



OFFICE OF THE
PUBLIC ADVOCATE

Submission to the draft version of the DHS Aged Care Preventing Abuse of Older People Guide

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**Contact: Dr Janine Bush
Manager, Policy and Education
Office of the Public Advocate
Ph: 9603 9567
Email: janine.bush@justice.vic.gov.au**

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Overview

The Office of the Public Advocate welcomes the opportunity to provide comment on the DHS Aged Care Preventing Abuse of Older People Guide. OPA anticipates that the development of such a guide will provide a useful resource for workers and services in the health and community sector when confronted with issues relating to the abuse of older people.

The comments in this submission are provided with the intention of assisting in the development of a Guide that will be of greatest relevance and usefulness to workers and service providers.

The comments are structured in a way that follows the current structure of the Guide. The sections that follow include:

- Introduction
- Context and nature of the issue
- Service Practice Framework
- Resources
- Appendices
- References to the Office of the Public Advocate
- General comments

Introduction

On first reading, it appears that the Guide is still in the early draft stages. In view of this, OPA anticipates that the Guide is yet to undergo significant changes. OPA expects, therefore, that its comments will be taken in this context.

To assist in creating a Guide that is accessible and easy for workers to apply, it might be useful if DHS gives further consideration to some broad aspects of the Guide. In particular, the Guide would benefit from:

- Clarifying the purpose of the Guide
- Specifying the anticipated audience

In clarifying the purpose of the Guide, it would be useful to clearly determine and articulate its focus. For example, is it:

- A practice guide?
- A service guide?
- A guide on the issue?
- A guide to assist in the development of protocols?
- Sector specific?
- Promoting a whole-of-government response?

In regard to the audience, the Guide would have greater focus if it were clear who it is targeting (what sector/s, what type of workers) and what information they require and might benefit from. Has DHS considered

- who will refer to the document?
- in what circumstances will people refer to the document?
- what information will workers be seeking when they refer to the Guide?
- what structure would be best to assist them to get the information they need?

What type of services will the Guide be targeted to? Will they be specifically aged care services? Are they residential services? Are they outreach services? How does the Guide assist workers in different sectors and work settings to respond to issues of elder abuse?

In order to answer some of the questions raised above, one possibility might be to appoint an advisory or working group comprised of representatives of people who might use the Guide. Alternatively, DHS might undertake some focus groups to comment on the usefulness of the Guide.

Context and nature of the issue

The section of the Guide that outlines the 'context' contains some useful information outlining the scope of the issue of abuse of older people. In response to this, the Office of the Public Advocate has some comments relating to additional information that might assist in providing contextual background to the issue. This would also involve a structural change to this Section of the Guide.

While the Forward contains a very brief comment about the Victorian Government's approach to abuse of older people in the community, this is very minimal and doesn't give the reader a greater sense of how the Guide fits within the Government's broader policy framework.

It would be valuable if the context were changed to provide "Background and context". This might include (but not be limited to) comment on the following initiatives that appear relevant to the issue of elder abuse:

- Charter of Human Rights
- Commitment to Senior Victorians – and helping older Victorians stay independent (from *A Fairer Victoria*)
- Creating a Safer Victoria

In addition, other government initiatives to address abuse, neglect and exploitation of Victorians would be of value. For example, providing some context relating to how the elder abuse initiative fits within related initiatives to address family violence and child abuse would be informative.

Within this context, information about the roles and responsibilities of key players in the response to the abuse of older people would be valuable. This information has clearly been developed and forms a significant resource at the end of the draft Guide. Integrating a summary of the roles and responsibilities of government agencies and NGOs in responding to elder abuse into the Context section would be helpful. This

might be a brief summary or overview of no more than two pages. One option might be to provide the overview in a table. The summary or table could cross-reference to the resource section of the Guide if the reader is seeking more detailed information.

An additional section might then be created called “Nature of the Issue”. This would be an ideal place to incorporate the information in the Guide that provides the definition of elder abuse and outlines the extent of the issue. It might also be useful to provide an overview of strategies that have been identified as effective in responding to the abuse of older people. In addition some of the case studies from the appendix might be integrated into this section to illustrate experiences of older people that are considered abusive.

The additional information provided on indigenous older people is valuable in the context section. Given the mention throughout the document of people from CALD backgrounds having different experiences – it might also be worth providing information about the context these experiences occur within. Similarly, the issue of cognitive impairment is a significant cause of increased vulnerability for older people. Again, this might be a useful additional section to be provided in outlining the nature of the issue of elder abuse.

Service Practice Framework

The Service Practice Framework a key and significant section of the document. It provides the most useful resources and guide for how to respond to situations where abuse of an older person might be identified or suspected.

This section, however, is difficult to follow at times and as a Guide, it is critical that the structure is clear and easy to navigate.

There are potentially several ways that the Guide might be re-structured to provide this easy navigation. The suggestions here, therefore, are simply one example of approaching the structure.

As indicated earlier in this submission, it would be useful to clearly indicate who the Guide is directed at and what type of guidance it seeks to provide. OPA assumes that the purpose is to provide workers and service providers in the health and community sector guidance on how to develop policies & procedures and how to approach the development of inter-agency protocols. If this is correct, it might be helpful to break the section on ‘Service Practice Framework’ into the following sub-sections (or even sections):

- Overview
- Developing internal policies and procedures
- Developing inter-agency protocols

Overview

The overview would outline the most effective strategies for addressing the abuse of older people – and the model the DHS Guide recommends.

A flowchart specific to the Victorian context could be developed and included in this section. Such a flowchart might identify and chart the pathways through the service system that would be relevant to situations of elder abuse. That is, where the cases are often identified, the referral options, the legal pathway, the non-legal option and the possible outcomes.

Such a flowchart would provide a useful introduction to the following sections that outline the strategies for responding to elder abuse internally within organisations and externally through partnerships and protocols with other agencies. It would outline the context necessary to understand the role and responsibility of key agencies and government bodies.

Developing internal policies & practices

The draft Guide provides some information about the types of policies and procedures that organisations might try to put in place. The order of how these responses might happen is not clear. Furthermore, the language used in this section of the draft doesn't always distinguish responses from each other. For example, an 'assessment' seems to cover both a screening or identification process and also a risk assessment. These are two very different stages in the response to a situation of elder abuse. Secondly, the broad term 'intervention' is used to describe a range of responses (which are also unclear at times).

To identify the key stages that are valuable to incorporate into a response strategy, it might be useful to refer to other sectors that have already produced practice guidelines for responding to situations of abuse. In particular, responses to family violence and to child abuse have led to the development of practice guidelines and protocols. These sectors have developed valuable resources from which a response to elder abuse could be adapted to suit the specific needs of older people.

Further to this, the glossary at the end of the draft Guide might be extended to provide definitions of the terminology used to describe the range of interventions.

Key stages in an intervention might usefully consider whether the response is:

- Prevention of further abuse
- Early-intervention to prevent the escalation of abuse
- Intervention to stop the abuse

Key strategies that a service might develop procedures on might include:

- Screening and identification of abuse – screening tools might be used to identify a suspected case of abuse
- Risk assessment – if abuse is suspected and the older person is willing to further discuss the issue, an assessment of the person's risk should be undertaken before considering referral options
- Type of intervention – prevention, early-intervention or intervention?
- Referral options – if a situation of abuse has been identified and the older person is seeking support, the service or worker will need to determine whether to refer externally or internally

- External referral – if the service does not have the capacity to support or assist the older person, they need to consider what the most appropriate referral pathway is. That is,
 - Are legal interventions necessary?
 - Are non-legal interventions more appropriate?
 - Is a health service required? Or do alternative accommodation options need to be explored? Is the person competent to make decisions?
 - Alternatively, does the older person require a combination of legal and non-legal interventions?
 - How does draft Guide assist the worker or service to develop procedures to make these decisions?
- Internal referral – if the service has the capacity to provide support, what are the next steps?
 - A case management plan – with clear goals and anticipated outcomes
 - A safety plan – what steps need to be put in place to empower the older person to monitor their safety and to respond to abusive situations?
 - Engaging other services – what other services need to be engaged to assist the older person? Are there legal options that can be explored? Does the older person want to explore these options?
 - Does the older person have specific needs – eg. are they from a culturally diverse background? Are they indigenous? Is their capacity impaired? How might their needs be incorporated into case management plan?
- What are the expected outcomes?

These are just some examples of the type of considerations that need to be taken into consideration. While the draft Guide covers some of these issues, it is important that some guidance is provided around the chronology of these interventions. The interventions might not always occur in a specific order, however, the Guide should point to the critical considerations of safety and risk first and foremost.

Furthermore, the Guide needs to be clear about the type of approaches it is recommending and how it suggests these interventions should be undertaken. This will then provide the grounding from which services should be in a position to develop their own policies and procedures.

More information about how the strategies might be useful or effective would be beneficial. For example, in what circumstances might an Intervention Order be applied for? How would it assist the situation? In what situations would legal interventions be pursued? And how might they prove successful?

Further information about practice procedures and risk assessment processes can be explored through the following resources:

- Domestic Violence Victoria (DV Vic) Code of Practice 2006
- Common Risk Assessment Tool under development by the family violence sector

This section would also benefit from some case studies. Case studies could be moved from the appendix to illustrate particular situations and different responses provided by services.

Developing inter-agency protocols

The development of inter-agency protocols would be more effective if approached separately from the section on developing policies and procedures.

Some of the issues discussed within this section might include:

- Explanation of protocols – what are they? What do they strive to achieve?
- In what situations do protocols help?
- Are protocols always necessary?
- What ways can protocols be developed?
- What other ways can relationships be developed and sustained? Eg. local networks involving health and community services, police, community legal services, etc.

A rationale for the development of protocols would be useful. Is it anticipated that protocols will assist in furthering the whole-of-government approach to responding to elder abuse? Will protocols be developed at the statewide level? For example, a code of practice has been developed by Victoria Police to inform its response to family violence. Is this envisaged for the issue of elder abuse? Are there other stakeholders that might be engaged in such a process?

Resources

The resources section is quite extensive – and provides a range of examples of flowcharts and diagrams that have been used by individual services in different regions and states. While this provides an interesting reference for services to look to if considering developing their own flowchart, it is not clear why they have been included without any explanation of their usefulness.

The resources section might benefit from a more strategic approach. That is, provide list of issues where further resources might be required and provide reference to where further information can be sourced in hardcopy or via the internet. For example, the list might include:

- Resources on elder abuse – reference to where more information can be found on
 - what it is
 - what its effects are
 - theories
 - policies, etc
- Resources on developing policies on elder abuse
 - different organisations
 - different states – any guidelines developed elsewhere?
- Resources on strategies and frameworks to address elder abuse that have been developed elsewhere and on similar issues
 - what's happening in other states and internationally on elder abuse?
 - what's happening to respond to relevant issues – where can information be sought about what's happening in response to family violence and child abuse?

- Developing protocols
 - where can further information be found about developing protocols?

Secondly, the information about the roles and responsibilities of government departments and other relevant agencies is a valuable resource. While there is scope to have this resource at the end of the document in detail, as indicated earlier, much of the information provided in this section would also be valuable if it were integrated into relevant sections earlier in the Guide.

In addition, an updatable page somewhere in the Guide that provides contacts and where to contact the relevant organisations would be invaluable for workers and services seeking to access relevant bodies (that is, as opposed to, or in addition to, having contacts at the end of information on each agency).

Appendix

The sections in the appendix are potentially useful – but much of the information provided could be usefully incorporated earlier in the document. The recommendations taken from the Government’s response to the issue of elder abuse is a useful appendix. It would be valuable, however, to refer to this earlier in the document (eg. in the context section suggested by this submission). It could then be cross-referenced to the Appendix if the person reading the Guide is interested in more detailed information.

It is difficult to determine why the appendix on types of abuse is included as an Appendix rather than as a resource. Some of the material provided appears to be the type of information that might be used in a screening or identification process.

As mentioned earlier, the case studies would be really valuable if they were integrated into the Guide itself rather than hidden at the end of the document. Case studies provide valuable illustrations of what is considered an abusive situation, and also of how cases have been responded to effectively to achieve a positive outcome for older people.

References to the Office of the Public Advocate

This section has been included to provide advice on accurate ways to refer to the work of the Office of the Public Advocate and to ensure that any information provided by the Guide about the Office is factual.

The Guide appears to be using a significant amount of outdated material to inform its explanation of OPA and related bodies (such as VCAT).

Alongside this submission, further material and information about the Office of the Public Advocate will be provided to assist DHS in providing accurate information about the Office.

The following references to OPA need to be corrected.

Pages 30 and 31 – in reference to capacity:

- Need to define the terms being used – in particular ‘advocate’. An advocate in the community sector is quite different from an advocate at the Office of the Public Advocate
- The use of the term ‘attorney’ – what is this referring to? Is it an enduring power or attorney? Or a legal attorney?
- An older person has a right to refuse assessment – the legality of any suggestion by DHS of imposing on a person’s rights should be considered in the context of the Charter of Human Rights.

Page 32

- Reference to the Guardianship Board is incorrect – it should refer to the Guardianship List at VCAT.
- Reference to the process is incorrect – can only apply to the Guardianship List for investigation, advocacy, guardianship or administration if the person is considered incompetent. It is not possible to apply to the Guardianship List if the person is competent but does not want anyone to intervene in their circumstances. It would seem important to consider this proposal by DHS in the context of the Charter of Human Rights.
- Reference to the Community Visitors does not indicate that they are a program of the Office of the Public Advocate. It would be valuable to include this to provide some context of who community visitors are (and it would be useful to mention what their role is).

Page 41

- Referrals – need to be clear about what can refer services to the Office of the Public Advocate for. For example, can’t refer to OPA for case management, but can possibly for investigation or advocacy.

Page 42

- Caution needs to be exercised in over-emphasising the mandate of the Office of the Public Advocate to address elder abuse and creating expectations that are not within the capacity of the Office to respond to.

Pages 71 to 73

- Information about VCAT is out of date – in particular, when referring to the Guardianship List, there is no need to refer to the Board or its existence.
- The case studies and data provided in this section are out of date
- VCAT’s role needs to be stated more clearly – it appoints administrators and guardians. VCAT does not investigate and rule upon the actions of a person alleged to have abused the older person. The administrator appointed would determine the steps that could be taken and respond to any allegations of abuse, exploitation or neglect.

Pages 74 to 75

- The accuracy of the information provided about the Office of the Public Advocate needs to be reviewed. Will attach fact sheets and information about OPA's role to assist DHS in reflecting the role of OPA accurately

- The case studies provided are outdated and therefore refer incorrectly to bodies in the examples
- Section under procedures is incorrect – need to differentiate between investigation, advocacy, guardianship, and community based programs (in particular community visitors)
- Advocacy – OPA refers to other specialist services (government funded NGOs)
- Guardianship – if appointed, a guardian can enforce a decision under s26 of the *Guardianship and Administration Act 1986*. Again, it is important not to over-emphasise the extent to which this authority can be exercised.

General comments

There are a range of issues that could be improved throughout the document to make it easier to read and to use. These include:

- Cross-referencing – when issues are raised, it would be valuable to cross-reference to other definitions or explanations of these terms or concepts in the Guide
- References to older people – the language used to describe older people needs to be framed in ways that represent older people as empowered and that don't reinforce patronising stereotypes of all older people
- References to workers and service providers – if workers and service providers in the health and community sector are going to use this document, it is important that their intentions are referred to in a positive light. Some of the reference to workers as holding pre-conceived ideas that are incorrect (eg. p.35) does not reflect well on workers and may not contribute to their willingness to refer to the Guide
- Layout – the final produce might be useful as a folder with the sections divided by clear and easy to use tabs.
- Care coordinators – are these pre-existing roles or are they new? Is there funding for these roles?