complaint or referral or on their own motion.

The Lutheran Church of Australia supports this proposal.

The discussion paper appears to assume the worst and has many measures in place to deal with aberrance. Apart from a few comments it does not clearly state the 'reasonable' rights of the elderly (regardless of health status) against which the action of others can be measured. It is important to be clear about what older people can reasonably expect from those acting as their agents for the purposes of financial, lifestyle and health care etc.

Proposal 3–2

Public advocates or public guardians should be guided by the following principles:

- (a) older people experiencing abuse or neglect have the right to refuse support, assistance or protection;*
- (b) the need to protect someone from abuse or neglect must be balanced with respect for the person's right to make their own decisions about their care; and*
- (c) the will, preferences and rights of the older person must be respected.*

The Lutheran Church of Australia supports this proposal.

The Lutheran Church of Australia believes that all people are created in God's image and as such should be treated with respect and with dignity. We also believe that people have the right to make choices about whether they accept support, assistance or protection if they are being abused or neglected.

There are legal provisions that have been established to allow people to indicate their wishes for when they are unable to make their own decisions, for example, Advanced Care Directives and Enduring Powers of Attorney, and we would encourage the promotion of these within the wider community so that people can make plans for when they are unable to speak for themselves.

Proposal 3–3

Public advocates or public guardians should have the power to require that a person, other than the older person:

- (a) furnish information;*
- (b) produce documents; or*
- (c) participate in an interview*

relating to an investigation of the abuse or neglect of an older person.

The Lutheran Church of Australia supports this proposal.

Proposal 3–4

In responding to the suspected abuse or neglect of an older person, public advocates or public guardians may:

- (a) refer the older person or the perpetrator to available health care, social, legal, accommodation or other services;*
- (b) assist the older person or perpetrator in obtaining those services;*
- (c) prepare, in consultation with the older person, a support and assistance plan that specifies any services needed by the older person; or*
- (d) decide to take no further action.*

The Lutheran Church of Australia supports this proposal.

Proposal 3–5

Any person who reports elder abuse to the public advocate or public guardian in good faith and based on a reasonable suspicion should not, as a consequence of their report, be:

- (a) liable, civilly, criminally or under an administrative process;*
- (b) found to have departed from standards of professional conduct;*
- (c) dismissed or threatened in the course of their employment; or*
- (d) discriminated against with respect to employment or membership in a profession or trade union.*

The Lutheran Church of Australia supports this proposal.

Proposal 5–1

A national online register of enduring documents, and court and tribunal orders for the appointment of guardians and financial administrators, should be established.

The Lutheran Church of Australia supports this proposal.

Proposal 5–2

The making or revocation of an enduring document should not be valid until registered. The making and registering of a subsequent enduring document should automatically revoke the previous document of the same type.

The Lutheran Church of Australia supports this proposal.

Proposal 5–3

The implementation of the national online register should include transitional arrangements to ensure that existing enduring documents can be registered and that unregistered enduring documents remain valid for a prescribed period.

The Lutheran Church of Australia supports this proposal.

Question 5–1

Who should be permitted to search the national online register without restriction?

Access should be limited, and such limitations spelled out as for the mechanism referred to below.

Question 5–2

Should public advocates and public guardians have the power to conduct random checks of enduring attorneys' management of principals' financial affairs?

The Lutheran Church of Australia is in favour of the establishment of a mechanism to monitor the management of principals' financial affairs.

Proposal 5–4

Enduring documents should be witnessed by two independent witnesses, one of whom must be either a:

(a) legal practitioner;

(b) medical practitioner;

(c) justice of the peace;

(d) registrar of the Local/Magistrates Court; or

(e) police officer holding the rank of sergeant or above.

Each witness should certify that:

(a) the principal appeared to freely and voluntarily sign in their presence;

(b) the principal appeared to understand the nature of the document; and

(c) the enduring attorney or enduring guardian appeared to freely and voluntarily sign in their presence.

The Lutheran Church of Australia supports this proposal.

Proposal 5–5

State and territory tribunals should be vested with the power to order that enduring attorneys and enduring guardians or court and tribunal appointed guardians and financial administrators pay compensation where the loss was caused by that person’s failure to comply with their obligations under the relevant Act.

Financial abuse can significantly compromise the number and extent of options open to the victim. It is difficult to mitigate the effects of any sort of abuse, but compensation for financial losses that were caused by the failure of trusted persons/bodies to comply with their obligation would go part of the way to do that.

The Lutheran Church of Australia supports this proposal.

Proposal 5–6

Laws governing enduring powers of attorney should provide that an attorney must not enter into a transaction where there is, or may be, a conflict between the attorney’s duty to the principal and the interests of the attorney (or a relative, business associate or close friend of the attorney), unless:

(a) the principal foresaw the particular type of conflict and gave express authorisation in the enduring power of attorney document; or

(b) a tribunal has authorised the transaction before it is entered into.

The Lutheran Church of Australia supports this proposal.

Proposal 5–7

A person should be ineligible to be an enduring attorney if the person:

(a) is an undischarged bankrupt;

(b) is prohibited from acting as a director under the Corporations Act 2001 (Cth);

(c) has been convicted of an offence involving fraud or dishonesty; or

(d) is, or has been, a care worker, a health provider or an accommodation provider for the principal.

The Lutheran Church of Australia supports this proposal.

Any person who has been found guilty of mismanaging financial matters under an enduring power of attorney or who has been found guilty of elder abuse should be included in this list above.

Proposal 5–8

Legislation governing enduring documents should explicitly list transactions that cannot be completed by an enduring attorney or enduring guardian including:

- (a) making or revoking the principal's will;
- (b) making or revoking an enduring document on behalf of the principal;
- (c) voting in elections on behalf of the principal;
- (d) consenting to adoption of a child by the principal;
- (e) consenting to marriage or divorce of the principal; or
- (f) consenting to the principal entering into a sexual relationship.

The Lutheran Church of Australia supports this proposal.

Other matters to be considered is enacting of the principal's wishes should legislation be changed e.g. legislation passed that permits euthanasia/death with dignity.

Proposal 5–9

Enduring attorneys and enduring guardians should be required to keep records. Enduring attorneys should keep their own property separate from the property of the principal.

The Lutheran Church of Australia supports this proposal.

Proposal 5–10

State and territory governments should introduce nationally consistent laws governing enduring powers of attorney (including financial, medical and personal), enduring guardianship and other substitute decision makers.

The Lutheran Church of Australia supports this proposal.

Proposal 5–11

The term 'representatives' should be used for the substitute decision makers referred to in proposal 5–10 and the enduring instruments under which these arrangements are made should be called 'Representatives Agreements'.

The Lutheran Church of Australia supports this proposal.

Proposal 5–12

A model Representatives Agreement should be developed to facilitate the making of these arrangements.

The Lutheran Church of Australia supports this proposal.

Proposal 5–13

Representatives should be required to support and represent the will, preferences and rights of the principal.

It is the role of representatives to be the voice of the principal.

The Lutheran Church of Australia supports this proposal.

Proposal 6–1

Newly-appointed non-professional guardians and financial administrators should be informed of the scope of their roles, responsibilities and obligations.

The Lutheran Church of Australia supports this proposal.

Question 6–1

Should information for newly-appointed guardians and financial administrators be provided in the form of:

(a) compulsory training;

(b) training ordered at the discretion of the tribunal;

(c) information given by the tribunal to satisfy itself that the person has the competency required for the appointment; or

(d) other ways?

Given that guardians and financial administrators will have varying degrees of literacy and numeracy, and come from all ethnic backgrounds, it is critical that information about this role is accessible to all.

Resourcing, whether in the form of compulsory training, or the provision of education, must address issues such as the rights of the principal and that guardianship and financial administration is provided to serve the best interests of the principal. The information must be culturally appropriate and accessible.

Proposal 6–2

Newly-appointed guardians and financial administrators should be required to sign an undertaking to comply with their responsibilities and obligations.

The Lutheran Church of Australia supports this proposal.

Question 6–2

In what circumstances, if any, should financial administrators be required to purchase surety bonds?

The Lutheran Church of Australia does not wish to comment on this question.

Question 6–3

What is the best way to ensure that a person who is subject to a guardianship or financial administration application is included in this process?

The Lutheran Church of Australia does not wish to comment on this question.

Proposal 7–1

The Code of Banking Practice should provide that banks will take reasonable steps to prevent the financial abuse of older customers. The Code should give examples of such reasonable steps, including training for staff, using software to identify suspicious transactions and, in appropriate cases, reporting suspected abuse to the relevant authorities.

The Lutheran Church of Australia supports this proposal.

Proposal 7–2

The Code of Banking Practice should increase the witnessing requirements for arrangements that allow people to authorise third parties to access their bank accounts. For example, at least two people should witness the customer sign the form giving authorisation, and customers should sign a declaration stating that they understand the scope of the authority and the additional risk of financial abuse.

The Lutheran Church of Australia supports this proposal.

Question 7–1

Should the Superannuation Industry (Supervision) Act 1993 (Cth) be amended to:

(a) require that all self-managed superannuation funds have a corporate trustee;

(b) prescribe certain arrangements for the management of self-managed superannuation funds in the event that a trustee loses capacity;

(c) impose additional compliance obligations on trustees and directors when they are not a member of the fund; and

(d) give the Superannuation Complaints Tribunal jurisdiction to resolve disputes involving self-managed superannuation funds?

The Lutheran Church of Australia does not wish to comment on this question.

Question 7–2

Should there be restrictions as to who may provide advice on, and prepare documentation for, the establishment of self-managed superannuation funds?

The Lutheran Church of Australia does not wish to comment on this question.

Proposal 8–1

State and territory tribunals should have jurisdiction to resolve family disputes involving residential property under an ‘assets for care’ arrangement.

If there are conflicts within a family, it is imperative that there is an advocate for the principal who is outside of the family, and whose authority over-rules the family to ensure that the best interests of the principal are served.

The Lutheran Church of Australia supports this proposal.

Question 8–1

How should ‘family’ be defined for the purposes ‘assets for care’ matters?

We are aware that there are many configurations of family, and we appreciate the need for family to be adequately defined in this context. We support the effective accountability of ‘family members’, and the need to protect vulnerable older people.

Proposal 9–1

The Law Council of Australia, together with state and territory law societies, should review the guidelines for legal practitioners in relation to the preparation and execution of wills and other advance planning documents to ensure they cover matters such as:

(a) common risk factors associated with undue influence;

(b) the importance of taking detailed instructions from the person alone;

(c) the importance of ensuring that the person understands the nature of the document and knows and approves of its contents, particularly in circumstances where an unrelated person benefits; and

(d) the need to keep detailed file notes and make inquiries regarding previous wills and advance planning documents.

The Lutheran Church of Australia supports this proposal.

Proposal 9–2

The witnessing requirements for binding death benefit nominations in the Superannuation Industry (Supervision) Act 1993 (Cth) and Superannuation Industry (Supervision) Regulations 1994 (Cth) should be equivalent to those for wills.

The Lutheran Church of Australia supports this proposal.

Proposal 9–3

The Superannuation Industry (Supervision) Act 1993 (Cth) and Superannuation Industry (Supervision) Regulations 1994 (Cth) should make it clear that a person appointed under an enduring power of attorney cannot make a binding death benefit nomination on behalf of a member.

The Lutheran Church of Australia supports this proposal.

Proposal 10–1

The Department of Human Services (Cth) should develop an elder abuse strategy to prevent, identify and respond to the abuse of older persons in contact with Centrelink.

The Lutheran Church of Australia supports this proposal.

Proposal 10–2

Centrelink policies and practices should require that Centrelink staff speak directly with persons of Age Pension age who are entering into arrangements with others that concern social security payments.

The Lutheran Church of Australia supports this proposal.

Proposal 10–3

Centrelink communications should make clear the roles and responsibilities of all participants to arrangements with persons of Age Pension age that concern social security payments.

The Lutheran Church of Australia supports this proposal.

Proposal 10–4

Centrelink staff should be trained further to identify and respond to elder abuse.

The Lutheran Church of Australia supports this proposal.

Centrelink staff may well be the first to become aware of irregularities that may indicate financial abuse and as such need to be well trained to identify and respond to elder abuse. Abuse may not be immediately obvious to an alert worker, and recording systems should allow for concerns to be logged and a situation to be monitored.

Proposal 11–1

Aged care legislation should establish a reportable incidents scheme. The scheme should require approved providers to notify reportable incidents to the Aged Care Complaints Commissioner, who will oversee the approved provider's investigation of and response to those incidents.

The reportable incidents scheme should allow for the establishment of a national register of those who have perpetrated abuse. The systems in place for managing child abuse notifications need to be considered in the management of elder abuse notifications.

The development of Information Sharing Guidelines within the child protection system has defined ways of implementing privacy principles but also honouring the need to keep children safe. If there are concerns in regards to elder abuse, it may be important for that information to be shared with other professionals with or without the usual consents being obtained.

The Lutheran Church of Australia supports this proposal.

Proposal 11–2

The term 'reportable assault' in the Aged Care Act 1997 (Cth) should be replaced with 'reportable incident'.

With respect to residential care, 'reportable incident' should mean:

(a) a sexual offence, sexual misconduct, assault, fraud/financial abuse, ill-treatment or neglect committed by a staff member on or toward a care recipient;

(b) a sexual offence, an incident causing serious injury, an incident involving the use of a weapon, or an incident that is part of a pattern of abuse when committed by a care recipient toward another care recipient; or

(c) an incident resulting in an unexplained serious injury to a care recipient.

With respect to home care or flexible care, ‘reportable incident’ should mean a sexual offence, sexual misconduct, assault, fraud/financial abuse, ill-treatment or neglect committed by a staff member on or toward a care recipient.

Investigations should take into account all relevant factors. For example, a worker found guilty of neglect or ill-treatment might not be the only person disciplined if investigations also revealed that the facility managers had neglected to provide adequate staffing levels, adequate training for staff or appropriate equipment.

The Lutheran Church of Australia supports this proposal.

Proposal 11–3

The exemption to reporting provided by s 53 of the Accountability Principles 2014 (Cth), regarding alleged or suspected assaults committed by a care recipient with a pre-diagnosed cognitive impairment on another care recipient, should be removed.

The response to the assault of one care recipient – or a staff member – by another care recipient is complex. The rights of and responsibilities of all concerned are to be recognised and managed. As resources for managing those with cognitive impairment decrease, the temptation to rely on physical or chemical restraints increases. The pressure on our mental health systems can exacerbate this. Assaults by care recipients need to be monitored carefully to ensure that all involved are treated with appropriate dignity and respect.

In removing the exemption, appropriate safeguards need to be identified to ensure that everybody concerned is kept safe.

Proposal 11–4

There should be a national employment screening process for Australian Government funded aged care. The screening process should determine whether a clearance should be granted to work in aged care, based on an assessment of:

- (a) a person’s national criminal history;
- (b) relevant reportable incidents under the proposed reportable incidents scheme; and
- (c) relevant disciplinary proceedings or complaints.

The Lutheran Church of Australia supports this proposal.

It is also suggested that consideration be given to the employment screening processes that are used in child protection systems and how these systems can speak into and complement processes for screening aged care employees.

It is worth noting that there is one group of vulnerable people whose care workers may not be included in screening systems - those who are over 18 years of age and who are cared for by those outside of

Australian Government funded aged care. This includes adults with physical disabilities and cognitive impairments. Should they not also be entitled to the protection that this screening and reporting proposal provides?

Proposal 11–5

A national database should be established to record the outcome and status of employment clearances.

The Lutheran Church of Australia supports this proposal.

Question 11–1

Where a person is the subject of an adverse finding in respect of a reportable incident, what sort of incident should automatically exclude the person from working in aged care?

It is important that the response to a reportable incident is commensurate with the seriousness of the incident.

Residential care facilities are finding it more and more difficult to sustain levels of nursing staff due to funding pressure. This has led to a reliance on lower qualified staff, and increasing numbers of staff with low levels of English literacy who are responsible for providing a broad range of care to residents. This reality does not provide an excuse for a reportable incident. It purely elaborates on a ‘pressure point’ in the delivery of aged care services. Further to the debate on the definition of an ‘incident’ that leads to exclusion, the need for suggestions for preventative measures is encouraged.

Question 11–2

How long should an employment clearance remain valid?

Currently police checks and clearances in child protection related work need to be renewed every three years. We would suggest that the time frames for employment clearances for those who work in aged care should be similar to those who work with children.

Question 11–3

Are there further offences which should preclude a person from employment in aged care?

Drug related offences, and those involving violence and aggression should preclude a person from employment in aged care. Once again, we suggest that there should be significant commonalities between the child protection and the aged care system, as both systems involve working with vulnerable people.

Proposal 11–6

Unregistered aged care workers who provide direct care should be subject to the planned National Code of Conduct for Health Care Workers.

The Lutheran Church of Australia supports this proposal.

Proposal 11–7

The Aged Care Act 1997 (Cth) should regulate the use of restrictive practices in residential aged care. The Act should provide that restrictive practices only be used:

- (a) when necessary to prevent physical harm;*
- (b) to the extent necessary to prevent the harm;*
- (c) with the approval of an independent decision maker, such as a senior clinician, with statutory authority to make this decision; and*
- (d) as prescribed in a person's behaviour management plan.*

The Lutheran Church of Australia supports this proposal.

Adequate resourcing is required to implement this practice and it is important that there are appropriate options to manage behaviour in a way that preserves and enhances the dignity of the person to whom the restrictive practice is being applied. It is not acceptable for people to be physically or chemically restrained as a regular practice. There are other alternatives, which can be life enhancing rather than diminishing.

Proposal 11–8

Aged care legislation should provide that agreements entered into between an approved provider and a care recipient cannot require that the care recipient has appointed a decision maker for lifestyle, personal or financial matters.

The Lutheran Church of Australia supports this proposal.

Proposal 11–9

The Department of Health (Cth) should develop national guidelines for the community visitors scheme that:

- (a) provide policies and procedures for community visitors to follow if they have concerns about abuse or neglect of care recipients;*
- (b) provide policies and procedures for community visitors to refer care recipients to advocacy services or complaints mechanisms where this may assist them; and*

(c) require training of community visitors in these policies and procedures.

The Lutheran Church of Australia supports this proposal.

Proposal 11–10

The Aged Care Act 1997 (Cth) should provide for an ‘official visitors’ scheme for residential aged care. Official visitors’ functions should be to inquire into and report on:

(a) whether the rights of care recipients are being upheld;

(b) the adequacy of information provided to care recipients about their rights, including the availability of advocacy services and complaints mechanisms; and

(c) concerns relating to abuse and neglect of care recipients.

The Lutheran Church of Australia supports this proposal.

Proposal 11–11

Official visitors should be empowered to:

(a) enter and inspect a residential aged care service;

(b) confer alone with residents and staff of a residential aged care service; and

(c) make complaints or reports about suspected abuse or neglect of care recipients to appropriate persons or entities.

The Lutheran Church of Australia supports this proposal.

Conclusion:

Thank you for the opportunity to respond to the questions and proposals regarding the Elder Abuse discussion paper.

Included in this submission are references to matters that could be deemed outside the scope of the inquiry, however, we believe that these are significant social justice issues that impact on, or are related to, the issue of elder abuse. These include:

- The suggestion that the high standard of screening systems for child protection be applied to all vulnerable people including aged people, and these screening systems inform and complement each other.
- Concern for those who fall outside of the child protection and aged care protection system who need similar protection i.e. adults with physical disabilities and/or cognitive impairment.

- Adequate resourcing for care provision for our most vulnerable people in order to ensure that appropriate services are available and staff are not placed under undue pressure.
- Education and training for community members to reduce the risk of abuse and to protect vulnerable older people.
- Education and training for staff to reduce the risk of abuse and to protect vulnerable older people.
- Development and documentation of reasonable expectations for JPs, GPs and conciliation processes.

The Committee for Ministry with the Ageing recommend that a framework be developed that supports our community to respect and protect vulnerable people, while recognising the need for remedial action and control mechanisms. We encourage the inclusion of processes that help our community to appropriately assist the elderly as their personal circumstances change. Preventative measures, conciliating as circumstances change or where there may be disputes between parties is encouraged. In many cases, the more that support is provided, the less there is a reliance on compliance.

May these proposals ensure that our elders can maintain their dignity and that their family and friends can be assured that they are safe.

Respectfully submitted on behalf of the Committee for Ministry with the Ageing,
of the Lutheran Church of Australia.

Dr Tania Nelson
Executive Officer – Local Mission