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Official Committee Hansard

**HOUSE OF  
REPRESENTATIVES**

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL  
AFFAIRS

**Reference: Older people and the law**

TUESDAY, 22 MAY 2007

CANBERRA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES



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**HOUSE OF REPRESENTATIVES**  
**STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

**Tuesday, 22 May 2007**

**Members:** Mr Slipper (*Chairman*), Mr Murphy (*Deputy Chair*), Mr Michael Ferguson, Mrs Hull, Mr Kerr, Mr Melham, Mrs Mirabella, Mr Kelvin Thomson, Mr Secker and Mr Tollner

**Members in attendance:** Mrs Hull, Mr Kerr, Mr Murphy, Mr Slipper and Mr Kelvin Thomson

**Terms of reference for the inquiry:**

To inquire into and report on:

The adequacy of current legislative regimes in addressing the legal needs of older Australians in the following specific areas:

- Fraud;
- Financial abuse;
- General and enduring 'power of attorney' provisions;
- Family agreements;
- Barriers to older Australians accessing legal services; and
- Discrimination.

**WITNESSES**

**BRADY, Mr Peter, National Policy Manager, National Seniors Association..... 17**  
**HUGHES, Mrs Joan, Chief Executive Officer, Carers Australia..... 1**  
**JINNA, Mr Kanti, Member, ACT Ministerial Advisory Council on Ageing..... 10**  
**KELLY, Mr Brendon, Member, ACT Ministerial Advisory Council on Ageing..... 10**  
**RUXTON, Ms Alice, Policy Officer, National Seniors Association ..... 17**  
**SHEEN, Ms Colleen, Senior Policy Manager, Carers Australia..... 1**  
**SWEANEY, Ms Gayle, Member, ACT Ministerial Advisory Council on Ageing..... 10**



**Committee met at 4.37 pm**

**CHAIRMAN (Mr Slipper)**—This is the second public hearing we are having in Canberra. Today the committee will be hearing from representatives of Carers Australia, the ACT Ministerial Advisory Council on Ageing and the National Seniors Association. I would like to welcome to this meeting those who are here and I hope that you find it productive.

**HUGHES, Mrs Joan, Chief Executive Officer, Carers Australia**

**SHEEN, Ms Colleen, Senior Policy Manager, Carers Australia**

**CHAIRMAN**—Welcome. Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. Carers Australia might be interested in making an opening statement of, say, five minutes just to draw together the threads of what you have said and then we will subject you to questioning.

**Mrs Hughes**—Thank you for the opportunity. Just very quickly, Carers Australia is the peak body for 2.6 million family carers in Australia. Of these, 710,000 people provide support to their family member over the age of 65 living at home compared to around 279,000 living in residential age care. Carers Queensland provided a submission to this inquiry and we support all of the issues in that submission.

It is well known that the Australian population is ageing and that people are living longer. At Carers Australia we try and use the most relevant statistics, a lot of information today is from the Australian Institute of Health and Welfare. We know from that information that not only are people living longer but the levels of disability and ageing are very important issues.

In this whole area of ageing and disability there is a need for community education to raise people's awareness that acquiring a disability is going to be a normal part of ageing, and that planning for disability is essential. This has not quite happened to the level that carers and Carer Australia would want. We know that Australians are encouraged to plan for their financial security in their retirement, but little encouragement is given to planning for ageing with a physical or mental disability including things like advanced health care directives, family agreements and the enduring power of attorney.

Carers Australia recommend that the Australian government implement a regular community education program or campaign to alert people to the need to plan for ageing and disability. We believe that could be done in consultation and in conjunction with ourselves, with Alzheimer's Australia and with other aged care and community peak organisations.

In terms of what we think are the important issues, we support initiatives around advanced care planning and directives, particularly the need for consistency in legislation across states and territories to make it easier for older people and their families. I understand that the Standing Committee of Attorneys-General is pursuing this idea and that five states already have mutual recognition of the powers of attorney. Carers Australia also supports the need for a national aged care planning registry and regular reviews of all advanced care directives. However, Carers

Australia believes that advanced care plans and directives should be developed with family support and knowledge. Again, I refer back to my previous comments about the need to normalise ageing and appropriate ageing and disability planning for individuals and importantly their families.

Just recently a previously healthy older parent of a friend suffered a severe stroke and was not expected to survive. This person and their spouse had separate bank accounts and superannuation and each contributed to specific household expenses. Neither of them had an advanced care plan nor a power of attorney in place. Because of the severity of the stroke this person was unable to sign cheques and so the story continues, as you would be aware. Our submission to the inquiry indicates that Carers Australia believes that family and friends are usually the best substitute decision makers. Older people and their families prefer that decision making responsibilities remain within the family. There is a prevailing belief in some legal jurisdictions that this is best managed by the appointment of a statutory authority. This could be reinforced because there appears to be limited knowledge amongst some older people, their family members and family carers of the range of available substitute decision making arrangements and the legal obligations they imply.

While some older people may be bewildered by the legal documents to establish enduring power of attorneys or other provisions, they also have limited incomes and are reluctant to seek expensive legal advice. This illustrates the need for older people and their families to have access to affordable specialist legal advisory services. As well as being able to provide older people and their families with information about family arrangements, enduring power of attorney and advanced care directives, they should also be able to assist them with the process to establish these before the need arises. We feel very strongly about the importance of succession planning for older people and their family carers.

Another important factor that we want to highlight is that, as the committee might be aware, the Australian government Department of Families, Community Services and Indigenous Affairs introduced an initiative in the 2005-06 federal budget of a \$230 million allocation over four years for parents and immediate families wishing to make private financial provisions of up to \$500,000 for current or future accommodation and care of their sons and daughters who are ageing with severe disabilities. However, because of the narrow guidelines and what the trust can be used for, families feel that this is not an adequate vehicle to provide for future care for their children. This is often an issue that is forgotten in the ageing debate.

These issues raise what we think the Australian government should be able to do to assist all ageing carers of ageing sons and daughters with a disability. We believe that some initiatives that are being put forward in the inquiry are very important but I think we need to broaden the debate to include disability issues and care as part of ageing as well. Those are our issues in summary; we are happy to take questions.

**CHAIRMAN**—Thank you very much, Mrs Hughes. Just a question probably out of left field and not a lot to do with your submission. In my role as a member of parliament I have experienced many people who technically would be entitled to some of the social security benefits flowing from being a carer but are reluctant to apply out of a sense of pride or out of a sense of ‘I don’t want the government to prop me up,’ or ‘He’s my husband and he’s my responsibility.’ While this might provide a windfall benefit to the government’s bottom line, to

what extent do you think that is a problem around the country? Does your organisation support just carers who are on some benefit or do you support carers who are caring for others?

**Mrs Hughes**—They are important issues that you raise because caring is still seen primarily as a private responsibility for individuals and within families, and whatever the value base there is around that, it will always remain very much a private responsibility. As far as the governments are concerned, you do not want to lose the value of that. We find that many family carers come to us when things are just getting so tough that they are at breaking point. In a sense they have used their own value systems to care, but they get to a point, whether it is to do with their own health and wellbeing or something else happens in the family, when they sometimes break down. Our organisation represents all carers, not only those people who have—

**CHAIRMAN**—Funded or not funded?

**Mrs Hughes**—Not only those people who are on Centrelink payments; that is a small percentage of the total number of carers.

**CHAIRMAN**—You would assume there would be a lot of people who would be eligible for payments who do not actually apply?

**Mrs Hughes**—Sometimes it is to do with privacy and peoples' values as we have just discussed, but also it is the term 'carer'; people still see themselves as husbands, wives, mothers, fathers, sons and daughters doing what people do in families.

**CHAIRMAN**—What people have historically done for hundreds of years.

**Mrs Hughes**—That is right.

**CHAIRMAN**—What services do you provide to carers?

**Ms Hughes**—Carers Australia gets funding through the national respite—

**CHAIRMAN**—No, what services do you provide to people who are caring for others, as a peak body?

**Mrs Hughes**—The National Respite for Carers Program is a national program which provides funding to Carers Australia. We contract the state and territories' carers associations to deliver services to carers.

**CHAIRMAN**—If I could talk across you for a moment to our inquiry secretary; could you make sure we get a full list of all the state laws in relation to advanced care directives and powers of attorney so that when we consider the report, we can be up to date as far as that is concerned.

What is the most concerning legal issue that carers would bring to you? Do you think it is the advanced care directive you mentioned and also the conflict in power of attorney provisions?

**Mrs Hughes**—The issue is broadly around planning for the future and what are some of the options, particularly for older parents of older people with disabilities. This is the first time in history that we have ageing people with disabilities outliving their parents due to medical technology. We have a whole different way now of looking at all of the people who require care. Some of those families have been reluctant to do long-term planning because it is sometimes just too hard to think about, ‘When I die who is going to look after my sixty-year-old son who has severe disabilities?’ They are very hard emotional value-based conversations that many people do not have. I think they often come to us in conflict about what they are going to do. We would help them sort through what are some of the options. It is generally about what we would call succession planning. Within that, we think advanced care directives are a very good way of at least putting some plans in place.

**CHAIRMAN**—I can see what you say because I have been to annual meetings of, say, the Endeavour Foundation where you see 85-year-old parents caring for 65-year-old sons. It is a nightmare; the challenges are enormous.

**Mrs Hughes**—Yes, there is that issue. Another issue is older couples now who think, ‘How can I still be alive; I am in my eighties and nineties.’ We know of one person on the carer payment who is caring for a 102-year-old person. Who would have thought that we would have had people in our communities who are ageing in a sense in their own home and community and really want to die there; that is their preferred option. We get a lot of people coming to us who want to be able to die with dignity, have some control over that and put some plans in place. Some people have left it a bit late and have not had those conversations with their family about what is going to be the appropriate plan. It is not just about health care but also the very end of life as well.

**CHAIRMAN**—Mrs Hughes, my last question before I invite the deputy chairman to ask a question regards the quite vigorous criticism we had of the New South Wales Guardianship Tribunal. They defended themselves in a spirited way but some of the stories if true would make your hair stand on end. Do you have any experience of that organisation and have you had many complaints from carers about it?

**Mrs Hughes**—Not specifically to Carers Australia, but I would think that a partner organisation like Carers New South Wales have. Sometimes it is the formal systems of law that are difficult. For example, if the Guardianship Tribunals were set up like this evening, then the family carers would have to sit behind a microphone and really tell their story and feel very brave about that. Sometimes the processes for people are really difficult; they are not dignified processes.

**CHAIRMAN**—We are trying not to intimidate you.

**Mrs Hughes**—No, I am not feeling at all intimidated but I am just explaining to you that often family carers do find the legal tribunal sort of processes quite intimidating. People do not get all the facts because caring for people is tied up with so many emotions and a lot of that is very difficult to describe.

**CHAIRMAN**—Thank you, Mrs Hughes. Mr Murphy?

**Mr MURPHY**—Mrs Hughes, how do you promote the work of Carers Australia in terms of advertising, letting people know you exist and what sort of services you provide?

**Mrs Hughes**—A lot of it is done through stories in the media. We also have a 1800 line that hooks people into the state and territory carers associations. If we get good media coverage, that is probably one of the best ways of getting people to know about the carers associations. We do a lot of work with partner organisations. We try and promote our work within hospitals and GPs, that sort of area. Also, our state and territories do a lot of promotion of their services at the state and territory level. We have National Carers Week which happens in October of each year, and that is an activity that draws a lot of attention to family carers. If you can get your message through to people like Alan Jones; when he picks up, he does pick up our stories. We often find that when he runs the 1800 number our lines will be jammed at the other end. There are a whole lot of different strategies. For many family carers, in a sense it is something that they have got to feel comfortable about too, to pick up that phone and ask for that help.

**CHAIRMAN**—Thank you. Mr Kerr, Mrs Hull and Mr Thomson in that order.

**Mr KERR**—I noticed when you came in that you were reading from a preliminary submission. I do not think we have actually got a formal submission from you. It is quite open for you to hand that over. We could accept it.

**Mrs Hughes**—We will leave that with you.

**Mr KERR**—We could do that now, Mr Chair, if you wish.

**CHAIRMAN**—Yes. Is it the wish of the committee that the submission from Carers Australia be received and authorised for publication? There being no objection, it is so ordered.

**Mr KERR**—There was a view expressed by Carers Queensland that informal arrangements are, in broad, preferable to those which are part of the statutory framework. Certainly it is true that the vast majority of arrangements for people who are in need of care as they age, or even when they are young, are done informally. Do you have any proposals to improve the system that exists where that is not an appropriate solution? When do you think it is not an appropriate solution? The two circumstances that seem to come to mind most often are one, where a particular family member takes advantage of somebody who is potentially wealthy or in receipt of a benefit but does not look after them properly; basically they use it for their interest rather than those of the person for whom they are caring. The other area is where two or more members of family are in dispute as to appropriate outcomes. Those are the sorts of circumstances that exist.

I suppose the question is, if we prefer informal arrangements, when should formal arrangements be triggered, and are there any improvements in those formal arrangements that you would suggest. Also, I do not know the fact or otherwise of this, but how do we know there are not a body of older people who are being abused by those who are their caregivers? Is there any mechanism that should trigger concern by those in the community welfare sector that should be picked up on that is not being picked up on now?

**Mrs Hughes**—There are a lot of questions in there. It goes back to the question of is the care of older people a government responsibility, a state-territory or a family responsibility. Those questions need to be debated. As you say, we do know that most people prefer and are cared for within home and community. The protection of older people, as I would prefer to call it, is a big issue. Where, say, abuse is happening in families, unless they have services going into the home it is a very hard thing to know that it is happening. When is it appropriate for the state or territory authority to intervene? The answer is of course when vulnerable people are being exposed to things that are not appropriate for them. But, some of that is tied up with a whole range of things for which we do not have enough time to discuss here. It can be tied up in a lot of history of that family; it can be that the carers are so exhausted and tired and have been caring for so long that the reality for them becomes very confused; so it is not really a black and white situation. I know that in some states and territories where families have case coordination or services coming into the home, there are protocols and methods of checking to see whether there are levels of abuse happening. I do not think there is a national approach to that; and that would be a good thing. I do know it happens in some state and territories because where programs like Home and Community Care, Community Options, packages of care or extended aged care packages are going into the homes, you would have some safeguards. I think there has been a lot of information in the media about the family carer being the abuser. I would caution you to look at that in a bit more detail. It is an easy solution to point the finger at carers and sometimes it would be happening but it is a more complex issue than that.

**Mr KERR**—Certainly. I am certain it would be in the minority, but I assume it does exist. My question is, what sort of triggers would set it off. Unless there is a care package being provided there is no-one external who has the opportunity to see this.

**Mrs Hughes**—It could be other family members. We know that older people go to the doctor, it is a common thing, at least once a year. I think health providers are people who have a responsibility to measure some of that. Lifestyle checks, health checks and those sorts of things would be the triggers if the person is showing some signs that a GP could pick up.

**Mr KERR**—There are still only relative handfuls of people who are the subject of official guardianship or other orders of that nature. Are there any improvements in that area that you would recommend to us?

**Mrs Hughes**—I think some national work could be done on pulling together some of the best practices in the states and territories rather than homing in on the inefficient systems that are there. It is just a very complex issue and I just think we have to be really careful that we do not find quick solutions to things that are based in family histories and in values. I think mostly people are pretty well cared for by family members; that is people I represent so I would be saying that anyway. From my knowledge, when things break down it is often for very good reasons, for example something has happened to the family carer or they are stretched because they are on Centrelink payments and cannot afford to make ends meet. You find out a lot of what is happening in families and that helps you develop better policies and programs.

**Mr KERR**—As the Chair has pointed out and you pointed out, there are some people who take these carer responsibilities and in a sense sacrifice their own time and quality of life for decades to care for somebody who is their son or an older parent or something of that kind.

**Mrs Hughes**—It will only get more and more, because as we know people are living longer and the preferred option is to be cared for and stay within the home and community. These are very important issues.

**Mr KERR**—You did mention financial fraud though on older people. One of the things that has been said is that sometimes that is facilitated by people obtaining powers of attorney and other like documents. Should there be some obligation on states which allow for the registration or the existence of powers of attorney without registration to gain a database of these documents? This is so that there can be occasional checking up, even on a random basis. The community might then have some confidence that older people are not signing up to things while they are vulnerable, and then finding that their money is being dissipated or that people they intended to be considered for the future are left without resources.

**Mrs Hughes**—Again, I am not a legal person. It would depend on what are the laws in the different states and territories. I think some sort of random check is always a good thing with any service, not just to see whether the quality is there. When I looked at the *Four Corners* program just recently about euthanasia I thought there are a lot of people now who are discussing these very sensitive issues; this is just one of them. It is good that we are discussing and debating it because for many individuals and their families they only start making these arrangements often when there is a crisis or when it is too late. We are hoping through this inquiry that there will be some good things put in place to assist the cohort of the baby boomers. That would be a good thing.

**Mr KERR**—Do you provide any mediation or services where there are disputes about how care should be provided in instances where the families themselves are not of a single mind?

**Mrs Hughes**—We do more what we would call systemic advocacy but some of the states and territories do take on some individual advocacy, especially if there are guardianship tribunals. A worker might go with the family carer to assist them through that process. I would not say that happens in every state or territory.

**Mr KERR**—I was more thinking of a situation for example with respect to an elderly patient, where there may be two children, one of whom believes a particular course of care is appropriate and the other thinks differently. Is there mediation? Certainly one can go to a tribunal where in a sense the decision making can be taken outside of both of their hands and transferred to a third party, but do yourselves or any other community-based mediation service offer help in that area?

**Mrs Hughes**—Yes, there are a few around. Where it would come to our knowledge would be if the family carer has accessed something like counselling because it has caused a family dispute and they cannot come to an agreement. Through our counselling program we would get notice of that and work out what might be the best course of action for all of the people in that family. Some of it is exactly what you just talked about. It is called the National Carer Counselling Program. A lot of that is a mediation role in group counselling, depending on what is the issue. There are many ageing organisations that do that; it is just people knowing that they exist and feeling comfortable to access them.

**CHAIRMAN**—Mrs Hull and then Mr Thomson.

**Mrs HULL**—Thank you. I apologise for being late; I was speaking in the House. Last week we heard in evidence in our hearings from people who had disputes within their families, they had disputed with their sister or brother over care of an elderly parent. Obviously that is common because that seemed to be coming through our submissions quite a lot. In the area of having difficulty in a family of being questioned by family members, et cetera, would you advise your carers or somebody who was in a carer role who is the substitute decision maker to use the Guardianship Tribunal to try and resolve that?

**Mrs Hughes**—Depending on what the issue is and depending on the acceptance of that process in the states and territories, we would probably prefer some of our carers to access mediation or counselling services first. I am a believer that some of those issues can be sorted out before it gets to that legal process, such as through the Guardianship Tribunals or boards. Where I have seen that happen, I think it just saves everyone so much grief.

**Mrs HULL**—We heard of incidences where people who actually called in the Guardianship Tribunal, who actually approached them themselves, ended up being totally excluded from the process of life with their loved one or parent or whatever. Have you seen that happen in the past? Do you see very much of a fallout from people approaching the Guardianship Tribunal?

**Mrs Hughes**—As I said, our colleagues in the states and territories have. I was CEO of Carers New South Wales and many of those guardianship issues did come to our notice. It was a difficult process, just the whole environment in which it had to happen. People felt very intimidated by the process. A lot of it was locked in family history, dynamics, values, this person wanting that and all of those sorts of things which I think can be better sorted through something like mediation, counselling, some of the legal assistance services that operate. They can sort that stuff out before it gets to a tribunal stage or a hearing stage. It is a much better process for most families, but there are families where you have to get to that point and of course you need to have those legal systems in place.

**Mrs HULL**—If you read through the submissions and then listen to some of the testimony, there seems to be a continual disquiet about the way the whole process works in the best interests of the people that it is actually supposed to protect. Have you seen that experience before in your role?

**Mrs Hughes**—Yes, absolutely. You cannot take away from those legal processes, but I think if we try to do our work better at what I call the front end rather than the crisis end, it would be easier. Of course, the people that you hear from are the people who have had difficulties, are at the end of their tether, in crisis, and they become very dysfunctional and cynical about all sorts of processes. We have to do much better work at the front end.

**CHAIRMAN**—Thank you very much, Mrs Hughes. We are short of time, but we do have some more questions for you. Would you mind if the secretariat passes those on to you and you could respond on notice? We will get questions to you and then if you can come back to us, we would really appreciate it.

**Mrs Hughes**—Yes.

**CHAIRMAN**—Thank you for attending. The secretariat will send you a transcript of what you have said, not that Ms Sheen has had a lot to say, and you can correct what needs to be corrected. Please liaise with the secretariat about the responses to the questions that we send to you. On that basis, you are excused. We really do appreciate your time.

**Mrs Hughes**—Thank you for the opportunity.

[5.09 pm]

**JINNA, Mr Kanti, Member, ACT Ministerial Advisory Council on Ageing**

**KELLY, Mr Brendon, Member, ACT Ministerial Advisory Council on Ageing**

**SWEANEY, Ms Gayle, Member, ACT Ministerial Advisory Council on Ageing**

**CHAIRMAN**—Welcome. I apologise for the fact that we are running a bit behind time. Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament.

I would like to invite you to make a brief opening statement of, say, five minutes, and then we might ask you some questions. Because of the shortness of time, if we have more questions than we have time for, we might give you some questions for you to respond to on notice if you would be so kind as to do that.

**Mr Kelly**—Certainly. Firstly, an apology from the Chairperson of the Ministerial Advisory Council on Ageing, MACA. Dr Elizabeth MacKinlay was going to be here but was called interstate on short notice and was not able to attend, so she apologises for not being here.

The Ministerial Advisory Council on Ageing was set up in July 2002 to assist the ACT government in ensuring that the needs of older Canberrans are met. It has a broad focus and provides advice on issues including positive attitudes towards ageing and older people, housing, accommodation, lifelong learning, mature-age employment, prevention of elder abuse and provision of services for older people. It was set up partly because the ACT has the fastest growing elderly population in Australia, and since 1991 has consistently had the longest life expectancy for both men and women. It is becoming a particular problem in the ACT with a relatively small population base as well.

**CHAIRMAN**—Or an opportunity.

**Mr Kelly**—Yes, exactly, an opportunity as far as we are concerned. The advisory council is two different groups, the first one for three years and the second one for three years. The second one is the one in action at the moment and has representation from aged care providers, the legal fraternity, multicultural organisations, community representatives, the Council on the Ageing and a representative from the health care advisory council for the ACT.

We have decided on five key theme areas on which to focus, just to give you a bit of our background. The first one is the dignity and value of older people; the second one is promoting health and well-being; the third one is education, employment and lifelong learning; the fourth is housing; and the fifth is transport. They are not the only issues, of course, but they are the ones that have been set as priority areas for us. Included in that for the promoting health and well-being and the dignity and value of older people is elder abuse, in all its forms. Even though your

terms of reference talk about financial forms in particular, elder abuse in all its forms has been handed over as our overseeing responsibility, carrying on from the elder abuse prevention implementation task force that the ACT government set up in the context of one of its standing committees, the Standing Committee on Health and Community Care.

We did not make a written submission to you, but we have copies of some of our documents that we are happy to leave if you would like.

**CHAIRMAN**—Thank you.

**Mr Kelly**—The first issue on which we would like to focus today in the context of your terms of reference is abuse. As I indicated before, not just physical and sexual abuse, which the media seem to focus on mainly, but financial, which is a major one, mental abuse and emotional abuse. We will focus on some of the difficulties of coping with that through the law, including what is available in the law at the moment, both in terms of reporting mechanisms for abuse and what is there to back up people in the caring industry. Gayle has much experience in this area, as do I, having come from the health and aged care arena myself for many years. Other law-related issues include the powers of attorney—the ordinary powers of attorney problems and the enduring power and what should be done—consistency across states and territories so that there is recognition of some of the documentation that is necessary, and so on.

The second area is discrimination where in particular we have focused on the employment area—Kanti has been involved in some particular work in that area—and multicultural areas, especially for the cultural and linguistically disadvantaged people. Accommodation is another area under the discrimination heading on which we have been focusing, especially in the community. We have also focused on the quality of access.

Reporting comes up there again; it is a vexed question of whether you have mandatory reporting. Some aged care providers have mandatory reporting as part of their own policy for their staff, but whether you should have legal backing for that is a vexed question. We are aware of that; it keeps coming up as something that people should not back away from, but it is not an easy one. Mandatory reporting also requires some legal coverage about whistleblowers, which comes up in other jurisdictions, but again in the aged care area is another issue that perhaps ought to be there

The third area is cognitive impairment and what happens when cognitive impairment comes up; that cuts across powers of attorney. Mental capacity is a very hard area to actually determine, especially in the aged care area where people sometimes move in and out of some forms of dementia. Motor vehicle driving licences are also included in this area, I know that Gayle has some strong views about some of that, having experience with a lot of elderly people. Again, it is one of those questions that people and doctors back away from, but we think should not be ignored because there are some ramifications in the law there.

The other area we also are very keen on is education, and it is linked with all the things I think that are with the law. Education is of the elderly themselves, of their carers, of the community and of professionals regarding what are the rights that people have, what the law says, access and, of course, the multicultural area becomes very much involved in some of that as well.

**CHAIR**—Thank you very much. Ms Sweaney, I was interested in your views on driving licences. I was just wondering if you could give briefly, in about 30 seconds, a synopsis of your concerns?

**Ms Sweaney**—We are the largest community aged care provider in town. A large number of our clients are still driving. Once they have reached 80, they need to go to their GP to get approval to drive. Because they have a longstanding relationship with their GP, their GP is happy to give that approval even though clients can be sight-impaired, can have cognitive impairments and really should not be driving and are unsafe. If they did not have providers involved to intervene, to support and protect and make sure they are safe there would be problems. There are huge risks driving out there as they are not being properly supervised or regulated.

**CHAIRMAN**—I can understand that. I can also understand the incredible loss of independence an older person would feel when the person is no longer able to drive.

**Ms Sweaney**—Absolutely, and it is a very difficult thing to call.

**CHAIRMAN**—We have had some evidence in relation to aged accommodation, particularly retirement villages. What are the major concerns your council experiences in relation to retirement villages?

**Mr Kelly**—In the ACT we have a code of practice for villages. It is not state legislation as some of the other states have, but we have a retirement village's code of practice in the ACT with a committee that actually looks at disputes. It has not been anywhere near as volatile as some of the other states are and have been. The abuse in the ACT is not as great as elsewhere. I was personally involved in setting up the code of practice. I was involved because I was also running three retirement villages at the same time in the ACT. We were horrified with some things that were happening interstate. We then tried to make sure that what we put into the code what was learnt from the other states as well and to build on that. A couple of the matters that had been brought to the committee have been outside the jurisdiction and they are actually currently reviewing that at the moment. For the retirement villages here, most of the providers still have a loan and licence arrangement for financing as opposed to paying and getting strata title. They do not actually get title; it is a loan and licence arrangement that most of them have here.

**CHAIRMAN**—How many villages would there be in the ACT?

**Mr Kelly**—I think it is 18 or 19. I can check on the exact figure for you.

**CHAIRMAN**—No, that is okay, that gives me an idea. Mr Thomson, then Mrs Hull.

**Mr KELVIN THOMSON**—Apparently there was an information referral telephone line set up as part of the response to the elder abuse inquiry in 2001. What sorts of issues get raised through that telephone service?

**Mr Kelly**—The major issue is the one of people ringing up and saying, 'We think there is abuse going on.' The people at the end of the line are trained, a bit like the Lifeline type of receptionist, to try and suss out a bit more information on what it is and then work out where

they ought to go to help. The referral line itself is a referral to actually let people know where they should go to get help or seek further information or assistance, depending on what is the issue. A report has been done with the exact breakdown of that and I will get a copy of that to the secretariat so that you have the exact breakdown.

**Mr KELVIN THOMSON**—Where do they get referred to? What services exist for them?

**Mr Kelly**—Sometimes it is police; if it is physical it is usually a police matter. Often in those situations they want it to be anonymous and they will not give further information and therefore you have that problem of nothing actually happening. Those go to the police then it is in their hands. If it is financial, they have a group of advisers on their list. If it is a medical-type one, maybe mental health, then they have the list of some phone numbers of people, for example what they call the older persons mental health advisory group, the hospital emergency line, of course, the crisis line, and there is one other, the ACT branch of the group that Jeff Kennett is involved with, beyondblue. That is fairly new in the ACT, but that is another one.

**Mr KELVIN THOMSON**—Another possibility as well.

**Mr Kelly**—It is starting to get its teeth here as well in being effective.

**Mr KELVIN THOMSON**—In relation to suspected financial abuse, an issue has been proposed about mandatory reporting of that; do you have a view about that?

**Mr Kelly**—Yes, I do. I will hand over to Gayle in a minute as well for that. There are various ways you can find out about financial abuse, whether it is with your staff or whether it is with some of the elderly people themselves. For example, I had a situation once of an elderly person who told the staff about her son, and they reported it to me. I went down and had a yarn to her, but she begged me not to do anything about it. I said, ‘Why did you raise the matter if you didn’t want anybody to do anything about it?’ Of course, it is their choice and you cannot override their choice in the aged care area. But, when you really do know, then sometimes we go to the Community Advocate in the ACT and that often ends up in the guardianship board taking it over, but that is not as easy as it sounds sometimes. Gayle has got experience of the financial bit.

**Ms Sweaney**—I disagreed with Mrs Hughes in that for us, working on the ground with people, it is common that older people are abused. Financial abuse is one of the main abuses, and it is normally family members who are doing the abusing. As a provider we do not have many avenues to go to to support people, so you can only intervene and support people by going to the guardianship board. The process with the guardianship board takes so long. We have had instances where we have started that process for a case where a family member had kidnapped the mother and we have never heard of them since. There really needs to be some immediate investigation powers to be able to intervene and see reasons why. An issue in making application to the guardianship board is the length of time it takes. The processes are not immediate enough to be able to support the person because sometimes it is a dangerous situation, the abuse.

**Mrs HULL**—I have two questions. Firstly, I note you have an issue in the community issues section on your paper about technology. I am very fearful of technology being an abusive factor for elderly people. It can be a financially abusive factor as well because we just assume that you have to have credit cards, you have to have bankcards, you have to be able to Internet bank or

telephone bank. We are making it more and more difficult for elderly people who are not capable, nor do they want to be capable, of carrying out these types of services. Even our own information dissemination tends to direct people to websites, which I refuse to do in my office; I send out hard copy on everything. How do you see that playing out in the future in order not to isolate older people, that we can continue to enforce the provision of hard copy data, hard copy paper, easy access to affordable banking accounts? We have seen Net banking become cheap banking, and I know there are some cheap banking accounts set up for elderly people. How do you see us being able to maintain or enforce information relating to elderly people?

**Mr Kelly**—I will make a comment first, if I might. In the aged care arena, if you are a provider you will assist the elderly people in that whole website area. I have been in computers since the 60s and it still bugs me that everybody refers you to a website, and then you go down and down and down until sometimes you find it but sometimes you do not. I think that for the older person it is almost a no-no now. The only way I can think of that you can enforce organisations—you can do it probably easily for government departments in one way, although they are not innocent of all this either—is through legislation of some form. I do not like adding legislation to legislation to legislation because I think the law becomes, with all due respect to the Hon. Duncan Kerr, very confusing and clouded for people, especially the elderly. The law is the only way I can really think of—

**Mrs HULL**—Me too.

**Mr Kelly**—to actually force people to make sure that if they are in an area that involves elderly people, they make information accessible. I know your definition at the Australian Institute of Health and Welfare is 65 years and over, but I know in the discrimination area we are finding, for example, public servants in their fifties who have been ‘forced out’ because of the superannuation rules. They are forced out and then when they try to get back in again, there is a discrimination problem. That definition rules them out strictly but I am sure somewhere along the line we will have to face that issue. Kanti has done work on the Silver Lining project in that area.

Apart from the law, I think people are free almost to do whatever they like, unless they lose custom out of it. Of course, in a lot of areas the elderly are caught up. For example, they have to queue to do their banking, they have to go to insurance companies, they have to go to the health area and things like that.

**Ms Sweaney**—We are trialling a new program at the moment where we have set up in the home an IT system that we are monitoring back at base. I am really surprised; everyone is 90 plus and they are welcoming it and using it. Instead of going into the home and inappropriately intervening or expecting the client wants this, that and that, they are communicating with us through IT and stating the things they want. I am surprised that most people are happy with the technology; with their invoices, banking, whatever process, even taking their blood pressure this way remotely. I think there are probably going to be other advances in technology of other ways to deliver services and do processes that will not be as threatening nor as complicated as going to different websites. It will be more speaking to a machine and things will happen.

**Mrs HULL**—I seriously see it as something we need to address with this inquiry because I think it is a major, major issue that we have to highlight and try to overcome. I see the isolation

it can create. The other question that I wanted to ask is probably more of you, Ms Sweaney. Just last weekend I became aware of a case about a mentally ill ageing person. I am having major problems with the way in which nursing homes or aged care facilities are unable to manage the process of a mentally ill ageing person that may have onset of dementia in trying to judge and balance whether it is the onset of an aggressive dementia or if it is a former mental health problem. I heard of an apprehended violence order served on an elderly patient in a Canberra nursing home which was extraordinarily distressing for everybody because there was a serious issue of the resident hitting another resident. It is so difficult for the family to manage ageing through mental health or mental health through ageing. I see the serving by a burly police officer of an apprehended violence order on an elderly mentally disturbed aged patient, or resident, as terrifyingly abusive in those circumstances. How do you stop this or how does this get better?

**Ms Sweaney**—I guess Brendon is better to answer about the residential care, but in the community I think it is a much safer place to manage mental health and ageing in a person's own home. In a residential facility they are not funded nor equipped nor skilled in the mental health area; our aged care facilities do not have the skills let alone the resources to manage mental health.

**Mrs HULL**—Do we have enough aged mental health capacity as far as specific residences for mentally ill people who are aged?

**Ms Sweaney**—I believe so. As the population is ageing, that will increase and the incidences of mental health in ageing now are increasing. Five years past it was not common, now it is very common. We do not have the accommodation spots to put them in. I agree with you that is horrific, but I can imagine the risk to other patients and staff. Perhaps that was their only alternative measure.

**Mrs HULL**—You are saying there is not enough mental health aged facilities?

**Ms Sweaney**—Yes.

**Mrs HULL**—You are saying there is not enough out there?

**Ms Sweaney**—Yes.

**Mr Kelly**—In the ACT there are some specific to mental health. In one nursing home there is a whole wing, and there are psycho-geriatric beds at Calvary hospital as well, but again, as Gayle says, the numbers are increasing.

**CHAIRMAN**—It is because people are living longer and dementia is emerging more often because life expectancy is longer.

**Ms Sweaney**—But mental health is also on the increase.

**Mrs HULL**—Mental health is on the increase due to substance abuse in earlier years.

**CHAIRMAN**—You mean lack of mental health?

**Mrs HULL**—No, mental health patients are actually on the increase. Primarily a lot of it has been due to cannabis use in earlier years when it was thought that you could freely use cannabis because it was supposed to be a non-effective drug.

**CHAIRMAN**—I thought you said mental health was on the increase, whereas we are really talking about mental health problems.

**Mr KERR**—We are also experiencing a phenomenon we have not before known. We do not know how things are increasing; we have never had people living so long.

**CHAIRMAN**—That was the point I was making.

**Mr KERR**—That is the other side of it. We can be speculative about causes, but we heard before of a carer at 102 looking after a 98-year-old wife as a carer. In the time I grew up as a young man, that would have been so improbable you would be in the Guinness Book of Records. I send out letters routinely to people who reach the age of 100.

**CHAIRMAN**—We are having a function in my electorate for all the people aged over 100; apparently there are 20 or 30 of them just in one small area.

**Mr Kelly**—Modern medical technology is quite extraordinary. In fact, you can almost guarantee some of you people will live to over 100. Not me, but some of you people will probably, and your children to 105 up to 110.

**CHAIRMAN**—Some would say that was scary, but thank you for the compliments and thank you for your optimism.

**Mr Jinna**—It is an important point that the educational campaign starts early too for the people who are getting older because the whole emphasis should be on how to age and what are the consequences of a good educational system.

**CHAIR**—Thank you very much for appearing before us today. We will send you some more questions and if you could respond on notice as soon as you reasonably could, that would be appreciated. We will send you a transcript for you to check the evidence, and if you could correct anything and send the corrections back as required. Thank you very much for your frankness, your openness and your contribution.

**Mr Kelly**—Thank you for the opportunity and we are delighted that you are looking at these issues. We look forward to seeing the report in due course.

[5.37 pm]

**BRADY, Mr Peter, National Policy Manager, National Seniors Association**

**RUXTON, Ms Alice, Policy Officer, National Seniors Association**

**CHAIRMAN**—Welcome. I apologise for the fact that we are running behind time. Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament.

We have received your submission and have authorised it for publication. Would you like to give us a brief opening statement, after which we may ask you some questions. Because I am concerned that we are going to lose our quorum, if we do not get through the questions, we may submit some questions to you in writing. If you would be so kind as to respond on notice we would appreciate that.

**Mr Brady**—I would be delighted.

**CHAIRMAN**—Thank you.

**Mr Brady**—Firstly, I would just like to apologise on behalf of our chief executive, Michael O'Neill, who had planned to be here today, but was at short notice required to be interstate. Next, I thank you and the members of the committee for taking our submission. I would like to give a very brief overview of National Seniors Association. We are the Australia's largest pre-eminent organisation representing people aged 50 and over. We have a membership of almost 300,000 members across Australia. There are a number of elements of our organisation, one of which is a national productive ageing centre, a research centre, in Brisbane, which we are going to move fairly soon down to Canberra.

**CHAIRMAN**—They used to have it at the University of the Sunshine Coast.

**Mr Brady**—It is a partnership between the Department of Health and Ageing and the University of the Sunshine Coast.

**CHAIRMAN**—I will not ask why you are moving it to Canberra.

**Mr Brady**—I will explain it to you. We also have a national policy office which we established here in Canberra about 12 months ago. Then, we have a membership division that provides services in respect of travel and insurance, et cetera. Our board has decided to move the research centre down so as to put it close with the national policy office so each can inform the other, and we can have I guess a centre of mass together as opposed to being separate. We are somewhat excited about that.

The submission that we have provided to the committee has been developed in a collaboration with the research centre, the policy office and membership feedback. We have a number of state and national policy groups that are volunteers from our membership group across Australia, and we put that all together into a national policy document. The submission has been developed under that basis.

There are a couple of issues I would like to raise or highlight out of our submission. We are recommending to the committee a need for legislative change in certain areas of financial management, a need for cross-jurisdictional consistency, particularly when it comes to things like powers of attorney, et cetera, that members have spoken about a little earlier. We see the need for greater information in respect of independent financial advice, particularly to seniors, but I guess overall, and what I think has come through this afternoon is an increased awareness about the issues particularly around elder abuse and financial abuse, both with seniors and the broader community as well. You will see those filtering through our recommendations.

There are two issues that have come up that clearly were covered in our submission but have been highlighted since our submission in December; one is about the Fincorp collapse and the implications particularly for seniors, and the other is about reverse mortgages. Mr Chairman, with your agreement, I would like to table a letter that we have written to attorneys-general across Australia, particularly here at the Commonwealth level to the Parliamentary Secretary to the Treasurer, but particularly those ministers who have responsibility for financial management. It gives our background and issues in respect of those two issues of financial management.

**CHAIRMAN**—We will receive that as an exhibit. Is it the wish of the committee that we receive the document? There being no objection, it is so ordered. It will therefore be added to your submission.

**Mr Brady**—Thank you.

**Mr KERR**—Does that cover the kind of financial products that are not reverse mortgages? At our Sydney hearings we heard that reverse mortgages usually only permit you to draw down to about 30 to 35 per cent of the value of your property, but there are people selling products which actually are at higher interest rates that allow you to draw down nearly 80 per cent or more, in which case people are very vulnerable. I was just wondering whether your submission picks that up as well.

**Mr Brady**—It does not, but we have done some work in that area which underpins our letter. You are right, I think there are something like three or four products that are loosely referred to as reverse mortgages for which the interest rates and the cost of the mortgage may have an effect on what the older person does with their property if that person passes away.

**Mr KERR**—This is also suggesting that people actually are being evicted during their lifetimes believing they were signing a document that was only going to be enforced after their death. Because talk of reverse mortgages has come into operation now and people say, ‘Look, you can borrow against the equity of your home,’ they often think that they have got a safe product in the sense that their home will be there until they die, but if they cannot repay, they could lose their home. Is that something that has come to your attention?

**Mr Brady**—Absolutely. It is not only our attention, it has come to the attention of *Choice*. You might remember an article fairly recently that *Choice* ran.

**Mrs HULL**—They were indicating that you could default your claim, your reverse mortgage, just by not paying your rates or by not paying your insurance. In addition your reverse mortgage was leaving you in a vulnerable position where you could not afford to buy nursing home care, so you were actually stuck, you were actually trapped into a place of non-care. It was an excellent article. I was going to say that *Choice* did a fabulous article on this issue.

**CHAIRMAN**—There would be reputable providers of reverse mortgages.

**Mr Brady**—Absolutely, and that is the point I make. National Seniors Association would say the generic reverse mortgage product overall is a good product. It is a good product in the sense that older people are able to say, ‘Okay, I’m very asset rich, but I’m money poor. So I’ve got an opportunity to maybe provide some money for my grandchildren’s education or assist my children,’ or whatever. It provides a way for them to be able to do that. The issue is around some of the products to which Mr Kerr referred in respect of the way that they have been structured, the percentage of the interest, the ones you have alluded to in respect of rates—

**CHAIRMAN**—Percentage of equity.

**Mr Brady**—Yes, those sort of things. There are a number of products out there that seniors would see as reverse mortgages, as being a good solid product, but which have these other inherent characteristics. We are recommending and are supportive of—and it is in our letter—the New South Wales government initiatives in regard to new legislation, but we think it needs to have a national approach.

In summary, we are saying generally the product is good because it provides that sort of benefit to older people who do not have cash but who have an asset. However, we need to provide appropriate legal protection and appropriate information when they are being involved in it because there are some unscrupulous practitioners, as we have just discussed. The two ways we see a good result are legislation and providing good information to older people.

The other area I will quickly touch on is financial abuse. Prior to taking up this position with National Seniors Association, I was the director of the ACT Office for Ageing and these good gentlemen and ladies here were part of the council that I used to facilitate. The ACT did a major piece of work in respect of elder abuse and the broad issues around that, to which I think Mr Thomson alluded. Financial abuse is the second highest level of abuse that is perpetrated on older people, the first being emotional. I think the figures show something in the order of up to 7 per cent of older people who are aged 65 plus are subject to some form of financial abuse.

**CHAIRMAN**—What percentage of that would be by family members?

**Mr Brady**—The majority of that would be by family members.

**CHAIRMAN**—Is there a reluctance by the police and other services to pursue fraud and financial abuse where the victim is actually an older person? Do they treat it as being less serious?

**Mr Brady**—I think the lady from Carers said it was complex. I would say it is not complex; it is very, very sensitive and very difficult. It is a situation where there is either a carer or somebody in the home and a child who is saying, ‘This is my inheritance. I don’t see an issue with this. This is mum’s or dad’s. I am now essentially caring for them.’ On one hand the older person can say, ‘Well, look I’ve got an issue here,’ but on the other hand they are living in those arrangements, so it is an issue that really we believe needs to be treated very sensitively. The work that we did in the ACT government was really about looking at ways in which you can do it through information sharing in respect of community awareness. Simply having a Mr Plod going in is not going to be the way to resolve the issue.

**CHAIRMAN**—Do you feel that often older people would be embarrassed when they have been taken down by family members and are therefore reluctant themselves to pursue the matter?

**Mr Brady**—Absolutely. In the ACT there were cases where the son essentially got his mother to sign over the property, sold it out from underneath them and they were left with nothing. There are many cases of those. There are also cases even in the smaller area of, for example, pocket money or buying gifts and things of that nature.

**CHAIRMAN**—I realise you cannot link them all together because there are banks, for instance, which would follow certain procedures when untoward transactions happen on an older person’s account, but do you feel generally speaking that financial institutions are cautious enough in monitoring what does appear to be a bizarre sort of transaction on a particular account?

**Mr Brady**—Sometimes it is the reverse. The work in the ACT showed people could go up with a signed power of attorney and the bank would say, ‘We don’t care. That’s good enough for us.’

**Mrs HULL**—That is right.

**Mr Brady**—Sometimes it can be the reverse; this is an issue about which I spoke regarding power of attorney consistency across the country and also community awareness not only for the seniors, but for the financial institutions as well.

**CHAIRMAN**—This committee has previously recommended harmonisation of laws, that there ought to be consistency of arrangements of powers of attorney across the country, and I commend you to have a look at that report. I suspect we probably would do a similar recommendation in this, but I think that is a very valid point. Mr Kerr?

**Mr KERR**—I do not have many questions. I am trying to explore how we would better trigger intervention or non-intervention. One of the issues that keeps coming up is a recognition that most care is provided by families, that is probably the best kind of care; institution arrangements do not work. Yet, you say seven per cent of the fraud or financial abuse is being perpetrated by family, and presumably most of the physical and emotional abuse is also being perpetrated by family members. How do we get a trigger mechanism that is a little more effective than that which exists presently?

**Mr Brady**—Our conclusion was community awareness. We have done it with child abuse and with domestic violence but there has been no national campaign in respect of elder abuse. I am talking about the broad range of things such as social isolation; all of those issues to which you have alluded. In the ACT we attempted about two years ago to try and get the Commonwealth engaged. Queensland have a very good elder abuse program, as does the ACT, and Western Australia has been developing theirs. The other states are a bit indifferent across the board. You may or may not have seen some advertisements that the ACT has recently run. I know Queensland has run some.

**Mr KERR**—We cannot see any advertisements now because they are all overcrowded with the Work Choices legislation.

**Mr KELVIN THOMSON**—Absolutely.

**Mr Brady**—The clear conclusion we came to is to draw the states, territories and the Commonwealth together and develop a national campaign that is really very strong. One thing the campaign should do is like a shame situation, ‘How would you do that to your mum? How could you do that?’ We should not pussyfoot around; they should be the same as you are seeing at the moment with domestic violence and around sexual abuse in the movies, et cetera. That is the sort of campaign that we believe is really needed. From National Seniors’ point of view, we have a very strong community awareness, we have magazines, we have a national newsletter that goes out to 180,000 households across Australia to seniors, so we could support that sort of education regime.

**Mr KELVIN THOMSON**—A couple of daily papers and the Prime Minister did a big, ‘How could you?’ to the woman who abandoned the baby. You could do that in reverse, could you not; abandoning the elder with the ‘How could you?’

**Mr KERR**—Even with the community education stuff there are two things; one is the whistleblower issue that somebody raised before, but equally there is the neighbourhood revenge kind of issue or the sense that if you refer your neighbour or if you are a patient in a nursing home, if you complain, you will be the subject of retribution. Particularly older people are really worried often about dobbing on somebody who is taking advantage of them or they may know somebody but they do not speak out. How do we protect those people better?

**Mr Brady**—I think that is where the balance is needed. Mrs Hull, you had a concern about the big burly officer coming in and it being confronting, et cetera. There are other ways of handling that. There are ways in which the police force, if it is a criminal offence, can manage that without turning up with the six foot tall bobby. The education process is not just about information for older people; it is about people in the family, for them to take stock of what is happening, ‘Am I doing that?’ and brothers and sisters that may be managing it. At the same time, it is about that whole training for service providers. Again in the ACT and Queensland, we embarked on a training program within government service delivery, including the police force, about the way in which you approach this. If you see this happen, what is the protocol? ‘What are the steps I now need to do now that I have seen that?’ There are regimes that are around, there is work that is around, there are frameworks that have been developed; it is now about rolling those out across the country. We do not have to go back to square one, but it can pick up those concerns that you have suggested and, Mr Kerr, the ones that you suggested as well. That

is what we would really be driving, a very strong national awareness campaign. Advertisements would be part of it, but it would also involve what sits underneath about developing protocols with aged care institutions, with aged care providers, with the police force and whatever. The real issue which has been touched on here is that people in the home are the ones looking after their parents. If they get lumbered off or whatever, or they get somebody start to challenge them, they may say, 'Well, hang it, I'm not going to do this anymore.' It is tough work. It is tough work looking after an older person that may have part dementia or incontinence. It does get frustrating for these people, so it is about how do we support that and do it in that particular way.

**Mrs HULL**—This inquiry is primarily based on financial abuse, but it is so big is it not, the whole issue of elderly abuse, financial abuse, power abuse, the whole host of issues? You want to stay within the terms of reference, but it does mean so much more. If you were able to have one thing happen or one solid recommendation out of this inquiry that would assist in changing things in effect under the terms of reference, what would that be?

**Mr Brady**—I think it is two.

**Mrs HULL**—Give me two. I am happy with two or three.

**Mr Brady**—One is that there needs to be legislative change particularly around the things we talked about such as the reverse mortgage.

**Mrs HULL**—And protection.

**Mr Brady**—And protection.

**Mrs HULL**—Through the Australian Securities and Investment Commission and a whole host of things; okay.

**Mr Brady**—Through that, right. The other aspect is the one that I am really driving hard on about the—

**Mrs HULL**—The education campaign.

**Mr Brady**—I want to emphasise that the education campaign is more than just the advertisements; it is about what is sitting under there, the training that needs to happen across the board. Then, when the home and community care workers go into the homes and they see things and they go, 'Gee, I notice something is a little bit odd here,' or 'I saw a bruise or I saw something or other,' they know what to do. At the moment a lot of those people do not know what to do. As we are saying, are they too embarrassed to say it or do they say it? What might be the outcomes? If they have appropriate training and there are protocols that are put in place, it provides the framework through which that sort of reporting, or if you want to call it whistleblowing, can occur. They need to feel a sense of 'I'm doing it in a safe environment,' but at the same time, with the mechanism that may take place, the older person or the family carer is also appreciated and understood.

**Mrs HULL**—A written and visual campaign about financial abuse of elder people could then extend on to a whole host of other issues; you could build upon that campaign and underpin it

with appropriate training to identify and document all aspects of abuse. Primarily, regarding the financial abuse issue, it may not even be registering to people that they are financially abusing their charge.

**Mr Brady**—That is right. Just a small example is you may get a situation—and this might be in an aged care facility or it may be a home community care worker—where the older person gives them gifts. Now where is the line drawn? ‘I really like this person. I bought them some jewellery. I gave them some money.’ If you do not have established protocols, it is a pretty warped line; somebody else can observe this. Another example is if the carer does the shopping for the older person, ‘Well, I’ve used my petrol, and I’ve driven my car, et cetera, is it appropriate for me to take \$20 out.’ There are a lot of those issues. What I am saying is it is not like we are starting at ground zero; Queensland, ACT and New South Wales have all done a lot of work in this regard and it is just really about building on that and coordinating. That is where the Commonwealth can take the leadership, that is what I am suggesting.

**CHAIRMAN**—We have been tasked with looking at Australian government law and state law, and if it is a matter of state law, I would think that the Attorney, if he agrees with our report, would take it to the Standing Committee of Attorneys-General. There does seem to be a high level of goodwill towards fixing up what is clearly an unacceptable conflict in law amongst the states.

**Mr Brady**—It is the nature of our federation that we are working through. If I could just make a comment: Mrs Hull, you raised the issue around assisted technology and of course our ears pricked up. We have just done a fairly major piece of research in respect of assisted technologies, particularly for older people living in their home and using that sort of equipment.

**CHAIRMAN**—Could you let us have a copy?

**Mr Brady**—I will give you a copy of that.

**Mrs HULL**—That would be fabulous. Even just a simple thing of using a new TV, how do you work the remote and how do you get the picture back on after you have pressed the wrong button with your little feeble hands?

**Mr Brady**—You have to get your grandchild or your son or daughter in.

**Mrs HULL**—Yes, but if we could have that.

**Mr Brady**—We will do that, because I think the reality is the technology is just going to swamp us. My daughter is working in London as an IT guru and she is talking to me about the phone having everything in there, banking details, you will not have cards.

**CHAIRMAN**—Do not lose your phone.

**Mr Brady**—The issue is how do we support older people though keeping analog information, the telephone, all those things, but at the same time bring them along with the technology. We had a conference last week in Melbourne when this issue was raised and there were a number of

researchers who presented. I would be delighted to present that. I know it is a little bit off to left field, but it is still all part of that same business of feeling—

**Mrs HULL**—It is a very big issue. If I pass away, my husband has not got a clue how to do banking. He has not got a Bankcard. He would not know how to use an ATM teller. He has just left it all to me, and he is 61. The point made is that early retirement can see you still isolated with technology. It is a very common issue.

**CHAIRMAN**—I was just going to say my father does his share trading on the net.

**Mr Brady**—That is right. We had two people over 92 who were very positive towards assisted technologies, used a computer, could go on the internet and use email, but we know there is big chunk of—

**Mrs HULL**—Big cohort out there who cannot.

**Mr Brady**—And we need to bring them with us, we need to support them, because the nature of the world and the private sector is just technology and they are just moving ahead at 100 miles an hour.

**CHAIRMAN**—Mr Brady, Ms Ruxton, thank you very much for appearing before the committee. We will send you a draft of your evidence which you can check, correct and send back. We will undoubtedly send you some more questions because we have not quite got through them all. I have to say we were very impressed with the quality of your evidence and your response.

Resolved (on motion by **Mrs Hull**, seconded by **Mr Kelvin Thomson**):

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

**CHAIRMAN**—I declare this public hearing closed and, again, thank you very much.

**Committee adjourned at 6.06 pm**