



**Carers Queensland Inc. submission:  
Australian Law Reform Commission  
Elder Abuse Discussion Paper (DP83)**

**February 2017**

**AN AUSTRALIA THAT VALUES AND SUPPORT ALL CARERS**

**Submission Title:** Submission to the Australian Law Reform Commission  
Elder Abuse Discussion Paper (DP83)

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**CARERS QUEENSLAND INC.**

Family and friend carers provide unpaid care and support to family members and friends who have a disability, mental illness, chronic medical condition, terminal illness or are frail aged.

The activity and impact of providing care is best understood in terms of its context; as a relationship between two or more individuals, rooted in family, friendship or community. Caring is a role rarely chosen by most, nor does it discriminate. Children and young people, people of working age and older people, people with disability, people who identify as culturally and linguistically diverse, indigenous Australians, people with diverse bodies, genders, relationships and sexualities and those living in rural and remote Queensland provide care to a family member or friends on a daily basis. For some caring is a short term commitment whilst for others, it is a role that literally lasts a lifetime.

Carers Queensland Inc. is the peak body representing the diverse concerns, needs and interests of carers in Queensland. Carers Queensland believes that all carers regardless of their age, disability, gender identification, sexual orientation, religion, socioeconomic status, geographical location or their cultural and linguistic differences should have the same rights, choices and opportunities and be able to enjoy optimum health, social and economic wellbeing and participate in family and community life, employment and education like other citizens of the State. Carers Queensland's mission is to improve the quality of life of all carers throughout Queensland.

We believe we are in a unique position to advocate on behalf of the 474,400 carers living in Queensland. We aspire to provide an independent platform from which to advance the issues and concerns of carers and believe our knowledge and expertise in carer issues means that we are able to provide the Government and industry with relevant and trusted information that will ensure that the needs of carers will be recognised, respected and acted upon. Our ambition is to ensure that carers are recognised and included as active partners in the development of government health and social policy, legislation and service delivery practices.

Our submission is informed by national and international peer reviewed data, our own experience as a service provider and specialist community legal service and the personal and often difficult admissions of carers, those people who provide unpaid care and support to the most vulnerable in our society – children, adults and older people with disability, mental health problems, life-limiting illnesses, cognitive impairment and challenging behaviours.

## RESPONSES

Carers Queensland commends the Commonwealth on this much needed review and welcomes the opportunity to respond to Discussion Paper 83. Where we support a proposal it is 'in principle' only.

Carers Queensland recommends and urges relevant agencies with responsibility for implementing any of the recommendations of the Australian Law Reform Commission to consult widely and collaboratively with the relevant peak agencies and other organisations to ensure that policies and procedures proposed are fair, reflect the best interest of the individual/s concerned, are transparent, open to appeal and include a robust evaluative framework.

### Proposal 2

**Proposal 2-1:** Carers Queensland supports the development of a National Plan.

**Proposal 2-2:** Carers Queensland does not support the commissioning of a national prevalence study of elder abuse until such time as a national framework is implemented.

- A prevalence study commissioned now would be fraught with data integrity issues limiting data analysis, creating an incomplete and inaccurate picture of elder abuse in Australia.
- Such data would be inadequate to support the development of quality, contemporary policy and has the potential to misinform the legal and support sectors and the general public as the prevalence of elder abuse, its causes and the perpetrators.
- To aid in the planning processes until such time as the National Plan is in place prevalence data could be obtained from other, similar countries such as the United Kingdom, where a national prevention, reporting and investigation framework supported by a comprehensive and robust performance reporting regime has been in place since 2000. Northern Ireland also has a mature and well evaluated framework for protection of vulnerable adults.

### Proposal 3

#### Proposal 3-1:

**(a):** Carers Queensland does not support recommendation (a). An individual who is not considered at-risk should not be subject to an investigation but referred to My Aged Care for an appropriate assessment of their community care or home care needs.

**(b) and (c):** Carers Queensland supports proposals (b) and (c) on the assumption that a national investigation framework and performance reporting regime is instituted and that public advocates and public guardians receive appropriate education and professional support to conduct culturally safe investigations with the support of other agencies as necessary. Such education should skill the investigators to recognise and respond to

situations where the alleged perpetrator may have limited or diminishing capacity or skill to appropriately support the alleged victim and offer services to all parties to remedy the situation without each individual being labelled 'victim' or 'perpetrator'.

**Proposals 3-2 & 3-3:** Carers Queensland supports these recommendations.

**Proposal 3-4:** Carers Queensland supports these recommendations with some provisos:

- Public advocates and guardians refer older people (victims and perpetrators) to My Aged Care for an assessment of their support needs including accommodation and the development of a support plan or plans.
- Where the decision is made to 'take no further action' public advocates and guardian should refer all parties to the My Aged Care and an Aged Care Advocacy Services as a matter of course.

**Proposal 3-5:** Carers Queensland supports this recommendation.

**Collaboration and coordination (p.74)** - Carers Queensland does not support public advocates and public guardians having the dual role of primary investigator and crisis case management and/or coordinator.

We recommend that the two roles are kept separate; the public advocate or guardian being responsible for coordinating the investigation and referring the victim/s and/or perpetrator/s to My Aged Care for referral to an appropriate My Aged Care assessment service (Aged Care Assessment Team or Regional Assessment Service), where qualified assessors can work independently with the individuals to ascertain their needs, coordinate other disciplines to assess and make appropriate recommendations, and refer the client/s to culturally appropriate services available in the local community and monitor and review the support plan over time.

The implementation of appropriate coding in the My Aged Care system would ensure the capture of quality and robust data about the number of investigations that proceed to aged care assessment and the outcomes of the assessment and subsequent service delivery. This data would enable comparative analysis of the complexity of the aged care needs of older people who have been the victim of alleged abuse versus those who have not.

## **Proposal 5**

**Proposals 5-1 to 5-8:** Carers Queensland supports these proposals with the exception of 5-4(c).

**5-4(c):** Carers Queensland does not support the use of Justices of the Peace to witness enduring documents. We question the capacity of Justices, particularly those located in public places such as shopping centres, to ascertain that the principal and attorneys have freely and voluntarily signed the documents, having full knowledge of its contents and the

responsibilities incumbent and the potential implications of inappropriate decision making or management.

### **Proposal 6**

**Proposals 6-1 & 6-2:** Carers Queensland agrees with these two proposals.

**Question 6-1:** Carers Queensland does not endorse this provision of compulsory training but endorses the option for tribunals to compel attorneys to attend appropriate training.

### **Proposal 7**

**Proposal 7-1:** Carers Queensland supports this proposal.

**Proposal 7-2:** Carers Queensland is aware of many circumstances where a person with an intellectual or cognitive disability has been asked to provide a 'mark' (signature) on the relevant paperwork in order to open a bank account. The legitimacy of this has been questioned by the individual's carers/parent/family at the time. Proposal 7-2 is sound in principle but ineffective in reality.

**Questions 7-1 & 7-2:** are outside our area of professional knowledge base.

### **Proposal 8**

**Proposal 8-1:** Carers Queensland supports this proposal

**Question 8-1:** Carers Queensland believes that 'who is family' is highly personal to each individual and is not determined by familial relations. This is particularly so for people who identify as lesbian, gay, bisexual, transgender, intersex or queer or those who have arrived in Australia as displaced refugees, and people from 'stolen generations'.

### **Proposal 9**

**Proposals 9-1 to 9-3:** Carers Queensland supports these proposals.

### **Proposal 10**

**Proposals 10-1 to 10-4:** Carers Queensland supports these recommendations.

### **Proposal 11**

**Proposals 11-2 & 11-2:** Carers Queensland supports these recommendations