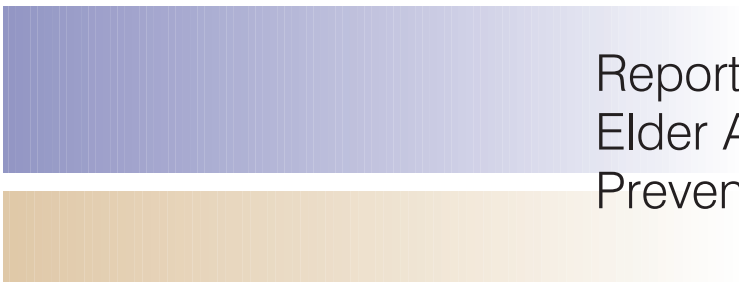




Strengthening
Victoria's
Response to
Elder Abuse



Report of the
Elder Abuse
Prevention Project

December 2005

Strengthening Victoria's Response to Elder Abuse

“Elder abuse is a violation of Human Rights and a significant cause of injury, illness, lost productivity, isolation and despair.”

“Confronting and reducing elder abuse requires a multisectoral and multidisciplinary approach.”

Active Ageing, A Policy Framework
World Health Organisation 2002

Acknowledgements

The Elder Abuse Prevention Project acknowledges the many contributions to the development of this report, including the Elder Abuse Prevention Project Advisory Committee.

The Advisory Committee represents the key stakeholders in the development of the elder abuse prevention policy in Victoria. Contributions are also acknowledged from the Department of Human Services.

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FOREWORD

Life is finite. Those of us, who live long enough, age. More and more of us are doing so. We hope to experience that process, fit in mind and body, and with the dignity, which comes from being in command of our own circumstances. The best way of ensuring this is to prepare for the later decades of our lives in advance of their coming. Exercising mind and body, engaging socially and spiritually with those about us, and opening our hearts to others are means of doing this.

Yet, age can be accompanied by vulnerability. There are those who exploit that vulnerability and abuse older people physically, mentally, financially, socially, and spiritually. Unfortunately the evidence suggests that the family itself is the context of much of this abuse.

Many people can recount examples of ill done to older men and women in Victoria. Sadly there is a risk that the incidence of abuse will grow as the numbers and longevity of older people increase. While the full extent of the problem cannot be quantified with confidence, what is clear is that abuse of older people is a pronounced social issue, which requires wise and ongoing responses from government and the community.

This report recommends strategies for the better prevention of abuse. It looks at ways of improving responses to harm inflicted on older people. It reflects an analysis of the ill done to those whose years are advanced, and of the best ways to counter that. The report presents a sound and balanced strategy, which if implemented well, would strengthen the services available to older men and women.

This report is based on material from:

- a series of public meetings in Melbourne and in the country;
- meetings with professionals and service providers;
- associations of retired people;
- representatives from the ethnic community;
- conversations with a number of people in informal surroundings; and
- a thorough examination of the relevant research.

Throughout the preparation of this report the people on the Advisory Committee have given generously of their knowledge, wisdom and compassion. Their work for older people has been sustained and effective over a long period of time. Without them this report would be much the poorer. As chair of the Committee I pay tribute to their contributions to the quality of this report.

When abuse, mistreatment and exploitation of older people occurs, society needs to make available information, support and practical assistance to help them find a remedy for their suffering and, hopefully, to regain a life of good quality. Our responses must be based on a strong commitment to the human rights of older people including their prerogative to guide what action is to be taken on their behalf. Those who do help should do so with empathy for, and understanding of, the men and women they seek to aid.

Some forms of elder abuse are criminal acts. In these cases, the law must take its course. This project focuses on ways of bringing a better life to older men and women who suffer through the incompetence, mismanagement, indifference, greed, ill-temper, aggression and heartlessness of the very people from whom they ought to have good care and attention, love and affection. What must be recognised is that abuse comes in many forms, some subtle and some extreme.

Because the types and causes are varied, responses must also be varied and flexible. Much could be done for older people subject to abuse, were more in the community alive to its reality and perversity. A community education campaign focusing the public's attention on the issue, and reinforcing the message that such abuse is not acceptable, would be a powerful strategy to this end. Having our society become more aware of the plight of some of our older people would be a considerable step forward in addressing their suffering. Informing them of how they themselves can find relief would be a significant way of easing their distress.

As a community we must forever be alive to the abuse inflicted on older people in whatever form. We must always seek to counter it. We must do so with a culture of care, competence and compassion. Proper measures taken now will set a firm basis for action presently and in the future. The approach recommended should inform whatever strategy is adopted now, or in the decades ahead, to enable older people to live well, in accordance with their rights and free from abuse.

This project called upon the knowledge and wisdom of many people. Some made submissions. Some attended consultation meetings. Some contributed to focus groups. Some formed the Advisory Committee. They gave generously of their time and wisdom. Their advice was based on deep insights and great empathy. Had they not done so, the outcomes of this project would have been much the less. This being a foreword, I have not space to name them. They are to be thanked.

May we all grow older, confident and happy.

**Barney Cooney, Chair, Elder Abuse
Prevention Project Advisory Committee**

EXECUTIVE SUMMARY

Elder abuse is an unacceptable, but unfortunate reality in our ageing society. It is a complex social problem that requires careful and considered responses.

In March 2005 Gavin Jennings, the Minister responsible for Senior Victorians, established the Elder Abuse Prevention Project to publicly consult and report on current prevention and response arrangements to elder abuse in Victoria.

The consultation has been informed by an Advisory Committee of relevant stakeholders from the community and across government, chaired by former Senator Barney Cooney (membership at Appendix A).

Following extensive community consultation, both with senior Victorians and existing services who currently respond to this problem, this report details the main findings of the consultation process and recommends a number of actions to strengthen current arrangements (recommendations listed on p.9 & 10).

Elder abuse presents in many forms and includes a range of potential harms: physical; psychological; sexual; financial; social and neglect. While some forms are extreme and involve criminal acts much of the problem is more subtle and is often hidden, occurring between older people and their families. Given the various forms of abuse, responses must be varied and flexible.

Conclusive research on incidence and prevalence of elder abuse is limited in Australia and more needs to be done at a national level to improve our understanding of the nature of the problem and effective prevention and response strategies.

Nevertheless, it is clear that increasing numbers of older Victorians will be at risk in our ageing society. The number of older people with dementia continues to increase. Older people requiring care and support are increasingly living in the community rather than residential care, but many are at risk of social isolation. The role of carers also needs to be acknowledged and their efforts supported, particularly in those situations where they themselves become victims of abuse.

Financial abuse is also emerging as a significant form of abuse, highlighting the need for financial literacy training, support from the financial services industry and education and specialised legal services for disadvantaged senior Victorians.

Limited attention has been given by governments, Commonwealth, State and local, to community education in this area. Strong support was expressed from the consultation for prevention strategies including community education activities that promote general awareness of this issue and the involvement of communities in better supporting older people. Naming and bringing the problem out into the open are critical to prevention strategies and assisting older people to deal with abuse.

Ongoing community education should be developed to raise awareness of the risks of abuse. This should be delivered sensitively in a way that does not unduly alarm senior Victorians or reinforce inappropriate negative stereotypes about ageing.

Consideration was given during the consultation to more protectionist approaches, including the introduction of mandatory reporting and statutory adult protection services. These measures were not supported by the Advisory Committee because of the minimal support for their introduction expressed through the consultation process and because the available evidence does not prove their effectiveness in relation to older people.

This position reflects a strong consensus view, expressed particularly by senior Victorians, that interventions in suspected elder abuse situations need to be based on an understanding of the rights and decision making capacities of the older person. This is consistent with current legislative and service arrangements which recognise the right of older people to determine their own course of action, and where required, access information and practical assistance to support their needs to deal with situations of abuse. Such support aims to assist older people regain their independence and control over their lives. This support also extends to the protections under the Guardianship and Administration Act 1986 for older people who lack capacity.

Improving the effectiveness of service responses was seen by participants in the consultation as an important area for improvement. Improved cooperation would extend beyond health and community service agencies and specialist services such as the Public Advocate and Victoria Police to also include general practitioners and the financial services sector.

Targeted resources and ongoing training and support are required to increase the knowledge and capability of these services and to develop local protocols for service agencies. Where appropriate existing professional education and training should be adapted to take account of the particular training needs in relation to elder abuse. This should occur prior to any significant implementation of community education programs to ensure that providers and agencies can respond to a likely increase in demand for support and assistance.

While a number of existing agencies has the capacity to respond to requests for assistance in relation to elder abuse, the consultation found many are limited to responding to their existing clients, and no statewide service exists to provide specialist information, assistance and support. The establishment of a statewide information and education service is recommended to provide information, telephone assistance and referral support to older people experiencing abuse. The service would provide community education and also act as a central point for the dissemination of research and materials on best practice to older people, service providers and the general community.

Considerable further work will be required in planning and implementing the recommended actions from the consultation. A range of Victorian Government departments has a responsibility in this area including the Department for Victorian Communities (DVC), the Department of Human Services (DHS) and the Department of Justice (DoJ). DVC should take lead agency responsibility for whole-of-government policy development of elder abuse prevention and response strategies including monitoring of implementation, research and evaluation.

The consultation has demonstrated a foundation of good practice and commitment to improvement from diverse community, private sector and government organisations. In considering the findings and proposed actions the government has a solid base of commitment to contribute to strengthening its response to elder abuse.

RECOMMENDATIONS

The following recommendations to the Minister responsible for Senior Victorians address the issues identified in the course of the consultation and aim to strengthen the response to the abuse and neglect of senior Victorians. The recommendations aim to ensure that the independence of senior Victorians is maintained, their dignity supported and their safety assured. They are all supported by the Advisory Committee.

Recommendation 1

That the Victorian Government strengthens its response to elder abuse based on current legislative and service arrangements. This approach recognises the right of older people to determine their own course of action, and where required, access practical assistance to support their needs to deal with situations of abuse and regain independence and control over their lives.

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Recommendation 2

That the Department for Victorian Communities be given lead agency responsibility for developing and maintaining a whole-of-government policy framework on prevention and responses to elder abuse, and for ongoing monitoring of implementation, evaluation and research.

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Recommendation 3

That community education programs be developed to raise awareness of the risks of abuse. This should be delivered on an ongoing basis and conducted sensitively in a way that does not unduly alarm senior Victorians or reinforce inappropriate negative stereotypes about ageing.

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Recommendation 4

That a statewide information and education service be established to provide information, telephone assistance and referral support to older people experiencing abuse. The service would provide community education and also act as a central point for the dissemination of research and materials on best practice to older people, service providers and the general community.

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Recommendation 5

That a broad alliance of government and community agencies be established to promote the prevention of abuse of older people and provide ongoing leadership and advice to the statewide service.

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Recommendation 6

That the Department of Human Services finalise the update of its existing guide for funded agencies on elder abuse and supports the development of local agency protocols. Resources should be provided to deliver training and support to agencies to complement prevention and community education strategies.

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Recommendation 7

That assistance is provided to new and existing local agency networks to support and further develop collaboration and cooperation, including inter-agency protocols, to appropriately respond and support older people subject to abuse.

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Recommendation 8

That Victoria's approach to the prevention of the abuse and neglect of older people be strengthened to improve cooperation and collaboration of prevention and response services, extending beyond the health and community services sector to include Office of Public Advocate, Victoria Police, financial services, legal and advocacy programs, community groups and spiritual leaders.

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Recommendation 9

That Victorian communities are supported to be age friendly where older people can feel safe and confident. Communities should also be supported to promote the active participation of older people and to minimise the risk of social isolation.

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Recommendation 10

That the Victorian Government works with the Commonwealth and other State and Territory governments to research both the extent of elder abuse and best practice approaches to prevention, detection and service responses.

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Recommendation 11

That consideration be given to the provision of specialised community legal services targeted to the specific needs of disadvantaged older people to improve access to justice.

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OVERVIEW

1. Introduction

The majority of senior Victorians lead healthy, active and independent lives. Most families support and respect their older family members and carers, informal or formal, are dedicated to providing for the safety and wellbeing of older people.

However, a small but significant number of older people experience abuse and neglect. This was recognised over 10 years ago, when *With Respect for Age: A Guide for Health Services and Community Agencies Dealing with Elder Abuse*, was introduced. While all adults are at some risk of abuse, older people are more at risk due to dependence, frailty and cognitive impairment. The abuse they suffer may be perpetrated because of ignorance, negligence or deliberate intent.

The abuse and exploitation of older people is unacceptable and government must use its best endeavours to, as far as possible, prevent such abuse and provide assistance to people who are at risk or who have been abused.

The Victorian Government is committed to supporting the independence and wellbeing of senior Victorians in the fulfilment of their aspirations. It acknowledges that there may be times when some people are vulnerable or at risk and that they require support and assistance to maintain or regain their independence and dignity. The reality of elder abuse has been recognised in Victoria, Australia and internationally for many years. As the numbers and longevity of older people increase over the next 20 years it is likely that the incidence of such abuse will also increase.

In March of 2005, the Minister responsible for Senior Victorians, established the Elder Abuse Prevention Project to consider strategies for strengthening Victoria's approach to this unacceptable social problem. The project was conducted by the Office of Senior Victorians in the Department for Victorian Communities and was assisted by the Aged Care Branch in the Department of Human Services. The project was also assisted by an Advisory Committee comprising of key stakeholder organisations and chaired by former Senator Barney Cooney (Membership at Appendix A).

At a broad level the project proposes that an empowerment and supportive approach should underpin prevention and response strategies and that raising community awareness and strengthening community capacity are fundamental to more effectively minimising the risk of abuse and neglect.

2. Project Objectives

The aim of the project is to review current policy and service arrangements in relation to elder abuse and to consider appropriate strategies to prevent such abuse and ensure victims of abuse receive adequate assistance and support. The project's Terms of Reference are detailed at Appendix B.

3. Purpose of Report

This report to the Minister for Aged Care outlines the findings of the project. It reports on the outcomes of a broad public consultation process undertaken during 2005 to ascertain community and service provider responses to a Consultation Paper released as part of the project in August 2005. It addresses a range of issues identified in the consultative process and makes a number of recommendations to the Minister based on the project's deliberations, consultations and current Australian and international policy, research and clinical practice models.

4. Nature and Extent of the Problem

The abuse and neglect of older people is a complex problem. While it can occur in institutional care, such as aged care residential services or hospitals, it is more likely to occur in the community. As such it has often been referred to as a hidden problem, under-recognised and under-reported due to stigmatisation and lack of community awareness.

The term 'elder abuse' has been adopted from the United States where it was first used in the 1980s to describe family violence situations involving older people. The term is still used in most countries. While there are some minor variations, there is agreement in Victoria, Australia and internationally about what constitutes elder abuse and this is reflected in the following definition, which has been adopted for the purpose of this report:

Any act occurring within a relationship where there is an implication of trust, which results in harm to an older person. Abuse may be physical, sexual, financial, psychological, social and/or neglect. (ANPEA, 1999)

More recently some jurisdictions have adopted terms such as 'the abuse of older people' or 'the abuse and neglect of older adults'. This change has occurred because of concerns that the term 'elder abuse' may attach a stigma to an older person who has suffered abuse and that its use may force concentration only on the 'oldest of the old'. Another consideration is that the term 'elder' has specific meaning in some ethnic and religious communities, such as it does with Australia's Indigenous communities (Spencer, 1995). In this report the term 'elder abuse' is used to represent the above definition.

Elder abuse is typically carried out by someone close to the older person, with whom they have a relationship implying trust. This can be family members such as spouses, adult children, grandchildren, siblings, other family members, friends or carers and may be perpetrated as a result of ignorance, negligence or deliberate intent.

In some cases, it is the continuation of long-standing patterns of physical or emotional abuse within a family. In other cases, it is the result of stressful situations such as changes in living arrangements and personal relationships which occur when the care needs of an older person increase because of growing frailty. It can also be the result of the personal characteristics of the 'abuser', such as substance abuse or financial dependency. In others, it is the result of the deliberate actions of people with predatory intent.

Some forms of abuse are criminal acts, for example physical and sexual abuse. Others, such as some forms of financial misappropriation, may not reach the level of criminality but may require redress through guardianship or civil proceedings. The range of acts or omissions which constitute abuse and neglect can be thought of as a continuum. At one end, harm results from a poor understanding of an older person's needs; at the other, harm results from aggression and serious physical assault.

There are also relationships outside of family and friendship networks that imply trust. For example, trusting relationships exist with financial planners and accountants who may have been providing professional services to an older person over many years. Abuse of this type is more appropriately classed as professional misconduct and possibly criminal activity. Victimisation and criminal acts by strangers are also excluded from the definition of elder abuse because of the lack of a trusting relationship and are therefore more appropriately classified as criminal activity.

There are difficulties in documenting the full extent of elder abuse. Much of the problem is hidden and data is not collected in any consistent manner. Anecdotal reports during the consultations suggested an increased awareness of such abuse. There are a range of difficulties in identifying the full extent of abuse and neglect of older Victorians and there is no reliable estimate of prevalence - that is the total number of ongoing cases in a given population at a designated point in time.

Various studies have been conducted in Australia and the estimates of prevalence vary from below 1 per cent to 5 per cent (Boldy et al., 2002, Australian Society for Geriatric Medicine, 2003). Results of different studies vary depending on the methodology and definitions used. As with other similar social problems such as child abuse, it is likely that the problem is significantly under reported. No systematic study of prevalence rates has been conducted in Victoria. Notwithstanding the difficulties in establishing the extent of abuse of older people, available research indicates that elder abuse is a concern for somewhere between 1 and 5 per cent of the ageing population. Research indicates that the years from 75 to 85 is the time when abuse is most likely to occur (Teaster 2002). Currently, there are 337,403 people aged 75 years and above in Victoria. This number is expected to grow to 502,834 by 2021. This is an increase of almost 50 per cent in fifteen years.

Three factors are the likely drivers for an anticipated growth in the numbers of older Victorians who will be subject to abuse.

These are:

- increasing numbers of older people, in particular the significant increase in the number of people aged 75 years and above over the next 15 years;
- increasing longevity; and
- increasing numbers of people with dementia.

When considering prevalence it is also important to differentiate between the different forms of elder abuse, from extreme physical abuse to more subtle forms. Differentiation is important so that the allocation of preventive and response resources can be adjusted according to the relevant trends.

For example, research throughout the 1990s indicated that physical and emotional abuse were the most common forms of abuse. However, more recent studies indicate growth in financial abuse. Many studies now report financial abuse as 50 per cent of all abuse perpetrated against older people.

Older people are not a homogenous group. In 2001, some 22 per cent of senior Victorians were born overseas in non-English speaking countries and almost one-third use a language other than English at home. By 2021, this is expected to become 30 per cent. Increases will be most pronounced among those born in Vietnam, Sri Lanka, Malta, India, FYR Macedonia, Greece and Croatia.

In 2001, 56 per cent of senior Victorians aged over 60 years were women, while 65 per cent of older people aged 80 years and over were women. In rural areas, these figures were 63 per cent and 71 per cent respectively.

Cultural factors influence the way in which some forms of abuse are viewed. Culturally specific strategies should address such differences, with the involvement of the community in framing 'messages' vital to the success of any program. Awareness of ethnic and cultural diversity is vital to the design of programs that meet the specific needs of distinct groups.

Australian research, while limited, does provide an evidence-based understanding of the nature and impact of elder abuse. Much of the research has focused on prevalence. One of the difficulties is the lack of data and research evidence on the effectiveness of existing responses.

Elder abuse is not categorised as a diagnostic-related category for data collection purposes in the health system and the lack of standard data categories limits the capacity to build a better picture of what is happening. Funding of research and consideration of standardised data collection categories across agencies needs to be considered.

Recommendation 10:

That the Victorian Government, together with the Commonwealth and other State and Territory governments, research both the extent of elder abuse and best practice approaches to prevention, detection and service responses.

5 Current Victorian Legislative Framework and Service Arrangements

The current Victorian approach to elder abuse prevention is a combination of service responses and legal interventions which serve to protect the independence, dignity and safety of senior Victorians. These include support from health and community service agencies, criminal and civil justice remedies and complaint and compliance mechanisms.

Current legislative arrangements and service responses in Victoria provide for an 'integrated' approach to responding to elder abuse. They recognise the right of older people who have capacity to determine their own course of action. Where required, access to information and practical assistance is available to support their needs to deal with situations of abuse. Such support aims to assist older people to regain their independence and control of their lives. This support also extends to legislative protections available for older people who lack mental capacity.

Health and Community Services

In 1995, the Department of Human Services (DHS) released *With Respect for Age* which provided information and referral contacts for service providers. The guide was widely distributed throughout the Aged Care Industry and to service providers and carers. It has served to guide agency practice in Victoria. The aim of the guide was to provide services with information about elder abuse characteristics, indicators and risk factors and to encourage agencies to develop policies and protocols for responding to suspected cases of elder abuse.

Since then many Victorian services have built up specialist expertise and practical wisdom in navigating complex elder abuse scenarios, especially where family members are involved. In addition, some agencies have developed formal and effective protocols and resources that have been shared within local networks.

Aged Care Assessment Services (ACAS) are an integral component of the Victorian approach and have the responsibility of assessing the physical, medical, social and psychological needs of older people and helping them gain access to appropriate services via referral processes. These multidisciplinary teams are well placed to identify situations of abuse or neglect and to take appropriate action.

A range of local health and community services agencies plays a critical role in ensuring actions are taken where needed in response to elder abuse. When agencies suspect a case of elder abuse consultations indicated that they follow a similar process of investigation and information and referral procedures. The majority of agencies are skilled in detecting and initiating responses to suspected cases of elder abuse.

Initial service responses to a case of abuse may include reassuring the older person that assistance is available. It may also include the provisions of additional in-home services, or in more serious cases referral to an appropriate specialist organisation.

All agencies participating in the DHS review related the complexity of responding to suspected cases of elder abuse. Managing key relationships, including those with carers and/or family members who may be implicated, was especially complex, particularly where the living arrangements of the older person could be affected.

... the greatest difficulties arise in identifying appropriate and effective interventions in abusive situations that involve primary carers and close family members. It is often difficult to address the problems in situations involving primary carers, because the abuse, or inappropriate behaviour, is already occurring and may be entrenched as a means of dealing with stressors... In these cases finding an appropriate intervention that does not involve removal of one of the parties, and possible breakdown of the care relationship, may be extremely difficult.

Alzheimer's Australia Victoria

Standard Practice of Service Agencies

The majority of service agencies offer both direct assistance and referral to their clients. In many cases, agency staff draws on the expertise within their local networks to identify strategies to address complex cases of elder abuse. Good practice and research, practical training and assistance from larger experienced agencies such as ACAS and the Royal District Nursing Service (RDNS) support effective responses.

The processes agencies usually follow are:

1. **Worker suspects abuse.** Frontline workers may suspect that something is wrong by witnessing the abuse first hand or noticing a number of risk factors relating to their client. In most cases this suspicion will be reported to their supervisor. Agency responses, as a first step, can include information and social support.
2. **Case conference called.** Where agency staff believe the abuse is serious and requires further intervention, a case conference will be called. Attendees can include relevant professional including social workers if the agency has access to this resource. At this time the suspicions and evidence will be explored and an action plan developed with a number of options.
3. **Identification of options.** Most cases will not be clear cut and agencies will explore a number of options to assist the older person including:
 - accessing more services for the client to relieve carer stress and further support the care of the older person;
 - informing the older person of their rights and options for change in the circumstance and of formal services and support available to implement these;
 - approaching carers and family members to inform and educate them about alternative ways to support the older person; and
 - monitoring and continuing to observe the situation until more evidence becomes available or the situation becomes resolved.
4. **Evidence and documentation.** Many cases will require the documentation of evidence, especially those that formally proceed to the Office of Public Advocate (OPA) and the Victorian Civil and Administrative Tribunal (VCAT).
5. **Referral to other services.** The type of abuse that is reported, together with the individual factors of each case, will influence the type of referral made in each case. This may include referring to ACAS for testing competency, seeking advice from the OPA or VCAT and sometimes liaising with other local agencies to implement additional support. Larger agencies such as RDNS have in-house professional and experienced teams to assist staff that suspect elder abuse of one of their clients. This includes case management and call in of a social worker. They have policies and procedures as well as protocols with other agencies.

Referral pathways can include community health services, OPA, medical practitioners, State Trustees, counselling services (including financial counselling services), advocacy services (i.e. Residential Care Rights Services), legal services, Victoria Police and family violence services.

'... health professionals, particularly nurses, are often the people in whom elders confide, and should pay attention to the evidence of emotional and financial abuse. Health providers should be a source of information for their clients, and directing their older clients towards information and services and to help end the abuse should be considered part of their job.'

Women's Health Victoria, submission

Criminal and Civil Justice

The justice system is based on the premise that adults are capable of making informed decisions and choices regarding their own lives, unless it is demonstrated that they lack the capacity to do so. The Victorian criminal code and civil justice procedures provide a range of formal interventions which may be accessed by older people and include the following:

- Civil action procedures;
- Existing Legislation -
Guardianship and Administration Act 1986 (Guardianship Orders);
 - *Crimes Act 1958*;
 - *Summary Offences Act 1966*;
 - *Crimes (Family Violence) Act 1987* (*Intervention Orders*); and
- Pilot Family Violence Courts.

Guardianship and Administration Act 1986

In Victoria, guidance for the balancing of the need to protect against the right to self-determination is provided in the Guardianship and Administration Act 1986, which protects people with a disability, where disability is defined as: intellectual impairment; mental disorder; brain injury; physical disability or dementia.

The Act at Section 4(2) set out the principles that are to be followed in its administration.

- (2) It is the intention of Parliament that the provisions of this Act be interpreted and that every function, power, authority, discretion, jurisdiction and duty conferred or imposed by this Act is to be exercised or performed so that-
- (a) the means which is the least restrictive of a person's freedom of decision and action as is possible in the circumstances is adopted; and
 - (b) the best interests of a person with a disability are promoted; and
 - (c) the wishes of a person with a disability are wherever possible given effect to.

Office of the Public Advocate

The Office of the Public Advocate (OPA) under the Guardianship and Administration Act has responsibility to promote the rights and dignity of people with a disability. The OPA does this in a manner which will strengthen their position in society and reduce their exploitation, abuse and neglect. The services provided by the OPA are guardianship, advocacy and investigations. The appointment of the Public Advocate as the guardian for a person with a decision-making incapacity should be considered as a last resort.

The OPA exercises its advocacy role based on its interpretation of the Act. The three main principles which guide its advocacy practice are: (s16(1)(e) and s22(2)(a)):

- that the wishes of the person must be considered;
- that the best interests of the person must be pursued; and
- that the least restrictive option must be sought.

Where people have a disability that affects their capacity for thinking and decision making the OPA is required to promote their rights and dignity and assist them in a manner which, among other things, gives effect to their wishes wherever possible. Where a person has full mental capacity, their right to self-determination prevails within the restrictions that apply to all people.

Over two-thirds of the OPA's clients are 61 years or older. Dementia is the principal type of disability in guardianship cases and these are expected to increase at a rate of 10 per cent per annum.

The OPA also has a well-developed community education program. A recent initiative is its series of public information forums on Enduring Powers of Attorney run in conjunction with the Ministerial Advisory Council of Senior Victorians. The forums provided practical guidance to participants on setting up an enduring power of attorney that is comprehensive, secure and reflective of an individual's wishes.

Victoria Police

Victoria Police provide local and specialised response services to the community including community education and crime prevention. As part of its Local Priority Policing focus, Victoria Police aims to meet the individual needs of the communities they serve. As part of that focus, all police stations have a formal partnership with local service providers and community groups, many of which have representatives on Local Safety Committees. Other programs include community care registers which involve more specific service delivery to residents in need of specialised care. This can include uniformed officers performing welfare visits to at risk residents and facilitating appropriate linkages to community service providers.

The Victorian Government has already made important changes to the way in which the justice system responds to family violence. Many behaviours which comprise family violence are criminal offences, and these may include physical violence, sexual abuse, stalking, property damage, threats and homicide. Other behaviours which are not categorised as criminal offences, but which can be just as destructive, include coercive or controlling behaviours and any behaviours that may cause a person to live in fear, to suffer emotional and psychological torment, financial deprivation or social isolation. Just as these behaviours may be considered in terms of family violence, if the person suffering their effects is an older person, they will also be considered in terms of elder abuse.

The introduction of the Victoria Police Code of Practice for the Investigation of Family Violence has enabled police to provide a stronger, more consistent and accountable response to issues around family violence, which may include elder abuse. Police must take some action in all family violence situations, choosing from one, or a combination, of three options:

- referral to another service;
- initiating criminal action; and/or
- initiating civil protection action which may result in the issuing of an Intervention or Interim Intervention Order.

Behaviours which constitute a criminal offence require full investigation. The code acknowledges that older people are also victims of family violence and therefore its provisions apply equally to them. Work continues to proceed on the implementation of Victoria's Family Violence Strategy and older people are afforded the same levels of protection and assistance as other members of the community.

As a result of examining the issue of elder abuse within the context of the project, Victoria Police has decided it will draft and include an expanded section, specifically addressing the issue of elder abuse prevention in the reprint of its code. In addition a newsletter dedicated to the issue will be distributed through its Family Violence networks.

Complaint and Compliance Mechanisms

A range of formal complaint and investigative procedures exist to address abuse in institutional care settings. The Commonwealth Government has established the Aged Care Complaints Resolution Scheme for anyone wishing to make a complaint about a Commonwealth funded aged care service, e.g. nursing homes. The scheme is a free service which seeks to resolve complaints about the health, safety and welfare of people receiving aged care.

The Health Services Commissioner in Victoria assists in the resolution of complaints against any health service provider who has, among other things, failed to provide satisfactory care or denied a patient their respect, dignity or privacy.

In addition the Aged Care Standards and Accreditation Agency manages the residential aged care accreditation process. The standard in relation to resident lifestyle is based on the principle that residents retain their personal, civic, legal and consumer rights and are assisted to achieve active control of their own lives within residential care services and in the community.

The Victorian Government's overall approach to elder abuse reflects its commitment to the United Nations Principles for Older Persons, which uphold and support the human rights of self-determination, dignity and the right to live in safety. These principles are also reflected in the Government's *Positive Ageing Strategy* and social policy action plan, *A Fairer Victoria*, which commits to addressing disadvantage and assisting senior Victorians to support and maintain their independence.

6. Community Consultation

The consultation paper released by the project in August 2005 set out a broad framework to be considered in relation to elder abuse prevention. It presented community education and awareness and the strengthening of service responses as the two principal preferred strategies. Public submissions were sought and a number of public forums were held through August to November 2005.

The overwhelming response from the consultation, both from the public forums and submissions, was support for the principle of self-determination and empowerment of older people as the basis for addressing abuse and neglect.

Many submissions pointed to the complexity of abuse against older people and the need for a better understanding of how the contributing factors interact, the importance of learning from developments in other countries and the need for further research in Australia.

Education and community awareness strategies were endorsed as appropriate responses and a strong preference was expressed for education strategies which provide information to assist older people to better organise their affairs and plan for their future needs.

Some submissions also argued that further work is required to more effectively define and conceptualise the problem of abuse of older people, particularly its underlying structural, social, and economic causes. This was also seen as a prerequisite to implementing effective community and professional awareness programs.

'We plan for everything, even our own funerals so why don't we plan for our old age.'

Participant comment, public forum Older Person's Action Centre and Housing for the Aged Action Group, 10 May 2005, Melbourne

In general terms, the need to better integrate services was accepted. However, this was seen as somewhat problematic and would require adequate allocation of resources. Existing models such as Primary Care Partnerships were suggested as good starting points.

COTA and the Victorian Association of Health & Extended Care (VAHEC) organised a round table discussion in October 2005 on service responses. The discussion covered issues such as community education, secondary consultation roles, the need for training and the need for an understanding of cultural sensitivities. It was agreed that older people, services providers and law enforcement agencies need to collaborate in the development of procedures.

Integrated approaches responding to the occurrence of elder abuse are more able to provide a holistic and flexible response to the differing situations of abuse as they occur for individual older people. Holistic and flexible responses may also involve treatment of the abuser and/or mediation in some circumstances.

Victorian Association of Health and Extended Care, submission.

Review of With Respect to Age Service Guide

DHS, as part of its participation in this project, is undertaking a review to update the existing guide, *With Respect to Age*, in consultation with stakeholders and is also developing a communication and training plan to support the implementation of the revised guide in 2006 and beyond. This has included targeted consultations with service providers to consider their current responses and procedures, including inter-agency cooperation, to elder abuse. Over 25 individual consultations with stakeholders were held, including meetings with the OPA, Victoria Police, Alzheimer's Australia Victoria, hospitals (including Social Work Departments), ACAS managers, mental health professionals, regional health service providers in Ballarat and Bendigo and peak body organisations such as the Residential Care Rights Services and Council on the Ageing Victoria (COTA).

Culturally Diverse Needs

Targeted consultation was also undertaken in recognition that different cultural groups may experience sensitivities in relation to the treatment of older people and their role within families and that an older person's response to the problem may be influenced by their cultural background. The project supported the Victorian Ethnic Communities Council (VECC) and COTA in organising a forum on the issue and the discussions which took place informed VECC's submission to the project.

VECC supports an empowerment approach which involves community education and awareness and states that such an approach is closely linked to advocacy and integrated models of service response. In this regard, its submission noted that ethnic communities would benefit more from a collective empowerment approach rather than an individualistic approach. This preference serves to illustrate the need for appropriately targeted programs in the development of preventative strategies.

Financial Abuse Roundtable

A financial abuse roundtable was held to raise the financial services industry's awareness of the issue and discuss the Victorian Government's efforts to explore how to most effectively address this issue. The roundtable included a broad range of stakeholders including the Australian Bankers Association, the Financial Service Industry Ombudsman, the Public Advocate, Financial Planning Association, ANZ, Westpac, Australian Seniors Finance, Consumer Credit Legal Service and Consumer Affairs Victoria.

The roundtable confirmed that financial abuse of older people needs further consideration and discussion so as to collaboratively develop government and industry strategies. The role of this sector in providing advice to clients to protect or transform assets and/or income makes it a natural partner with government in relation to financial abuse.

The roundtable has established a basis for future cooperative actions and highlighted that the banking and finance sector has an important role to play in preventing financial abuse. This role can extend from education to being part of a wider systemic response. The financial services sector needs to be made more aware of the significance of this issue and build upon its current expertise to adapt to the changing financial needs of an ageing population.

Abuse in Indigenous Communities

The work of the Victorian Indigenous Family Violence Task Force and the Government's response to its work was also considered. In order to better understand the needs of Indigenous Elders, discussions were held with representatives of the Indigenous community in Bendigo, including options for collaborative efforts to address the abuse of Indigenous Elders. It is intended that these discussions continue as the project recognises that wider community consultation is required.

The project also notes the report of the Office of the Public Advocate in Western Australia: *Abuse of Older People in Aboriginal Communities Project* (Office of Public Advocate WA 2005). The project's consultations reflect the view expressed in that report that strategies to address abuse in Indigenous communities involve partnerships at a local level which will strengthen the community's capacity to develop local initiatives.

EMERGING ISSUES

7. Dementia

The increasing incidence of dementia is an important consideration in considering appropriate response strategies to elder abuse. This is because mental impairment is a proven risk factor for abuse. The OPA reports dementia as the most common cause of disability in guardianship clients (43 per cent) and has highlighted that the dramatic rise in the number of people in the over-80 age group will place severe pressure on its capacity. (OPA, 2003/04).

The current situation in Victoria is:

- more than 50,000 Victorians have dementia, 1.04% of the population;
- in 2005 there will be approximately 13,400 new cases of dementia or nearly 40 new cases every day;
- a further increase of 17.8% is expected over the next five years;
- one in four Australians with dementia is Victorian;
- Victoria has a higher incidence and prevalence of dementia than most other states and territories. This is due to its older population - this is expected to continue; and
- regional Victoria has higher rates of dementia than Melbourne due to its older population.

By 2050:

- the number of Victorians with dementia is projected to be 176,000, a near fourfold increase from 2002-2050;
- 2.84% of Victorians are expected to have dementia; and
- nearly 43,000 new cases of dementia are expected to be diagnosed every year.

(Access Economics, 2005)

8. Financial Abuse

The consultations identified financial misappropriation and exploitation as being an increasingly reported concern of older people. Financial abuse is defined as: 'the illegal or improper exploitation or use of funds or resources of the older person.' (WHO, 2002). Financial abuse can take many forms, including:

- taking, misusing or using funds or property without permission;
- misusing ATMs and cards;
- abusing joint signatory authorities;
- denying access to use of funds or property; and
- promising long-term care in return for money or property (Hafemeister, 2003).

Australian research indicates that financial abuse is one of the most frequently reported forms of abuse. Some reports suggest that up to 50 per cent of reported abuse is financial in nature. Evidence also suggests that victims of financial abuse experience more than one form of abuse. For example, financial abuse is often accompanied by either physical and/or psychological abuse. (Elder Abuse Prevention Unit QLD, 2004 Annual Report)

To date, financial abuse has received less attention than some other forms of abuse. In the next two decades billions of dollars will transfer between generations. It is important that this occurs in a manner and at a time that accords with the wishes of older people.

Financial abuse can be particularly complex and sometimes can occur with the tacit consent of the older person. This may be the case where the older person considers their carer has some form of

entitlement. In some cases it is difficult to distinguish between unwise and exploitative transactions. The issues of abuse of enduring powers of attorney, testamentary capacity and will-making and education for older people on financial planning and strategies to prevent misappropriation were raised through the consultations.

The project commissioned the preparation of a background paper on this issue. This paper was prepared by COTA Vic. It examines the literature on this subject and provides some suggestions for possible respective roles of government, the business sector and service providers in this area (COTA, 2005).

Education and information provision has particular relevance to the protection of an older person's assets. Financial literacy and proper financial planning have been identified as appropriate preventive strategies in relation to many forms of financial abuse. Any such approach would also involve raising the awareness of the general community and the relevant professions including those in the financial services sector.

Increased awareness in the community of Elder Abuse through a Government sponsored campaign. Currently, State Trustees is active in promoting our services ... however we believe there is an opportunity to build the strength of the message and ensure issues such as Financial Elder Abuse and its prevention are communicated on a broader scale to all groups. Increased vigilance around the preparation of Wills and Enduring Powers of Attorney to reduce the risk of Financial Elder Abuse.

State Trustees, submission.

9. Access to Legal Advice and Services

Australian and international research identifies many barriers for older people in accessing legal services including:

- lack of awareness of legal rights;
- lack of confidence in enforcing their rights;
- the affordability of legal services;
- lack of awareness on where to obtain legal information;
- lack of interest and/or expertise by some legal practitioners in older clients and their specialist legal needs; and
- potential conflict of interests when legal practitioners for older people are arranged by family members. (Law and Justice Foundation NSW, 2004)

The legal profession has been identified as being well positioned to respond to the potential financial abuse of older people. Legal practitioners undertake significant roles for older people and their families in drawing up wills, powers of attorney and a range of other legal documents. Legal practitioners can play an important role in advising older people and monitoring out-of-character or sudden changes in wills and asset distribution.

Interest in 'elder law' is increasing in the legal profession. Several submissions to the project have highlighted the importance of keeping the legal profession informed of emerging issues regarding the legal needs of older people. In particular possible abuses of enduring powers of attorney arrangements and protocols for determining testamentary capacity have been suggested as issues for further education. The project recognised the opportunity to improve the knowledge of solicitors about 'elder law' issues through the professional education programs run by the Victorian Law Society.

Several submissions noted that initiatives have been undertaken by the Queensland and NSW governments in establishing specialist legal services for older people. In Queensland, Seniors Advocacy and Information Legal Service (SAILS) has been funded to provide a specialist legal program addressing issues of abuse for older people. In NSW, there have been significant initiatives with the publication of a report on the legal needs of older people in NSW by the Law and Justice Foundation. The University of Western Sydney has also established a specialist program in elder law. The Elder Abuse Prevention Unit in Queensland argues that older people require access to free legal services to assist them in recovering lost assets. (Elder Abuse Prevention Unit, 2005)

The project considers that the establishment of specialist legal services for disadvantaged older people should be considered, particularly in the context of the emerging issue of financial abuse.

Recommendation 11:

That consideration be given to the provision of a specialised community legal services targeted to the specific needs of disadvantaged older people to improve access to justice.

10. Mandatory Reporting and Statutory Adult Protection Services

Consideration was given during the consultation to more protectionist approaches to dealing with elder abuse. This included mandatory reporting and a 'unit' which would investigate suspected cases of abuse such as an adult protective service for older people. The basis for their introduction was the contention that Victoria's current approach, including its criminal code, was inadequate, particularly where the abuse was hidden by a carer and denied by the older person. It was argued that specific 'elder abuse legislation' was required. Another claim was that, in some cases, police were reluctant to provide assistance.

Proponents of a protectionist model argued that where a worker suspected abuse, they should be legally required to report it, thereby ensuring it would 'at least' be investigated. If it was later established that abuse had occurred, the alleged perpetrator would then be appropriately dealt with. In this process it was argued that the older person would be 'empowered' as they would be free from abuse. It was further argued that within the current approach such 'intervention' was not possible and therefore the current approach is inadequate.

In considering the merit of this position it needs to be recognised that elder abuse is a broad range of harms, from subtle, social and emotional transgressions, to acts of criminality. Victoria's criminal code addresses a wide range of criminal

behaviours including physical and sexual assaults and fraud. There has been no suggestion that the criminal code is inadequate. For example, if a sexual assault is committed against an older person then all the criminal justice procedures which attach to 'sexual assault' will also attach to the assault of an older person. The criminality of an action is not lessened because of the age of the victim. The justice system is equipped to address criminal acts as it is equipped to extend compassion when appropriate. It is therefore not accepted that the criminal code in Victoria is inadequate to deal with those forms of elder abuse which are crimes.

The Victorian Government has also over recent years made important changes to the way in which the justice system responds to family violence and this includes the Code of Practice that requires Victoria Police to respond to all cases of family violence based on the evidence presented.

The establishment of an investigative unit was generally only supported from workers of smaller service agencies, who felt that it would be helpful if a service was established as a resource to assist them in difficult cases where an older person may be unreceptive to their suggestions for assistance.

The service would have investigative powers and statutory authority to enter into an older person's home and question them and their family or carer/s to establish whether abuse was occurring. It was not made clear why a separate adult protective service with these statutory powers would be needed, given police are available to assist in providing access to an older person's home, where there is a suspicion of elder abuse occurring.

It was also argued that such a service would be able to uncover abuse which was being perpetrated upon isolated older people who were not receiving any health or community services. However, it was not made clear why police could not respond to this situation.

A further element of this approach was the introduction of mandatory reporting. This approach was based on 'Adult Protective Services' (APS) models that have been established in the United States. APS have been established by all 50 states of the United States and most states have mandatory reporting laws which cover a wide range of professionals.

The remaining few have voluntary reporting systems. Israel and some of the Atlantic Canadian provinces are other jurisdictions which have adult protective services.

In the United States, adult protective services are available to vulnerable adults, who are defined as people who are either being mistreated or in danger of abuse and who, due to age and/or disability, are unable to protect themselves. APS may provide or arrange for a wide selection of medical, social, economic, legal, housing, law enforcement or other protective emergency or support services (Teaster, 2002). The precise nature and scope of the services provided differs according to the respective establishing statutes. However, what is common is an investigatory power.

APS will undertake investigations regardless of the wishes of an older person, and refer matters for criminal prosecution. An older person who does not wish to support a prosecution, in some cases will not be able to influence the referral. Teams may include nurses, social workers and home care workers. The extent of police involvement is dependent upon local/State arrangements.

The project noted several major research studies which question the effectiveness of mandatory reporting. Members of the public are said to make the majority of reports rather than those who have been mandated. In this context, it is important to note that the absence of mandatory reporting, be it in the United States or Australia, does not mean the absence of reporting altogether. In Victoria there is no prohibition on members of the public or professionals voluntarily expressing their concern to a response service be it the OPA, the police or a community-based service.

A report to the United States Select Committee on Aging, based on a survey of states regarding reporting laws, be they mandatory or voluntary, found that reporting laws were not considered the most effective factor for identifying, preventing, or treating elder abuse. The factor most noted as effective in terms of 'identification' was a high level of public and professional awareness. Services provided to older people at home were noted as being the most effective for both prevention and treatment. Very few respondents said that reporting laws were effective for prevention or treatment (GAO, 1991). Research has also shown that the majority of cases which are identified in a mandatory reporting scheme are already known to the relevant community agencies (Crystal, 1987).

This illustrates the difficult situations that workers need to manage: the reality of the right of competent people to choose to remain in unsafe environments. A mandatory reporting scheme has the potential to trigger unnecessary capacity proceedings.

Many jurisdictions throughout the world have in place legislation to protect and support vulnerable adults, that is, any person over 18 years of age who because of a lack of capacity requires state protection the framing of much of this legislation supports the autonomy of the individual as much as is possible. These jurisdictions do not have mandatory reporting as a component of their response. No Australian jurisdiction, after having considered the issue has introduced mandatory reporting.

One of the other major difficulties identified with a system based on APS and mandatory reporting is that it becomes a crisis response service with little or no emphasis on preventive activities.

The introduction of mandatory reporting and adult protective services were not supported by the Advisory Committee because of the minimal support for their introduction expressed through the consultation process and that the available evidence does not prove their effectiveness in relation to older people. This position reflects a strong consensus view, expressed particularly by older Victorians, that interventions in suspected elder abuse situations need to be based on an understanding of the rights and decision making capacities of the older person.

This is consistent with current legislative and service arrangements which recognise the right of older people to determine their own course of action, and where required, access information and practical assistance to support their needs to deal with situations of abuse. Such support aims to assist older people regain their independence and control over their lives. This support also extends to the protections under the *Guardianship and Administration Act 1986* for older people who lack capacity.

Recommendation 1:

'That the Victorian Government strengthens its response to elder abuse based on current legislative and service arrangements. This approach recognises the right of older people to determine their own course of action, and where required, access practical assistance to support their needs to deal with situations of abuse and regain independence and control over their lives.'

A STRENGTHENED FRAMEWORK FOR RESPONDING TO ELDER ABUSE

The following section outlines a strengthened framework for responding to elder abuse including:

- provision of community education to raise awareness;
- support for communities to feel safe and confident and address social isolation;
- building professional knowledge and capability;
- improving the effectiveness of service responses; and
- providing support to older people in need of assistance.

11. Community Awareness

Since the 1970s many communities around the world, supported by their governments, have embarked upon education campaigns against spousal (family) abuse and child abuse. The campaigns have increased awareness of the issues and decreased tolerance for these forms of abuse. Their focus was preventive, stopping abuse from occurring in some instances, reducing its severity in others and encouraging people to utilise their rights.

The community's awareness of the issue of the abuse and neglect of older people needs to be similarly improved. Education is not limited to learning new things; its value is also in changing attitudes and behaviours. This is why education is integral to any preventive strategy.

Older people experiencing abuse would be assisted and empowered by having access to proper information about their options. Knowing what services are available would help them protect themselves and use their rights. Some older people may come to realise that the way they are treated by their families does constitute abuse.

For example, they may not immediately recognise that when a younger family member uses their parent's money without the full knowledge and free consent of the parent, that an 'abuse' has occurred.

Families, and the community more generally, also need to be aware that some older people suffer abuse and neglect from those close to them. Where the abuse is a result of ignorance or negligence, information and education would be instrumental in alerting family members and other carers to what behaviours are inappropriate. Furthermore, the range of behaviours that may constitute criminal behaviour, also need to be better understood.

'AMA Victoria supports the expansion of education programs intended to increase public awareness of the nature and prevalence of elder abuse thereby cultivating a public sense of obligation to respond to the issue, and empowering seniors with the required knowledge and community support to overcome adverse circumstances'.

Australian Medical Association (Victoria) submission.

Formal education and training with regard to the needs of older people has traditionally focused on healthcare professionals and community service workers. Older people's problems were seen as issues for the aged care sector. As elder abuse became recognised, it was the aged care sector that responded to the needs of victims. Professional training in the sector included the development of skills for the identification of abuse and guidance as to the appropriate ways in which assistance should be made available to an older person. A common understanding of the problem was established and knowledge as to appropriate means of intervention was developed. These achievements contributed to the integration of service responses and helped to develop a sense of shared responsibility.

Changes in society over the 30 years since elder abuse was first identified have seen expansion in the scope of the acts or omissions which constitute abuse.

Education and awareness is an ongoing effort. The unacceptability of all forms of abuse needs to be continuously reinforced through comprehensive, targeted strategies which provide appropriate information and present practical strategies to older people, the community and those professionals who may have a role in assisting to safeguard against abuse.

As with other similar family/social issues, coordinated efforts across all sectors are required to achieve improved awareness and better understanding. Effective methods of social advertising need to be employed with staged introductions to ensure information and support services are available. Mechanisms for the collection of baseline data and evaluation of education and awareness efforts also need to be considered.

The range of professionals involved in training or awareness programs needs to extend beyond the health and community services sector to include a wide range of sectors, including banking and financial services, legal professionals, accountants and real estate agents, as well as spiritual leaders who play important educative roles in particular communities.

Government agencies providing services outside of the health sector should also be appropriately trained. Strengthening the knowledge base of a range of professionals and adding to their confidence with the development of clear guidelines and protocols will improve the delivery of appropriate responses.

Community education should also acknowledge the diversity of senior Victorians, who require information and support to enable them to make their own decisions and take action to both prevent and stop abuse. Education strategies need to recognise cultural diversity, Indigenous groups and the needs of older gay and lesbian people. These and other groups need to be consulted and be involved in education and awareness campaigns. It is also essential to have written information translated into community languages.

Recommendation 3:

That community education be developed to raise awareness of the risks of abuse. This should be delivered on an ongoing basis and conducted sensitively in a way that does not unduly alarm senior Victorians or reinforce inappropriate negative stereotypes about ageing.

12. Supporting Safe, Confident and Age-Friendly Communities

Regrettably in our community today some older people feel unwelcome, marginalised and invisible. Social isolation is an increasing social problem and a recognised risk factor for abuse. In some cases, keeping an older person isolated can be a strategy for hiding abuse, inhibiting the ability of the older person to seek assistance.

Communities that are well-connected and inclusive of older people assist to create the circumstances where the abuse and neglect of older people can be reduced. Community strengthening is a sustained effort to increase involvement and partnership to achieve common objectives. It involves individuals, community organisations, government, business and philanthropic organisations working together to achieve agreed social, economic and environmental outcomes.

Initiatives promoted as a result of *A Fairer Victoria*, including those specifically related to older people, will help develop more capable communities that are inclusive of older Victorians. These initiatives include lifelong learning and developing Age Friendly Communities in partnership with the Municipal Association of Victoria and COTA (Vic).

These and other initiatives are directed at promoting inclusion and participation of older people, thereby reducing the circumstances that give rise to social isolation. The initiatives are place-based and include the neighbourhood. They are also directed to older people helping each other through regular contact.

Other Victorian Government initiatives also aim to strengthen the capacity of individual older people and their communities. The Healthy and Active Living Program is one example of activity-based initiatives that draw older people together in productive activity. The *Go For Your Life* statewide physical activity campaign is also a broader whole-of-government initiative that encourages and draws together people of all ages in activities that stretch individual physical and mental wellbeing.

The Premier's Financial Literacy for Older Women strengthens capacity of older women to make informed judgments about their finances. Initiatives such as the education program on Enduring Powers of Attorney run by OPA and the Ministerial Council of Senior Victorians are of crucial importance to older participants who will be better placed to make well-informed plans and judgments about their future arrangements. Victoria Police provide the Confident Living Program to assist older people in dealing with threatening situations in the home and in the community.

These and other initiatives such as those promoted through DVC's Community Strengthening Programs and DHS's active service model for the delivery of community care services are vital in encouraging the development of stronger communities in which older people are encouraged to maximise control of their lives. The Advisory Committee considers these to be important protective factors.

In 2002, the United Nations World Assembly on Ageing adopted the International Plan of Action on Ageing 2002. This plan seeks to ensure that people everywhere will age with security and dignity and continue to participate in their societies as citizens with full rights. Core themes of the plan include the recognition of the desire of older people to stay active and engaged and the need to create intergenerational solidarity. These aspirations are reflected in the Victorian Government's Positive Ageing Strategy which reaffirms its commitment to the dignity, independence and safety of senior Victorians. Senior Victorians have a rich diversity of life experience and practical wisdom.

Recommendation 9:

That Victorian communities are supported to be age friendly where older people can feel safe and confident. Communities should also be supported to promote the active participation of older people and to minimise the risk of social isolation.

13. Building Professional Knowledge and Capability

A key element of strengthening the current approach to elder abuse is building upon current knowledge and expertise.

Throughout the consultation process, service providers and other professionals expressed the desire to develop skills across and within the professional groups. The revision of *With Respect to Age*, responds to this need.

Both the consultation process and the DHS review identified that there has been significant skill development among health and community service workers in dealing with elder abuse situations. Identifying abuse and responding to it appropriately requires awareness and good clinical judgement. It was also identified that skill levels are not consistent and that responses could be improved by the further development of professional knowledge.

A number of jurisdictions/organisations in Australia and throughout the world also recognise this issue and have developed guides for healthcare and community service workers dealing with cases of elder abuse.

Healthcare or community service workers may face ethical dilemmas when dealing with mistreated older people: the balance of autonomy and protection. Where an older person has mental capacity the position is relatively clear, in that the decision making right rests with the older person. The situation is also clear where the older person has lost mental capacity, for there is an established legal framework to address their care needs. However, where the level of mental incapacity is not total or permanent, then a worker needs the skill to balance their actions between that of providing appropriate support and the move to becoming a de facto substitute decision maker. The danger in these types of situations is that workers may rationalise actions on the basis of protection of the older person perhaps not realising the power imbalance which exists (Mixon, 1995).

The right to self-determination can involve risk. This is the case for any adult not just an older person. Healthcare professionals and community service workers deal with cases where an older person may be making decisions which their family, or other people, consider to be unsound. Arguably the most difficult of these cases would be where a competent adult who is being mistreated or neglected refuses assistance. As competent adults their right to make bad decisions should not be interfered with. Such interference would undermine their independence, dignity and sense of safety. An older person must be accorded all the rights of any adult in our community.

A clear message from agencies involved in the consultation process was the need for updated training. While some geographic regions are already conducting training on elder abuse, other areas could use additional support to build up expertise and to develop inter-agency protocols and responses to elder abuse. Some participants during the consultation indicated that some agencies lack formal processes for documenting suspected cases of abuse and there was confusion about what needed to be recorded, privacy issues and information sharing between agencies. Participants also noted that documentation was a resource intensive process, especially for VCAT cases.

Support for agencies could include sharing of training resources between regions and assistance in developing appropriate models for the diverse aged and community care workforce. Training could also be delivered within agencies and there may be opportunities for small agencies to collaborate and attend staff training sessions conducted by larger agencies.

One of the initiatives addressed during this project aimed at building upon current knowledge and practice was participation with the World Health Organisation on the Elder Abuse Suspicion Index (EASI). EASI is an instrument developed and validated in Montreal, Canada by the Centre de santé et de services sociaux de René-Cassin et Notre-Dame-de-Grace/Montréal-Ouest 21 and McGill University. EASI brings together the perceived best aspects of a range of international screening tools. It consists of a number of questions aimed at providing information to primary

healthcare workers in such a way as to ultimately enable them to become aware of patients potentially at risk of being mistreated and to take action when confronted with such cases.

Focus groups were held throughout August, September and October and involved senior Victorians and healthcare professionals such as nurses, social workers and physicians with the view of contributing to the validation of EASI. Victoria was part of an international effort to validate the tool. DVC presented Victoria's results at a recent WHO meeting of international experts on elder abuse.

This tool appears to be a promising instrument for screening by primary healthcare providers. It is important that healthcare professionals be informed of latest policy and practices such as this example.

The Victorian Community Council Against Violence (VCCAV) undertook research during the project which identified the needs of health professionals in relation to elder abuse detection and response, drawing together themes arising from the relevant literature and the findings of consultations with health professionals. The VCCAV intends to build upon this work and consideration is now being given to how this might best occur to support the broad range of initiatives discussed within the scope of the Elder Abuse Prevention Project. Continued collaborative efforts with key stakeholders are intended, including possible joint projects with the OSV and DHS (VCCAV 2005).

Recommendation 6:

That the Department of Human Services finalise the update of its existing guide for funded agencies on elder abuse and supports the development of local agency protocols. Resources should be provided to deliver training and support to agencies to complement prevention and community education strategies.

14. Improving the Effectiveness of Service Responses

The effectiveness of service responses was seen by participants in the consultation as an important area for improvement. This extends beyond health and community service agencies and specialist services such as the Public Advocate to also include general practitioners, Victoria Police and the financial services sector.

Much of this discussion centred on the need to strengthen collaboration and integration across services and many peak organisations have expressed their willingness to work with government to strengthen both existing mechanisms and develop new cooperative arrangements. Case workers expressed the view that where referrals were made to other agencies feedback was integral to strengthening the network and supporting the health and community care staff involved in cases.

Cooperative response models are based on a coherent philosophical approach that includes quality practice policies and protocols for prevention and assistance. Cross-agency collaboration that provides coordinated leadership across services and resources and enables the sharing of resources, as well as cross-agency

tracking of outcomes, are all components of a successful response. Integrated multi-agency response models have been found to be effective in achieving long-term reductions in the incidence of family violence. Many jurisdictions are adopting integrated multi-agency partnerships as the best practice response to the abuse and neglect of older people.

In the United Kingdom, developmental work has culminated in the production of *Safeguarding Adults, A National Framework of Standards for Good Practice and Outcomes in Adult Protection Work*, by the Association of Directors of Social Services, (ADSS) (2005). In the UK existing systems were often used to build multi-agency partnerships and the ADSS report that as a result of these cross-agency efforts 'more adults with community care needs have been enabled to live safer lives, both in their own homes and communities, and also within services such as hospitals, care homes and day resources.' (ADSS 2005).

VHA believes that service planning should consider the current services available and promote opportunities to bring these together to enable integrated area-based service response to elder abuse. The establishment of service networks may help to ensure a more integrated approach to elder abuse. It also provides a mechanism for developing best practice responses. It is important to minimise tensions and encourage effective, efficient and trusting partnerships. Effective partnerships in service provision will enhance the community's response to elder abuse.

*The Victorian Healthcare Association,
submission*

Initiatives based on an integrated service approach are being progressively introduced into many US jurisdictions and also in some Canadian provinces. An example in the United States is the San Francisco consortium for Elder Abuse Prevention which is a network of agencies established to improve the city's professional response through information, training and support (Wolf, 1992). In Ontario, the government announced a new elder abuse strategy which had three priorities: coordination of community services, training for front-line staff, and education to raise public awareness about elder abuse (Ministry of Citizenship, 2003). These three priorities support an integrated service model and are also key priorities for some Australian jurisdictions, for example, the Queensland Government's Strategic Plan for the Prevention of Elder Abuse addresses each of these areas (Prevention of Elder Abuse Task Force, 2001).

The Victorian Government's current approach has the fundamental components for the development of an effective integrated response model. The positive effect of peer network discussions has been demonstrated through the consultation. The consultation identified that the Primary Care Partnership (PCP) networks could be considered for activating development of suitable inter-agency protocols. The PCPs link local players together around local issues, encourage, facilitate and develop relationships between providers and have resources to support the development of inter-agency protocols.

'The Primary Care Partnerships have developed excellent capacity for developing inter-agency cooperation and protocols - particularly across public and private sectors. COTA National Seniors Partnership (CNSP) would strongly recommend that the PCP model be explored with a view to establishing whether it can be replicated for the purposes of developing an integrated response system.'

COTA National Seniors Partnership

One of the key findings of the consultation is that agencies and stakeholders agree that policy and program development in the area needs to be evolutionary, building on the strengths of the current system. The production of an updated guide, and a training strategy for its dissemination across the sector, is a clear and identifiable area for improvement.

Many private providers will also come across instances of suspected elder abuse. Development of cooperative network arrangements needs to extend to private providers and the updated guide for service providers will need to be made available to them. This will assist as a resource to inform the development of policies, procedures and protocols which will promote greater linkages with the primary care sector.

Many agencies have policies and procedures for dealing with elder abuse and a number of agencies have formal protocols. Many of these have been developed and are based upon *With Respect to Age*. However, it is clear that not all agencies are aware of the guide. Training and support to agencies based around the new guide will assist in this regard.

Throughout the consultation, agencies expressed interest in the development of shared principles and procedures for responding to elder abuse, while allowing local flexibility and timely responsiveness. These should be based on:

- key definitions of types of abuse;
- shared principles that respect the autonomy and dignity of older people;
- clear steps to undertaken in gathering and substantiating information;
- clarity about formal processes regarding assessment of the older person's competency;
- discussion of roles and responsibilities: for example social workers and nurses work collaboratively with clients and family members towards responsible and client-acceptable outcomes.

Key elements of intra- and inter-agency policies and procedures should include:

- role of mediation and case conferencing;
- strengthening support to address carer stress;
- measures to ensure staff safety, including when accessing clients' homes;
- consideration of improving multicultural services, including access to translators;
- importance of respecting the choices of a competent client; and
- feedback on the outcomes of cases.

Recommendation 7:

That assistance is provided to new and existing local agency networks to support and further develop collaboration and cooperation, including inter-agency protocols, to appropriately respond and support older people subject to abuse.

Recommendation 8:

That Victoria's approach to the prevention of the abuse and neglect of older people be strengthened to improve cooperation and collaboration of prevention and response services, extending beyond the health and community services sector to include the Office of the Public Advocate, Victoria Police, financial services, legal and advocacy programs, community groups and spiritual leaders.

15. Providing Support and Information to Older People in Need of Assistance

While a number of existing agencies has the capacity to respond to requests for assistance in relation to elder abuse, the consultation found many are limited to responding to their existing clients, and no statewide service exists to providing specialist information, assistance and support.

Overcoming this gap is a critical component of putting in place a more coherent response to elder abuse and one that aims to support and empower older people at risk.

The consultation paper correctly acknowledges the complexity of the issue when considering what should be an appropriate response. Each type of abuse, such as physical, emotional, or financial, may require very different responses. Care must also be taken not to reinforce existing ageist attitudes by ensuring the response to the abuse of older people is consistent with responses to the abuse of any other member of the community. For this reason the Public Advocate supports an empowerment approach to the issue of elder abuse which is respectful of the rights of the older person. This is also consistent with the United Nations principle for the older person which states that: older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse. (UN Principles for Older Persons, 1991)

Office of the Public Advocate, submission.

Application of the philosophy of empowerment involves listening to older people. It is not a simplistic model of prevention which claims that if you provide information you empower. It is an active process, whereby older people are provided with the best available information to assist them make decisions about their lives, including information about the services they are able to access should they require them.

In instances where older people have suffered abuse, response and care services are encouraged to use best practice and consult with the older person in deciding what steps need to be taken for their care and protection. This involvement may serve to ameliorate any alienation or victimisation an older person may experience as a result of abuse. Older people, who have been mistreated or are at risk, need to feel enabled and empowered and encouraged to ask for assistance if they require it, rather than face paternalistic responses to the situation.

In addition to the services currently available in Victoria to assist older people, the consultation process also identified the desire within the community for the establishment of a dedicated statewide information and education service which would include telephone assistance. A number of Australian jurisdictions have established such services and they are common in North America and the United Kingdom. Such a service would enable older people and those helping them to access information and assistance easily.

The service, as is common in other jurisdictions, would have a central role in community education programs and in building upon the professional knowledge of all relevant government, community and private agencies.

Recommendation 4:

That a statewide information and education service be established to provide information and telephone assistance and referral support to older people experiencing abuse. The service would provide community education and also act as a central point for the dissemination of research and materials on best practice to older people, service providers and the general community.

POLICY DEVELOPMENT AND LEADERSHIP

16. Whole-of-Government Approach

One of the key issues raised in the course of the consultation was the need for a whole-of-government approach to the prevention of abuse and neglect. This has been a consistent theme in positions adopted by the Public Advocate and other stakeholders.

Under present arrangements no government agency has assigned responsibility for ensuring a whole government approach. DVC is well-placed through the Office of Senior Victorians to coordinate a whole-of-government policy framework and to contribute to cross-jurisdictional efforts.

In Australia, cross-jurisdictional work to develop a national elder abuse prevention policy framework has been conducted through the Positive Ageing Task Force, a Commonwealth/State Advisory body on population ageing issues.

The draft national policy framework reflects international trends and is based on the following principles:

- every person has the right to live safely and without fear of abuse, neglect, violence or exploitation;
- the rights, safety, dignity, autonomy and wellbeing of older people are paramount; and
- governments have a responsibility to show leadership in preventing elder abuse and to ensure coordinated planning, implementation, monitoring and evaluation of programs and services relating to elder abuse prevention across all areas of government.

The Victorian Government supports these principles and will work with other jurisdictions to improve policy and practice for the benefit of all older people.

Recommendation 2:

That the Department for Victorian Communities be given lead agency responsibility for developing and maintaining a whole-of-government policy framework on prevention and response to elder abuse, and for ongoing monitoring of implementation, evaluation and research.

17. Establishing an Alliance

Through the consultation process it was found that many stakeholder organisations believe there is value in the establishment of an alliance to develop a stronger multisectoral approach to elder abuse prevention. An alliance would include representation from both government and the private sector. However, most importantly an alliance would include older people to provide advice on their needs. Such a combination of stakeholders would be well-placed to provide practical advice on elder abuse prevention. Similarly formed alliances have proved effective in other jurisdictions and in the area of family violence collaborative networks between organisations concerned about the issue have proven successful in the development of policy and practice.

18. Monitoring and Evaluation

The lack of evaluative research in Australia has hindered the development of more targeted and effective programs. Continued attention to this issue is required to both ensure that the strategies advanced are implemented and that they are assessed as to their effectiveness. Concerted government attention will also have the effect of underscoring the importance of broader community commitment to tackling this issue. The degree to which implementation of the measures achieves improved safety and security for older people needs to be regularly monitored.

Evaluation is an important activity that will help ensure the government and the community are able to assess the progress that has been made and, where necessary, to make any necessary adjustments.

Recommendation 5:

That a broad alliance of government and community agencies be established to promote the prevention of abuse of older people and provide ongoing leadership and advice to the statewide service.

APPENDICES

Appendix A

Terms of Reference

The Elder Abuse Prevention Project was announced by the Minister for Aged Care, Gavin Jennings, on 27 March 2005

The project's key objectives are as follows:-

1. A new guide for health services and community agencies dealing with elder abuse which addresses the following:
 - response models for service agencies;
 - inter-agency protocols; and
 - monitoring arrangements.

2. An education and community awareness strategy for the prevention of all categories of elder abuse (physical, sexual, financial, psychological, social and/or neglect), which addresses the following:
 - education and resources for professionals; and
 - the need for increased community awareness both generally and among senior Victorians.

The Project will also consider the most effective methods for ensuring a coherent approach from a range of service sectors that deal with senior Victorians, including health and community agencies, advocacy organisations, the criminal and civil justice system and the financial services industry.

Appendix B

Advisory Committee: Elder Abuse Prevention Project

Chair: Mr Barney Cooney

Members

- The Ministerial Advisory Council of Senior Victorians - Ms Lola McHarg
- The Office of the Public Advocate - Dr David Sykes
- Victorian Community Council Against Violence - Dr Belinda Robson
- Council on the Aging (Vic) - Ms Jill Thompson/Mr Gerry Naughtin
- Alzheimer's Association of Victoria - Ms Nancy Hogan
- Residential Care Rights - Ms Mary Lyttle
- The Carers Association Victoria - Ms Gill Pierce
- Victoria Police - Senior Sergeant Jenenne M Stiles
- Royal District Nursing Service - Ms Fiona Hearn
- Australian Society for Geriatric Medicine - Dr Louise Dillon
- Victorian Association of Health and Extended Care - Mr Paul Zanatta
- Victorian Trades Hall Council - Mr Paul Gilbert

Secretariat

- Gordana Marin - Senior Policy Officer, Department for Victorian Communities

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FORUMS

Public Forums Schedule - Elder Abuse Prevention Project

Date	Time	Region	Location	Venue
Wednesday 24 August	10.30am – 12.30pm	Grampians	Ballarat	Ballarat North Sport Club
Thursday 25 August	10.30am – 12.30pm	Gippsland	Morwell	Morwell RSL
Monday 29 August	10.30am – 12.30pm	Hume	Shepparton	Goulburn Ovens TAFE
Tuesday 6 September	10.30am – 12.30pm	Loddon Mallee	Bendigo	Capitol Theatre
Thursday 5 September	10.30am – 12.30pm	Metropolitan	Frankston	Frankston Arts Centre
Friday 16 September	1.00 – 3.00pm	Metropolitan	Preston	Darebin Arts & Entertainment Centre
Wednesday 21 September	1.00 – 3.00pm	Barwon South West	Geelong	Geelong Performing Arts Centre

Strengthening Victoria's Response to Elder Abuse

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