

POLICY FUTURES

A Reform Agenda



By John Chesterman

Churchill Fellow 2012

To investigate the abuse, exploitation and neglect of at-risk adults – Canada, UK, USA.

Supporting and safeguarding at-risk adults

Who do you contact if you think that an adult with support needs in your community is experiencing neglect, abuse or violence, and there is no pressing medical emergency or obvious criminality?

The answer should be clear, but it isn't.

For good reason, aged-care and disability services are increasingly being provided in homes rather than in institutions; this brings benefits for many but significant risks for some. Adults who have significant support needs are routinely at risk of harm in community settings. Elder abuse is rife, and the Disability Royal Commission has recently demonstrated in alarming detail the harms commonly experienced by people with disability.

Emergency services are routinely asked to attend to situations where they can do little to support the person in question. Adult guardianship is overused and can only see ameliorative action taken after decision-making authority is removed from the at-risk person. Complaint-based regulatory bodies respond to complaints about services, but they do little to protect those who are unable or unwilling to complain, or whose harms are caused by an absence of services or by the actions of others.

Each state and territory should have an 'adult safeguarding agency' with which concerns about at-risk adults can be raised, and which is able to take supportive action. The Australian Law Reform Commission recommended this in 2017 (echoing earlier reform calls), while the recent Disability Royal Commission and Independent Review into the NDIS have both supported this reform. In addition to providing better responses to adults at risk of harm, the creation of independent adult safeguarding agencies will energise citizens to be more active in ensuring the wellbeing of our most at-risk fellow citizens by giving people somewhere to raise their concerns.

Key Policy Recommendations

1

By October 2025, every state and territory should legislatively empower an adult safeguarding agency to be able to investigate and respond to concerns that at-risk adults may be experiencing abuse, neglect or exploitation.

2

The Commonwealth Attorney-General, through the Standing Council of Attorneys-General, should monitor national adult safeguarding developments in the wake of, and consistent with, the recommendations and requirements of the Australian Law Reform Commission's *Elder abuse – A national legal response* report, the *National Plan to Respond to the Abuse of Older Australians [Elder Abuse]*, and the final report from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.

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Policy Snapshot



Why it matters

The ALRC identified the existence of an ‘**investigation gap**’ when it came to possible responses to situations of abuse or neglect,¹ and recommended that ‘Adult safeguarding laws should be enacted in each state and territory. These laws should give adult safeguarding agencies the role of safeguarding and supporting “at-risk adults”’.²

In 2019, NSW created the office of the Ageing and Disability Commissioner, with broad investigative powers, while South Australia created the Adult Safeguarding Unit. Other states and territories are yet to act.

The *National Plan to Respond to the Abuse of Older Australians [Elder Abuse] 2019–2023* committed state and territory governments to ‘review state and territory legislation to identify gaps in safeguarding provisions’.³

The Disability Royal Commission has documented the myriad ways in which people with disability experience violence and inadequate institutional responses to this violence.⁵

In 2022, the Queensland Public Advocate recommended the creation of a state-based Adult Safeguarding Commissioner and local Adult Safeguarding Networks, while the Victorian Office of the Public Advocate argued for its powers to be broadened so it could perform ‘a new, specialist adult safeguarding function’.⁶

In 2023, the Independent Review into the National Disability Insurance Scheme supported the ALRC’s call regarding ‘adult safeguarding agencies’, while the Disability Royal Commission called on states and territories to ‘ensure adult safeguarding functions are operated by adequately resourced independent statutory bodies’.⁷



Social costs

In 2021, the first ever Australian elder-abuse prevalence study, conducted by the Australian Institute of Family Studies, revealed that:

‘In the 12 months prior to being surveyed,

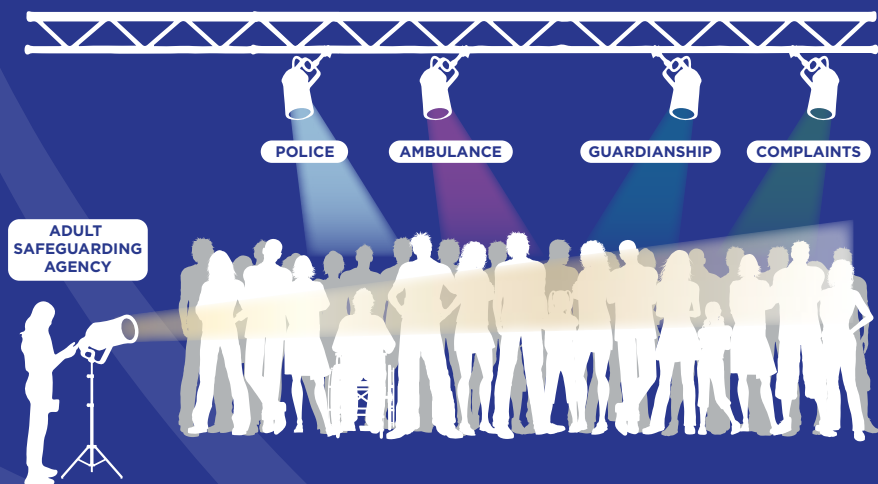
14.8%

of the sample reported experiencing at least one form of elder abuse.’⁴



Addressing the Gap

Addressing gaps in government agency responses to at-risk adults



¹ALRC, Elder Abuse Discussion Paper, 2016, p. 61. ²ALRC, Elder abuse - A national legal response, final report, 2017, p. 377. ³National Plan to Respond to the Abuse of Older Australians [Elder Abuse] 2019–2023, Initiative 5.1. ⁴AIFS, National Elder Abuse Prevalence Study: Final Report, 2021, p. 32. ⁵Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report, 2023, especially vol. 3. ⁶Queensland Public Advocate, Adult Safeguarding in Queensland, vol. 2, recs 1 and 10; Office of the Public Advocate (Vic), Line of sight: Refocussing Victoria's adult safeguarding laws and practices, 2022, p. 15. ⁷Independent Review into the National Disability Insurance Scheme, Working together to deliver the NDIS, final report, 2023, pp. 203, 206; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report, rec. 111.