



Preventing and responding to abuse of older people (Elder Abuse) **NSW Interagency Policy**

June 2018



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Minister's foreword

The NSW Government has set out its vision for older people in NSW in the NSW Ageing Strategy 2016-2020. This Strategy highlights the opportunities that living longer affords us as individuals and as a community; opportunities such as time for family, contribution through meaningful engagement in paid or unpaid employment, and connection with friends. For many people, ageing brings a newfound contentment with life.

For some older people, however, ageing can bring vulnerability and exploitation. For some, that results in abuse, particularly abuse in their own homes, by people they trust.

As the work of the Elder Abuse Helpline and Resource Unit has shown, abuse of older people is all too prevalent in our society. Our aim is to prevent abuse, or at least identify it earlier, and then respond in a coordinated way to support, intervene and protect older people who have experienced abuse. Government staff working with older people are at the coalface; they play a crucial role in identifying abuse and supporting older people to respond to it. Our justice system also plays a critical role: a sensitive response can make the difference between continued suffering and an end to abuse.

The abuse of older people often happens in an environment with complex power dynamics. Those being abused may be dependent on their abuser; they may fear being cut off from loved ones, such as grandchildren, if they do not comply with their abuser's demands. This makes it even more important that NSW agencies work to make sure older people experiencing abuse are able to make fully informed decisions, and to respect those decisions when made. Yet we also have a duty of care to respond to criminal activity appropriately. Clear policies and procedures coupled with sound training will support workers in navigating this complexity.

As community expectations of strong responses to abuse of older people grow, so too does the work in this area. Reviews of legislative approaches, research and work towards a National Plan for Elder Abuse are all in development now and may prompt future amendments to this policy. However, this issue is too important to await the results of what will no doubt be a growing body of work. The time is right for this substantially revised approach to abuse of older people.

The *Preventing and responding to abuse of older people NSW Interagency Policy* is an important step in continuing to strengthen the response of the NSW Government to abuse of older people.

Tanya Davies MP
Minister for Ageing



Prevention and early detection

Understanding and changing the circumstances that make abuse possible.

1

Support

Providing and funding support services like the NSW Elder Abuse Helpline and Resource Unit, health, justice and specialist services.

2

Intervention and protection

Designing and using good practice approaches to respond appropriately to instances of abuse.

3

Collective action

Working in a multidisciplinary way in day-to-day work and in systemic responses to elder abuse to get better results for individuals and the community.

4

Principles

Safety

All NSW citizens have a reasonable expectation to live in safety; ensuring safety is paramount. Sometimes this means sharing information without consent.

Empower

Older people at risk of or experiencing abuse should be equipped with the support and information they need to make a fully informed decision about how to respond.

Respect

Where older people are able to make their own informed decisions about responses, they should do so.

Respond

Older people experiencing abuse should be supported and offered access to services. Criminal abuse should be treated as a crime.

Separate

Where the abuser has complex needs, ensure the response for the abuser is separated from the response for the victim.

Collaborate

Work with other service providers to coordinate responses and minimise the burden on the victim.

The five types of abuse for older people

Physical

Sexual

Financial

Neglect

Psycho-
logical/
emotional

1 About this policy

1.1 Purpose

This policy sets out the approach for preventing and responding to abuse of older people for NSW Government agencies. The abuse of older people is often called 'elder abuse'. In the context of this document, these terms are interchangeable. This policy has three aims:



The policy also sets out considerations for information sharing and decision-making.

Others who work with older people, whether local government, non-government organisations or private service providers may also find useful guidance in this document.

1.2 A NSW Government commitment

The NSW Ageing Strategy 2016-2020 (The Strategy) sets out the NSW Government's commitment to older people. The Strategy incorporates the following vision.

People in NSW experience the benefits of living longer and enjoy opportunities to participate in, contribute to and be included in their communities.

The Strategy highlights the importance of abuse of older people as an issue that affects the safety of older people. In consultations for the Strategy, older people themselves highlighted the value they place on safe communities and protection from abuse. The NSW Government is committed to facilitating the safest environment possible through the actions of all members of the community, particularly Government agencies.

The issue of abuse of older people was investigated in the Legislative Council's General Purpose Standing Committee No. 2 (2016) Inquiry: *Elder abuse in New South Wales*. This inquiry highlighted the importance of a robust policy, legal and service framework for preventing, investigating and responding to abuse of older people, and noted the importance of the previous NSW Government policy.

This current policy builds on previous work to simplify and strengthen our response. The policy has been revised as a result of a regular review and consideration of other changes in the environment as well as the actions following the NSW Inquiry.

This policy applies to all NSW agencies; however it details additional requirements for agencies with significant interface with older people through the services they deliver.

The policy has a higher expectation of response and accountability for agencies that have a higher likelihood of identifying abuse or a role in assisting the response to abuse. Responses will be calibrated according to service type and nature, particularly where there is a professional duty of care.

1.3 A framework for response

This policy is structured around four themes:

1 Prevention and early identification

Abuse of older people should not occur. As a society, we must all work to understand and change the circumstances that make abuse possible. Work in this area includes shaping community attitudes of older people; training professionals to recognise abuse; and better understanding of risk and effective responses.

2 Support for people experiencing abuse

No matter what kind of abuse an older person experiences, offering support is essential. Services to provide this support include the NSW Elder Abuse Helpline and Resources Unit, and other specialist services.

3 Intervention and protection

Many instances of abuse of older people are criminal. When the abuse is not legally criminal, it is always unethical. The duty to intervene and protect sits with the justice system in the case of criminal offences and civil legal wrongs, and across service providers for non-criminal abuse.

4 Collective action

Responding effectively to abuse of older people typically requires a range of services. Agencies should have in place arrangements for joint work. This is reflected in the governance arrangements for preventing and responding to abuse.

All agencies with significant interface with older people through service delivery are required to ensure they have internal policies, procedures and protocols in place that reflect the four key themes of this policy:

- prevention and early detection
- support for people who are abused or at risk of abuse
- intervention and protection
- a commitment to collective action.

The four themes describe our response to the abuse of older people. The following principles shape how the themes are put into action.

PROTECT

All NSW citizens have a reasonable expectation to live in safety; ensuring safety is paramount. Sometimes, when the health or safety of an individual is at risk, safety may be a greater concern than privacy.

EMPOWER

Older people at risk of or experiencing abuse should be given the support and information they need to make informed decisions about how to respond. This includes access to services trained to support and equip them to help stop abuse when it occurs.

RESPECT

Where older people can make informed decisions about responses, they should be supported to do so. Where an individual makes an informed decision to not act in response to abuse, and the abuse is not criminal, that decision should be respected. People lacking decision-making capacity may benefit from the involvement of an advocate.

RESPOND

Older people experiencing abuse should be supported and offered access to services. Many forms of abuse of older people are criminal. Where this is the case, they must be treated as a crime and appropriate legal remedies and protections offered. Reports can be made to the NSW Police without the consent of the victim, although consent is always desirable and beneficial for investigations and prosecutions.

SEPARATE

Relationships can be complex, particularly where the abuser is managing their own complex needs. The needs of each individual should be considered separately and not compromise the response for the victim.

COLLABORATE

There may be a number of people from different services involved and it is important that they work together to help the older person.

1.5 Key Partners

Many organisations play a role in preventing, identifying and responding to abuse of older people. While this policy applies to NSW Government agencies, other organisations are important in understanding, preventing, identifying and responding to abuse.

Commonwealth Government

The Commonwealth Government regulates residential and community-based aged care services. There are compulsory reporting requirements for approved providers of residential aged care services that are outlined on the website of the Commonwealth Department of Health.¹

The Commonwealth Government funds primary health, which is a critical component in the system of identification and response to abuse of older people.

The Commonwealth Government also has a range of responsibilities across social security and other relevant services.

NSW Government

This policy applies to all NSW agencies; however some agencies have greater interface with older people through the services they deliver. This interface increases the likelihood that they may have contact with older people who are experiencing abuse.

As members of the community, NSW Government employees also share a responsibility to respond to the abuse of older people in our daily lives.

Non-government and private services

Non-government and private services are playing an increasing role in the lives of older people. Organisations providing services should familiarise themselves with the signs of abuse of older people and have clear response protocols.

¹ <https://agedcare.health.gov.au/ensuring-quality/aged-care-quality-and-compliance/compulsory-reporting-for-approved-providers>.

2 About abuse of older people

2.1 Definition

There are many definitions of abuse of older people in common use. For the purposes of this policy, we define abuse of older people as:

A single or repeated act, or lack of action, occurring within a relationship where there is an expectation of trust, and which causes harm or distress to an older person.

Older people are affected by other forms of abuse, including consumer scams, professional misconduct, harassment and criminal acts by strangers or more distant acquaintances, self-neglect or self-mistreatment, and in residential aged care settings. While these are serious issues requiring intervention, they are not included in the definition of abuse of older people.

2.2 Types of abuse

There are five commonly recognised categories of abuse:

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| Physical abuse | Intentionally inflicting physical pain or injury or physical coercion. |
| Sexual abuse | Unwanted sexual acts including sexual contact, rape, language or exploitative behaviours where the older person's consent has not been obtained, where consent has been obtained through coercion, or where the older person is unable to consent due to cognitive incapacity. |
| Financial abuse | The illegal or improper use or management of an older person's money, property or other financial resources. |
| Neglect | The failure of a responsible person to provide the necessities of life – such as adequate food, shelter, clothing medical or dental care – to an older person. Neglect can be intentional or passive. |
| Psychological/ Emotional abuse | The infliction of mental stress involving actions and threats that cause isolation, fear of violence, restricting or preventing social contact with others, deprivation, and feelings of shame and powerlessness. |

Different forms of abuse often occur together, for example, psychological and emotional abuse, in which the older person is cut off from communication with others, is often an enabler for other forms of abuse.

Appendix 1 has more detail on each of the categories of abuse and the behaviours and signs that may be apparent with them.

2.3 Abuse of older people in society

Abuse of older people is often a hidden issue and, therefore, likely to be underreported. The abuse may not be recognised by the older person's family, carers and friends, or even by the older person themselves. The power dynamics can be complex. Acting in response to abuse by a family member can have many repercussions, including withdrawal of care, or access to loved grandchildren, which can deter older people from seeking help. Some older people may have no understanding of the help available or how to respond, which may result in their suffering silently rather than acting.

At this time, there is no clear evidence of the rate of abuse of older people, or evidence informing the best responses. The Australian Institute of Family Studies reported in 2016 that psychological and financial abuse are the most common types of abuse reported, although one study suggested that neglect could be as high as 20% among older women.² Calls to the NSW Elder Abuse Helpline and Resource Unit (2015) from people who know or suspect abuse of older people and are seeking assistance, suggest that around 70% of victims are women, and around 70% of perpetrators are family members, particularly adult children, with around 10% being spouses. The most common type of abuse raised was psychological abuse, followed by financial abuse, neglect, physical and sexual abuse.³

There are a range of risk factors that may increase vulnerability to abuse, such as social isolation or fear of speaking out. Older people identifying as lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI), those from culturally and linguistically diverse (CALD) communities, or those living in regional and remote communities may have heightened vulnerability. It is essential to consider the social environment of the older person when identifying and responding to abuse as this is an important factor in achieving a positive outcome.

The population in regional NSW is ageing at a greater rate than in metropolitan Sydney. Given the limited availability of support services and factors, such as social and geographical isolation, older people in regional and remote communities are a vulnerable group at risk of abuse.

While abuse may be manifested differently in different contexts, what is common is the misuse of power by a person who should be trusted to care for the victim.

Abuse of older people in CALD communities

Older people in CALD communities may face specific challenges to disclosing and reporting abuse and seeking assistance. These include language difficulties where English is not the primary language, dependence on family members for social interactions, and the potential for conflict, from the different expectations of care in different generations.⁴ Other commonly suggested risk factors include culture-

² <https://aifs.gov.au/publications/elder-abuse/3-what-known-about-prevalence-and-dynamics-elder-abuse>

³ http://www.elderabusehelpline.com.au/uploads/pdf/Annual_Report_2015_2016.pdf

⁴ R Kaspiw, R Carson & H Rhoades *Elder Abuse: Understanding issues, frameworks and responses*, Melbourne: Australian Institute of Family Studies, 2016.

specific gender roles, lack of familiarity with legal systems and avenues of support, and cultural norms prohibiting discussing family dysfunction or conflict. Older people from refugee backgrounds may have ongoing trauma, creating additional challenges. Different cultures may have differing understandings of what constitutes abuse or exploitation.

Agencies should consider the importance of factors such as confidentiality within the community, cultural values, loss of 'face', beliefs around mental health, and any potential for mistrust of authority when preparing a protocol for responding to abuse of older people. In the case of older people with poor or no English skills, it is not appropriate to use family members as translators as they are likely to have an emotional involvement, their language ability has not been determined and it could breach the confidentiality of the older person.

In addition, older people may require intensive support from interpreters to engage with relevant mainstream services. Information and education should also be positioned to accommodate different cultural perceptions.

Abuse of older Aboriginal people

The cultural obligations and circumstances of grandparents in many Aboriginal communities are significant factors to consider when responding to abuse of older people, particularly in relation to reciprocity, where resources and family responsibilities (such as parenting) are shared, and kinship, where family relationships and responsibilities extend outside the family.

The changing roles of elders⁵ and kinship members may complicate the way in which abuse is experienced and understood in the community. Previous negative experiences with welfare and justice systems have also led many Aboriginal people to mistrust government agencies, which in turn may affect their willingness to, or confidence in, reporting abuse or seeking help.

An additional factor to consider with abuse of older Aboriginal people is that life expectancy is substantially lower than for non-Aboriginal people. In general, we would consider a lower age, such as 50+ years, as older for Aboriginal people, rather than the more generally applied 65+ years.

Agencies should recognise and involve Aboriginal Elders, older Aboriginal people and respected community members in developing responses to abuse of older people.

⁵ Within Aboriginal culture, the terms 'elder' and 'Elder' can have two different meanings. 'Elders' are generally community leaders and not only hold key community knowledge but can also have strong influence over when, how and if a community will work with people from outside their community. An 'Elder' may not be an older person, but rather is determined by the respect accorded by the community.

3 Prevention and early identification

Abuse of older people should not occur. As a society, we must all work to understand and change the circumstances that make abuse possible. Work in this area includes shaping community attitudes; training professionals to recognise abuse; and better understanding of risk and effective responses.

3.1 Supporting better recognition of abuse of older people

Many government workers are in direct and, sometimes, frequent contact with older people. Knowing what abuse of older people is and recognising the indicators of abuse are important to ensure that abuse is identified. Training relevant staff to understand the diverse cultural interpretations of 'elder', what constitutes abuse, the risks and indicators, is a key step to achieving early identification. Many agencies have already taken that step through developing and delivering training.

This policy requires that all agencies with a significant interface with older people through service delivery develop and implement training for relevant staff. Training should cover identification, support and response. Adherence to this requirement will be monitored through the NSW Steering Committee for the Prevention of Elder Abuse.

3.2 Shaping community attitudes

The broader community plays a crucial role in preventing abuse of older people. As with other 'hidden' forms of abuse, such as domestic violence, we each need to be alert to the indicators of abuse and know how to respond when we suspect or become aware of it.

The NSW Government predominantly works in three ways to influence community awareness and understanding.

The first is through resourcing such bodies as the Council on the Ageing (COTA), the Seniors Rights Service, and the Elder Abuse Helpline and Resource Unit (EAHRU) to promote the issue and develop resources to assist services in prevention and early identification. Legal Aid NSW provides legal information, assistance and resources to support older people at risk of, or experiencing abuse.

The second is working collaboratively with other jurisdictions across Australia to improve understanding of abuse of older people, including through research, and to inform approaches to enhanced community understanding.

The third is to boost awareness in individual agencies. Government employees, as members of the community, will be an important component to achieving change. Promotion of the issue within all agencies can be crucial to better identification.

All agencies are required to highlight the issue of abuse of older people to improve awareness and understanding by employees and, where appropriate, other stakeholders. This practice should occur regularly, at least on an annual basis.

World Elder Abuse Awareness Day is held annually on 15 June to raise awareness of abuse of older people, and highlight ways to challenge such abuse. This is an opportunity to ensure the principles of the prevention of abuse of older people remain familiar to existing staff and are introduced to new staff.

3.3 Better understanding of risk and responses

As abuse of older people is often a 'hidden' issue, there is a lack of strong research to underpin improved work on identification and responses. In addition to working nationally to improve our collective knowledge about abuse of older people, we are working within NSW to improve data monitoring. In the absence of research, administrative data can provide some insight into the scope and scale of the issue.

The Elder Abuse Helpline and Resource Unit (EAHRU) is often the first contact for people who have experienced abuse or those concerned for them. EAHRU collects data on the frequency and types of abuse experienced.

Other agencies also collect administrative data. Collecting this data centrally will expand our understanding of this issue.

All agencies with significant interface through service delivery with older people are required to examine whether it is possible to strengthen data collection on abuse of older people, to inform improved practice and response.

The Department of Family and Community Services will compile and analyse key data to identify cross-cutting trends.

4 Support for people experiencing abuse

No matter what kind of abuse an older person experiences, offering support is not negotiable. The NSW Elder Abuse Helpline and Resource Unit and other specialist services can provide support to older people experiencing abuse.

4.1 NSW Elder Abuse Helpline and Resource Unit

The NSW Elder Abuse Helpline and Resource Unit (EAHRU) is funded by the NSW Government to be a central point for information, advice, referral and data collection. Concerned older people and carers, as well as friends, family, support workers and services providers, can access a range of services, including information, advice and referral to support agencies or service providers.

EAHRU is also funded to provide education and training for frontline workers, such as police and care workers, in addition to engaging in community awareness and education.

EAHRU can be contacted on 1800 628 221.

4.2 Other services

The NSW Government operates many services that can provide support for people experiencing abuse, from health through to justice. Key services offered include the following:

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| NSW Health | <p>In addition to mainstream health services such as those offered through hospitals, there are specific services that can be of use.</p> <p>Mental health services, including specialist mental health services for older people, are offered across NSW. In addition, the Mental Health Access Line provides 24-hour mental health connection and referral services and is staffed by mental health professionals.</p> <p>Services include the NSW Rape Crisis Centre/Sexual Assault Hotline, which offers crisis counselling.</p> |
| NSW Trustee and Guardian | <p>The NSW Trustee and Guardian is an independent and impartial Executor, Administrator, Attorney and Trustee for the people of NSW. Provides direct financial management services, and authorisation and direction to private financial managers.</p> |
| NSW Victims Services (Victims Access Line)⁶ | <p>Victims Services provides information, support and referral to victims of violent crime, with an emphasis on immediate assistance and access to counselling. Although Victims Services generally assists victims of violent crime, it recognises that many of its clients present with other forms of victimisation, including financial and psychological abuse and neglect.</p> |

⁶ Victims Services can only aid and assist those defined as 'victims of crime' under s5 of the *Victims Rights and Support Act 2013*.

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| <p>LawAccess, Legal Aid NSW, Community Justice Centres</p> | <p>LawAccess provides legal information, referrals and, in some cases, advice for people who have a legal problem in NSW.</p> <p>Legal Aid NSW provides legal services, including information, advice, community legal education, minor assistance and representation. Legal Aid NSW has a particular focus on the needs of people who are socially and economically disadvantaged, but legal information and advice are provided to everyone and are not means tested. Legal Aid NSW has a specialist Domestic Violence Unit that provides integrated legal and social work assistance to people experiencing or at risk of domestic violence, including older people.</p> <p>Community Justice Centres assist people in managing disputes through mediation</p> |
| <p>Domestic Violence Line</p> | <p>Domestic Violence Line offers telephone counselling, information and referrals for women and same-sex partners who are experiencing or have experienced domestic violence.</p> |
| <p>Women’s Domestic Violence Advocacy Services (WDVCAS)</p> | <p>Women’s Domestic Violence Advocacy Services (WDVCAS) provide women experiencing domestic and family violence with information, advocacy and referrals. WDVCASs undertake safety planning for women and their children, and provide referrals to, including housing, counselling, legal advice, obtaining an Apprehended Domestic Violence Order, financial assistance or health services. WDVCASs also provide services at 117 local court locations across NSW.</p> |
| <p>Safer Pathway</p> | <p>Safer Pathway is a system-wide reform that provides a streamlined and integrated approach to safety assessment, referrals and service coordination for victims of domestic violence. Key components include a Domestic Violence Safety Assessment Tool (DVSAT) to better and consistently identify the level of threat to victims; a Central Referral Point to electronically manage and monitor referrals; a state-wide network of Local Coordination Points that facilitate local responses and provide victims with case management coordination and support; Safety Action Meetings in which members develop Safety Action Plans for victims at serious threat of death, disability or injury as a result of domestic violence; and information-sharing legislation that allows service providers to share information about victims and perpetrators.</p> |

4.3 Other resources

The NSW and Australian Governments fund services that offer resources and support for people experiencing abuse. Key resources include:

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| <p>Seniors Rights Service</p> | <p>A community legal centre that offers telephone advice, advocacy, legal advice and educational services for older people.</p> |
| <p>Carers NSW</p> | <p>Offers information, support and counselling to carers.</p> |
| <p>Centrelink</p> | <p>Delivers payments and services through social supports.</p> |

5 Intervention and protection

Abuse of older people is often criminal, and may also breach civil laws. Even when not illegal, abuse of older people is always unethical. Work to intervene and protect is the responsibility of the justice system in the case of criminal offences. Health, welfare and legal service providers can intervene and support victims in cases of criminal and non-criminal abuse of older people.

5.1 Good practice approaches

It is essential that those working closely with older people have sufficient clarity and resources to identify and respond to abuse.

There are essentially five stages to identifying and responding to abuse, as follows. In all cases, individuals should follow their agency's policies and procedures.

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| Identify abuse | Consider whether a risk assessment is appropriate. Where you suspect, have witnessed or have had abuse disclosed, gather information. Always take an account directly from the victim rather than the 'carer' or family member. |
| Assess immediate safety | Evaluate the urgency of safety concerns. Contact emergency services where appropriate. Protect evidence. Report via internal channels. |
| Provide support | Listen, acknowledge and validate. Offer information to support fully informed decision-making. Refer to other services as appropriate. |
| Inform manager and document | Report suspected, witnessed or disclosed abuse in accordance with agency procedures. Document the abuse and response according to your agency's policies and procedures. Document where the older person has made an informed decision not to accept intervention. |
| Respond and refer | Discuss the available options with the older person (not an intermediary). If the person does not have decision-making capacity, discuss the available options with the older person and their lawful substitute decision-maker. Offer information in an easily understood way. Seek consent from the older person or their substitute decision-maker for referral, then make the referrals. Where the older person makes an informed decision to not accept assistance, assess whether their safety is at risk or there is criminal activity. Be aware of the need for additional resources such as language or culture-specific supports. Understand when it is important to act without the consent of the older person. Understand when to refer to the NSW Police – staff should refer to internal policies clarifying situations when police must be called for reports of violence, abuse and neglect. Coordinate and monitor as appropriate. |

The issue of the capacity of the older person to make informed decisions is critical to deciding on the appropriate response, including when or whether to share information about the abuse. Appendix 4 outlines the major legislation affecting information sharing and provides further information on decision-making and consent.

EAHRU offers a toolkit for agencies that work with and provide services to older people living in the community who may be at risk of, or who are, experiencing abuse. The toolkit expands on these five stages.

The toolkit is available at <http://www.elderabusehelpline.com.au/for-professionals/EAHRU-toolkit>

All agencies with significant interface with older people through service delivery are required to have a policy and procedures on abuse of older people. At a minimum, the policy and procedures should address the following:

- How to identify abuse
- Assessing safety, including when to report to emergency services, and protecting evidence
- Approaches to providing support, including a list of resources and how to identify where additional support (such as language or cultural support) is needed
- Procedures for documenting and reporting suspected, witnessed or disclosed abuse
- Procedures for responding and referral, which balance the need for empowering the older person to respond, respecting their decision, and responding appropriately to criminal or other serious matters. These should also address duty of care where appropriate
- How to balance privacy concerns and dignity with the safety of the client
- When to refer to specialist services (such as those outlined in section 4)
- How to respond when the alleged abuser also needs support.

If a crime is suspected, there should be a coordinated approach to any investigation or intervention, involving NSW Police and any other relevant authorities.

5.2 Legal interventions

Many instances of abuse of older people are criminal or civil wrongs. The principles set out in this document ask that agencies balance consideration of safety and appropriate responses to crimes with the individual's own decision about how to respond. Achieving this balance is difficult, particularly as the complex power dynamics of abuse in intimate relationships can mean that victims may be less willing to pursue a criminal response. Nevertheless, you must consider all factors in determining the next steps.

The following are serious crimes under NSW law: murder, attempted murder, sexual assault, acts of indecency, rape, sexual offences against people with cognitive impairment, physical assault, grievous bodily harm, poisoning to endanger life or inflict harm or to injure or cause distress, domestic violence, neglect, kidnapping, robbery/stealing, stealing or destroying wills, fraud, forgery, harassment and intimidation.

In NSW there is an offence under s316 of the *Crimes Act 1900* of failing without reasonable excuse to report a serious indictable offence. This applies where someone knows or believes that the offence has been committed and that he or she has information which might be of material assistance in securing the apprehension, prosecution or conviction of the offender. A serious indictable offence is anything punishable by five or more years imprisonment, which would include the more serious instances of physical, sexual and financial abuse.

Agencies should ensure that their employees are aware of this offence through their delivery of education and awareness information regarding the abuse of older people.

Report crimes to NSW Police

The NSW Police are responsible for preventing and investigating crime and suspected crime. You can report crimes by calling 000 in emergencies, attending or calling a police station, ringing Crime Stoppers on 1800 333 000 or ringing the Police Assistance Line on 131 444 for minor crimes. Crime Stoppers reports may be anonymous and are always followed up.

Preserving evidence, including the scene of a crime, the victim, objects or information records, assists in criminal investigations. Do not clean a suspected crime scene prior to police attendance.

All agencies with significant interface with older people through service delivery must include in their policies, procedures and training guidance on identifying and responding to crimes in the context of abuse of older people.

5.3 Civil interventions

Older people who have experienced abuse may have options for redress under civil laws. This does not always involve going to court. Advice about civil law options should be sought from a legal practitioner. For more information, see Appendix 5.

5.4 Responding to perpetrators

Abuse of older people is never acceptable. Yet sometimes a comprehensive response to abuse will require support for the perpetrator. The experience of services such as the NSW Victims Services is that intervention may require coordinated action to assist both the victim and the perpetrator in order to prevent revictimisation. This is particularly the case when the parties are co-dependent.

When considering the need for support for perpetrators, be aware that support and response to the victim takes primacy, and that perpetrator needs must be addressed separately from those of the victim.

6 Collective action

Responding effectively to abuse of older people typically calls on a range of services. Agencies should have in place arrangements for joint work. This is reflected in the governance arrangements for Abuse of Older People.

6.1 Governance of abuse of older people in NSW

The NSW Ageing Strategy 2016-2020 sets out the NSW Government's vision for older people in NSW. This includes the issue of abuse of older people. Implementation of the Strategy is monitored by the NSW Ageing Strategy Interdepartmental Committee (IDC), which prepares a yearly progress report for the Minister for Ageing.

The NSW Steering Committee for the Prevention of Elder Abuse reports to the IDC on the development, implementation and review of measures aimed at tackling abuse of older people. Membership spans NSW departments with particular responsibilities for older people, police, Centrelink and the Australian Government Department of Health, the Ministerial Advisory Council on Ageing, and the Seniors Rights Service, with the Elder Abuse Helpline and Resource Unit an *ex officio* member.

This policy will be reviewed in three years or at a time at which there has been a significant change in circumstance.

6.2 In day-to-day work

Identifying, assessing, protecting and caring for older people who have been abused generally requires multidisciplinary responses. It is essential that government agencies coordinate and work together in responding to abuse of older people. This should be built into the typical activities of agencies when working with older people or delivering services.

Agencies should look at where their services for older people intersect with other agencies and work together to ensure seamless service and support as appropriate.

The NSW Steering Committee and IDC will also provide a forum and support the development of interagency protocols as required.

All agencies with significant interface with older people through service delivery should develop appropriate protocols for working with key partners in identifying and responding to abuse of older people.

Appendix 1

Types of abuse of older people

There are five commonly recognised categories of abuse: physical abuse; sexual abuse; financial abuse; neglect; and psychological or emotional abuse. Different forms of abuse often occur together; in particular, social abuse, in which the older person is cut off from communication with others, may enable other forms of abuse.

The following outlines the different forms of abuses, the behaviours that illustrate that form of abuse and the signs of abuse.

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| <p>Physical abuse</p> | <p>Intentionally inflicting physical pain or injury or physical coercion.</p> <p>Behaviours that are physically abusive include: hitting, slapping and punching; burning; restraining (e.g. tying to a chair or bed); locking the person in a room; overuse or misuse of prescription medications; and use of other chemical restraints such as alcohol, household chemicals or poisons.</p> <p>Signs of physical abuse include: injuries or bruises, lacerations, choke marks, abrasions and scratches; burns (such as from cigarettes, matches, an iron, rope); broken bones; unexplained hair loss (such as from pulling); missing teeth; eye injuries; pressure sores from the use of restraints; hypothermia or dehydration; and cringing or acting fearfully.</p> |
| <p>Sexual abuse</p> | <p>Unwanted sexual acts including sexual contact, rape, language or exploitative behaviours where the older person's consent has not been obtained, where consent has been obtained through coercion, or where consent is not possible due to cognitive incapacity.</p> <p>Behaviours that are sexually abusive include: non-consensual sexual contact, language or exploitative behaviour; inappropriate touching, grabbing or treating someone's genitals roughly; unwanted exposure to pornography; enforced nudity; and sexual harassment.</p> <p>Signs of sexual abuse may include: trauma around genitals, rectum or mouth; injury to face, neck, chest, abdomen, thighs or buttocks; presence of sexually transmitted diseases; recent incontinence (bladder or bowel); internal injuries; human bite marks; scratches, bruises, pain on touching, choke marks on throat, burn marks; torn or bloody underclothing or bedding; anxiety when near the alleged perpetrator; and changes in sleep patterns, sleep disturbances or nightmares.</p> |

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| <p>Financial abuse</p> | <p>The illegal or improper use or management of an older person's money, property or other financial resources.</p> <p>Behaviours that are financially abusive include: threatening, coercing or forcing an older person into handing over an asset (such as signing paperwork concerning property, wills or powers of attorney); abusing or neglecting powers of attorney and financial management orders in managing an older person's finances; misuse of financial management orders to the detriment of the older person; stealing goods (such as jewellery, credit cards, cash, equipment or other goods); using banking and financial documents without authorisation (such as credit cards); managing a competent person's finances without their permission and denying them access to their own money; appropriating the proceeds of goods (e.g. the home), or securing sale of the home by misrepresenting provision of future accommodation or care; pressuring the person to relinquish an anticipated inheritance as a gift or a loan; and incurring bills or debt for which the older person is responsible.</p> <p>Signs of financial abuse include: unexplained or sudden inability to pay bills; significant bank withdrawals; significant changes to wills; unexplained disappearance of possessions; lack of funds for food or clothing; disparity between living conditions and money; and recent addition of a signature on a bank account.</p> |
| <p>Neglect</p> | <p>The failure of a responsible person to provide the necessities of life – such as adequate food, shelter, clothing medical or dental care – to an older person. Neglect can be intentional or passive.</p> <p>Behaviours that are neglectful include: failing to provide for the needs outlined above; refusing to permit others to provide appropriate care.</p> <p>Signs of neglect include: inadequate nutrition, malnourishment and unexplained weight loss; inappropriate clothing (such as for the season); poor personal hygiene, unkempt appearance; poor skin integrity; hypothermia or overheating; being left alone, abandoned or unattended for long periods, or lacking in social, cultural, intellectual or physical stimulation; injuries that have not been appropriately cared for; exposure to danger or lack of supervision; absence of required aids.</p> |

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| Psychological/ Emotional abuse | <p>The infliction of mental stress involving actions and threats that cause isolation, fear of violence, deprivation and feelings of shame and powerlessness, as well as restricting or stopping social contact with others.</p> <p>Behaviours that are psychologically or emotionally abusive include: name-calling, degrading, or otherwise treating an older person as if they are a child; engaging in emotional blackmail; pressuring, intimidating or bullying; threatening to harm the person, other people or pets; preventing the person from speaking; repeatedly telling the older person that they are not capable or have impairment; threatening to withdraw affection or access to loved ones; threatening to put a person in a nursing home; preventing contact with family and friends or access to services; withholding mail or other contact; not allowing use of phone, email or internet, or monitoring communications, or disconnecting access without consent; preventing the person from engaging in religious or cultural practices; and moving an older person away from their immediate family.</p> <p>Signs of psychological or emotional abuse include: depression or tearfulness; feelings of helplessness; excessive fear; confusion or agitation; appearing ashamed or resigned; unexplained paranoia; disrupted appetite or sleeping patterns; sadness or grief at the loss of interaction with others; changes in levels of self-esteem and marked passivity or anger.</p> |
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Appendix 2 Risk factors

The research base on the dynamics of abuse of older people is at an early stage, particularly regarding an understanding of risk factors and responses. Current advice on risk factors includes the following.

Risk factors for older people

There is research that supports the identification of the following risk factors.⁷

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| Cognitive impairment and other forms of disability | Reduced 'intrinsic capacity', such as impairment of physical and mental capacity, including through dementia is associated with increased overall risk of abuse of older people. The one exception is that rates of psychological abuse are lower for people with dementia. |
| Social isolation and traumatic life events | <p>Social isolation has a well-established association with vulnerability to abuse of older people: isolation both increases the vulnerability to abuse and makes it more difficult to identify abuse.</p> <p>There also appears to be an association between abuse of older people and previous trauma, possibly because of the pattern of family dynamics that this establishes. Practitioners observe that women who have suffered (often unreported) domestic violence are also at risk of different types of abuse.</p> |
| Other factors | There is evidence that depression, drug or alcohol misuse by older people can make them more vulnerable to abuse. Practitioners advise that these factors in people with a relationship to older people can also increase the chance of abuse. There is also a higher rate of abuse where the perpetrator is financially, emotionally or relationally dependent on the victim. Social norms, for example around managing finances, also appear to perpetuate some forms of abuse. Practitioners advise that perpetrators with a gambling addiction and/or financial hardship can manipulate older people to enable the former's addiction. |

In addition, research indicates that the following also appear to be risk factors.

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| Changed health status | Dependent people of all ages can also abuse their older carer, sometimes due to an inability to accept their health status. Psychiatric illness or dementia can also result in aggression or impaired perceptions, rendering the carer vulnerable. |
| Relative powerlessness | People who are limited in their ability control or change their own environment or advocate effectively for themselves, can be more vulnerable to abuse. |
| For CALD people | Older people from a CALD background can have the above risks compounded by language barriers and other cultural values, historic influences and, possibly, the migration experience. |

⁷ R Kaspiew, R Carson & H Rhoades *Elder Abuse: Understanding issues, frameworks and responses*, Melbourne: Australian Institute of Family Studies, 2016

Appendix 3

A summary of agency requirements

Requirements for all agencies

All agencies are required to:

- be confident in their capacity in each of the four themes set out in this policy in the context of their work, that is: prevention and early identification; support for people experiencing or at risk of abuse; intervention and protection; and collective action
- regularly highlight the issue of abuse of older people to improve understanding by staff and, where appropriate, other stakeholders.

Requirements for agencies with significant interface with older people through service delivery

All agencies with significant interface with older people through service delivery are required to:

- update their internal policies, procedures and protocols to reflect priorities in the themes of: prevention and early identification; support for people experiencing or at risk of abuse; intervention and protection; and collective action
- develop and implement training for relevant staff. Training should cover identification, support and response
- examine whether it is possible to strengthen data collection on abuse of older people, to inform improved practice and response. The Department of Family and Community Services will compile and analyse key data to identify cross-cutting trends
- have a policy and procedures on abuse of older people. At a minimum, the policy and procedures should address the following:
 - How to identify abuse
 - Assessing safety, including when to report to emergency services and protecting evidence
 - Approaches to providing support, including a list of resources and how to identify where additional support (such as language or cultural support) is needed
 - Procedures for documenting and reporting suspected, witnessed or disclosed abuse
 - Procedures for responding and referral, which balance the need for empowering the older person to respond, respecting their decision, and responding appropriately to criminal or other serious matters. This should include guidance on duty of care.

- How to balance privacy concerns and dignity with the safety of the client
- When to refer to specialist services (such as those outlined in section 4)
- How to respond when the alleged abuser also needs support
- include in their policies, procedures and training guidance on identifying and responding to crimes in the context of abuse of older people
- develop appropriate protocols for working with key partners in identifying and responding to abuse of older people.

Appendix 4

Privacy, capacity and consent

Balancing safety, capacity and consent

Determining what to do in response to the abuse of older people can require the consideration of a wide range of factors. The principles we have adopted to guide our response (section 1.4) require the provision of safety, the empowerment of the older person to make informed decisions, and respect for the decisions of people with decision-making capacity.

To explain these three factors further:

- Providing for the safety of people is a fundamental responsibility of the NSW Government. In the absence of consent of the individual, achieving safety may require considering whether there are legal avenues for sharing information. It also extends to reporting serious, indictable offences.
- Empowerment of older people means making sure they are fully equipped to understand the abuse, its consequences, support available to them, and legal and other remedies. It may take repeated effort for the older person to be fully informed.
- Respect for the decisions of older people means that where a person is able to make their own decisions about responses, they should do so, subject to the above. This includes a fully informed decision not to act.
- Abuse due to undue influence may occur even where an older person is capable of understanding what is being done to them or on their behalf. Undue influence is a risk when an older person is vulnerable or dependent upon another person; it may involve that other person threatening to withdraw essential support or threatening to harm the person or another person.
- Many instances of financial abuse contain elements of undue influence, whereby an older person may be influenced by a fear of the disapproval or anger of the person upon whom they have become dependent.
- Undue influence is also relevant to sexual abuse, as the law stipulates that a person only consents to sexual activity if they freely and voluntarily agree. If consent to sexual activity is obtained through threats of force, intimidation or coercive conduct, it is not true consent.

It is important to consider decision-making capacity when responding to abuse. Impaired decision-making ability, for example, due to cognitive impairment, may make an older person susceptible to abuse. Where an older person lacks decision-making capacity, an alternate person may be appointed to make decisions on their behalf. Mechanisms for such ‘substituted decision-making’ are outlined in the NSW *Guardianship Act 1987* and the *Powers of Attorney Act 2003* and backed by a toolkit to assist in understanding the issue of capacity, at http://www.justice.nsw.gov.au/diversityservices/Documents/capacity_toolkit0609.pdf

At the time of finalisation of this policy the *Guardianship Act 1987* is under review and a new framework addressing substituted and supported decision-making appears likely.

Privacy and information sharing

The following legislative instruments set out the requirements for workers in considering whether it is reasonable to share information that might be otherwise subject to privacy provisions.

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| <p><i>Privacy and Personal Information Protection Act 1998 (NSW)</i></p> | <p>Outlines the principles that govern the collection, storage, access, use and disclosure of personal information by public sector agencies. There are exemptions from these obligations when the personal information is being collected, stored, accessed, used or disclosed for certain purposes, including law enforcement and where it is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.</p> |
| <p><i>Health Records Information Privacy Act 2002 (the HRIP Act)</i></p> | <p>Outlines the principles that govern the collection, storage, access, use and disclosure of health information by public and private sector health service providers. There are exemptions from these obligations when the health information is being used or disclosed for certain purposes, including when the use or disclosure is reasonably believed by the organisation to be necessary to prevent or lessen a serious and imminent threat to the life, health or safety of the individual or another person, or a serious threat to public health or public safety.</p> |
| <p><i>Privacy and people with decision-making disabilities guide (Privacy NSW publication)</i></p> | <p>Best practice guide to assist people who handle the personal information of people with decision-making disabilities.</p> |
| <p><i>Health Records and Information Privacy Code of Practice 2005</i></p> | <p>The <i>Health Records and Information Privacy Code of Practice 2005</i> provides for exemptions from compliance with the HRIP Act's obligations around the collection, use and disclosure of health information by human service agencies (as defined in the Code) to support the scheme known as the Domestic Violence Intervention Court Model.</p> |
| <p><i>Public Interest Directions</i></p> | <p>Public Interest Directions made by the NSW Privacy Commissioner may allow the disclosure of information in certain circumstances (for example, when an investigation is underway).</p> |
| <p><i>Victims Rights and Support Act 2013</i></p> | <p>Contains the Charter of Victim's Rights.</p> |

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| <p><i>Crimes (Domestic and Personal Violence) Act 2007</i></p> | <p>The principal legislation relating to domestic violence-specific offences. Part 13A allows information sharing between agencies and non-government support services to deliver Safer Pathway.</p> |
| <p>Domestic violence information sharing protocol</p> | <p>Provides detailed guidance on how to share information under Part 13A of the <i>Crimes (Domestic and Personal Violence) Act 2007</i>.</p> |

Appendix 5 Civil law remedies

Older people who have experienced abuse may have options for redress under civil laws. This includes where the type of abuse is a crime, as well as where the abuse is not criminal.

Examples of abuse that may give rise to a civil law remedy include:

- misappropriation or misuse of money and other assets
- exerting undue influence to give away assets or gifts
- misuse of powers of attorney
- failure to repay loans
- forging or forcing an older person's signature
- promising long-term care in exchange for money or property and then not providing the promised care
- assisting an older person to sign a will, contract or power of attorney through deception, coercion or undue influence
- abusing a signatory authority, improper use of PIN and unauthorised online banking
- arranging for an older person to be a guarantor for a loan where the benefit of the loan is for someone else, without sufficient information or knowledge to make an informed decision.

Clients can be referred to Legal Aid NSW or the Seniors Rights Service for advice on civil law remedies.



For more information visit
www.facs.nsw.gov.au/about/inclusion/ageing

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