

*Select Committee into Elder Abuse — Final Report —
“I Never Thought it Would Happen to Me’: When Trust is Broken” — Motion*

Resumed from 10 June on the following motion moved by Hon Nick Goiran —

That the report be noted.

Hon STEPHEN DAWSON: I thought I would take the opportunity to rise and make some comments this afternoon and give Hon Nick Goiran a much-earned break from debate. I acknowledge and again thank the members of the Select Committee into Elder Abuse for their fine work and recommendations. Since the government’s report was tabled in September last year, the minister tells me that a great deal has been achieved. The Western Australian strategy to respond to the abuse of older people was launched in November 2019, and in the 2019–20 budget, the Department of Communities—the lead agency for elder abuse—was allocated \$1.4 million to address elder abuse.

As recommended by the select committee, the following items have been actioned. Western Australian elder abuse helpline funding has been increased to \$150 000 and guaranteed until 2023–24; funding has been secured for the Northern Suburbs Community Legal Centre until 2023–24, to deliver the older people’s rights service across the metropolitan Perth region; and I am advised that a significant and successful elder abuse financial services roundtable was also held last year. The minister tells me that the government is responding to the recommendations of the select committee with a number of initiatives. These will be announced soon and implemented over the next few months.

For those recommendations that require further consideration, I understand that the Attorney General has provided input into the proposed development of a national register of enduring powers of attorney. Regarding amendments to the Guardianship and Administration Act 1990, work has been delayed due to some other legislative priorities. I am also aware that the Western Australian Registrar of Titles is required to keep and maintain a power of attorney book; I am sure that Landgate undertakes due diligence in safeguards relating to land transfers.

While I am on my feet, I want to acknowledge that Monday was World Elder Abuse Awareness Day. Over the course of this week a number of Perth landmarks will be lit up in purple, which is the symbolic colour of World Elder Abuse Awareness Day. As we have spoken about in this place over the last year and a half, elder abuse is a significant issue in our community, and we all have a responsibility to raise awareness of it and to prevent it. That is what the committee did in its work, and it was a very important conversation to have. In light of the circumstances of the pandemic that we have experienced over the past few months, it is probably right to say that older people may also be at greater risk of elder abuse during this time of COVID-19, due to the impacts of physical isolation—particularly, I have to say, in regional communities. I know that many in the community have struggled over the past few months with isolation, but many older people in particular have stayed home. There is certainly a heightened risk of abuse, or potential abuse, during this time. Last year, the state government launched the elder abuse prevention strategy, which outlines a series of support, education and awareness measures to combat this growing issue. Certainly some groups, such as older Aboriginal people, people with disability and people from culturally and linguistically diverse backgrounds, may be at higher risk of experiencing elder abuse and may be less likely or able to seek help. With World Elder Abuse Awareness Day held this week, it is an important reminder that we all need to pay attention, reach out, support and offer assistance to the more senior members of our community to make sure that they have the support and assistance they need and that they are not being taken advantage of. I acknowledge this week. For those who are interested, the buildings that lit up in purple were Optus Stadium, Yagan Square, the Bell Tower, Elizabeth Quay and Council House. With that, I conclude my remarks.

Hon NICK GOIRAN: At the outset, I commend the Deputy Leader of the Government in the Legislative Council for taking the opportunity to provide the chamber with an update. That is exactly the type of thing that should be happening routinely within government. Why is it that we seem to have this culture and attitude that when a committee report is tabled, there is no further government involvement? The Minister for Environment has just demonstrated exactly what should happen and I hope that this type of approach continues in the future. I thank the minister for that useful update. I join with the minister in recognising World Elder Abuse Awareness Day, which was held on Monday this week. I note the announcements made by the government as a result of that day during the course of this week.

I found one aspect of the minister’s update curious—that is, the progress being made, or perhaps the progress that has not been made, on amendments to the Guardianship and Administration Act 1990. I remind members of that situation, which can be found in recommendation 24 of the committee’s report on page 87. On page 87, it is clear that a section of work has been done by the committee entitled “Better protection for older people who have an Enduring Power of Attorney”. The committee discusses the statutory review that was undertaken, as I recall, in 2015. The point is that the Attorney General advised the committee—this is at paragraph 7.64—that a bill to amend the Guardianship and Administration Act was approved by cabinet in December 2017 and that he anticipated that the amendment bill would be introduced in the spring session of Parliament. A member who is not familiar with this time

line might wonder, “What is this spring session of Parliament to which the Attorney General refers?” Footnote 268 is a reference to the letter by Hon John Quigley, MLA, Attorney General, dated 26 April 2018. If, on 26 April 2018, the Attorney General wrote to the committee and said that the government intended to bring in a bill in the spring session, he was talking about the September sittings in 2018. That spring session has long gone and since then we have had the autumn sittings of 2019, the spring session of 2019 and we are about to finish the autumn sittings of 2020.

There is no sign of the bill. The minister who provided a response, and I thank him for that because it is helpful, indicated that that is because the government had—this is what I recall; I do not have the draft *Hansard* in front of me—other legislative priorities. I remind members that the Attorney General, Hon John Quigley, the member for Butler, told the committee in April 2018 that a bill had been approved by cabinet in December 2017. What is going on with the McGowan government cabinet that a bill can be approved in December 2017 on an important issue to do with elder abuse but it sits there and it sits there, week after week, month after month and, amazingly and literally, year after year? It was approved in December 2017. There is no sign of it and here we are in June 2020. When does the Attorney General think that he is going to bring to Parliament a bill that was approved by cabinet in December 2017? Is he thinking about bringing it in in December this year to mark the three-year anniversary of it being approved by cabinet? That would be fantastic. He would be so proud of himself and we would see a media release saying how the McGowan government is really tackling elder abuse because it has brought this bill in three years after it was approved. Perhaps this is just another example that the word of the Attorney General of this state means nothing. It is no wonder that there has been quite a bit of recent commentary about him providing misleading information to Parliament. I note that the other place seems to not care about whether he provides misleading information to Parliament; instead, they wrap their arms around him, establish their protection racket and make sure that under no circumstances is he brought to account. Whatever members think about that particular episode—for my part, I associate myself with the view of the President of the Legislative Council—maybe someone can explain to me why it is appropriate for the Attorney General of Western Australia to tell a committee of the Parliament, the Select Committee into Elder Abuse, that it is anticipated that the bill will be introduced in the spring session of Parliament, meaning in 2018, but nothing happens and that is acceptable. Are we as a chamber going to accept the response that there have been other legislative priorities? Members who might be more charitable than me in this area might say that it is appropriate because there have been other legislative priorities because of the COVID-19 pandemic. We all know that, because we had to sit through the circus that was those sittings in April. We know that top priority legislation was pushed through by the government in April, but that was April 2020. What happened in the spring session of 2018? What happened in 2019? What are the priorities of such magnitude that the government has determined that this particular reform will be buried, possibly never to be seen in this fortieth Parliament?

As a committee member, in future inquiries, I wonder how much weight government evidence will have, whether that is a letter or evidence given at a hearing. How much weight will we give that evidence, because we have been told one thing and then the exact opposite happens? When a government official gives advice, whether it is at the table in the chamber or at a committee hearing, are we supposed to give great weight to that evidence? Are we supposed to take them at their word when they say that a bill was approved by cabinet in December 2017? Are we to take that as truth—a reliable and verifiable fact? When the government said that it anticipated doing something in the spring session of Parliament in 2018, should we have taken it at its word or were they just mere words? Are we all just going through the motions? I hope that on the next occasion there is an opportunity for the government to update us on this bill, there will be a proper explanation of what is going on.

The DEPUTY CHAIR: The Deputy Leader of the House.

Hon STEPHEN DAWSON: Thank you, Madam Deputy Chair. I have called you Acting President a few times, and I apologise for that.

I will take on board Hon Nick Goiran’s question. However, whether I will get an answer to provide the honourable member next week remains to be seen.

I want to take the opportunity to advise the chamber of Legal Aid Western Australia’s “Elder Abuse Strategy 2020–2021”. I am not sure whether members are aware, but last year Legal Aid WA launched a seniors rights and advocacy service. The honourable member might know about it, but I was unaware of it until today. It is a specialist legal service in the civil law division of Legal Aid Western Australia. The service seeks to help people affected by elder abuse and to safeguard the rights of older Western Australians. The seniors rights and advocacy service provides free legal advice and assistance to older people who have experienced elder abuse or who are at risk of experiencing elder abuse. It provides representation in certain guardianship and administration matters in the State Administrative Tribunal. It provides coordination and triage of elder abuse services provided across all practice areas at Legal Aid WA including civil law, family law, regional offices and intake areas. It provides mediation or dispute resolution of suitable matters and referral for pro bono assistance of potential litigation matters. The service provides information sessions and community legal education. It also provides enhanced referral pathways and linkages with a wide range of community and local government agencies.

The types of matters that the service can provide advice and assistance on includes advice about planning for the future—that is, the nature and effect of enduring powers of attorney, enduring powers of guardianship, advance health directives and when someone lacks decision-making capacity, on guardianship and administration. The service can provide advice on granny flats and moving in with the family, family law and issues involving grandchildren, and protection from violence or abuse. I am advised that if honourable members in this place need to refer a constituent, they can send them to the service or their offices can contact Legal Aid WA on 1300 650 579 or info@legalaid.wa.gov.au to get help. If members want to refer an older constituent to Legal Aid WA, an email can be sent to seniorsrights@legalaid.wa.gov.au, which is a more specific service that can answer their questions a lot quicker. It is an important service. I congratulate Legal Aid WA on the creation of the service and for its “Elder Abuse Strategy 2020–2021”. I think honourable members would agree that it is significant.

Hon MATTHEW SWINBOURN: I come to the lectern to speak on this report very briefly and to acknowledge that it is World Elder Abuse Awareness Day. I think one of the benefits of having a day like this is that it brings to the fore the issue of elder abuse and gives governments an opportunity to rally around it. Obviously, that is not only our government, but also other governments. I am very proud of the Select Committee into Elder Abuse’s work and the report. It was a very thorough effort and I am happy to commend the recommendations the inquiry made. I would also like to give a shout-out to those groups that continue to work in this space, such as the Northern Suburbs Community Legal Centre. I think that legal service’s important work has been recognised with additional funding. If I recall correctly, the service established an elder abuse hotline—Hon Nick Goiran might be able to confirm this for me—before the national hotline started. It did some really good preliminary work in this area that the committee was able to reflect on in its recommendations and both state and federal governments have picked up on that work. I think one of the big issues for elderly people and seniors is isolation, and having access to a telephone service is a really important way in which they can reach out and ask for help. The committee’s first finding is on not only the effect of abuse on older people and how devastating it can be, but also how important it is to be informed by a human rights–based approach that focuses on the inherent dignity and autonomy of older people and that is not too paternalistic or condescending, because that takes away that dignity and autonomy. As I said, I will keep my comments short, but, once again, I commend the report to the chamber and acknowledge World Elder Abuse Awareness Day. I hope that in the not-too-distant future we will not have to have a World Elder Abuse Awareness Day because society will have moved past those terrible practices that make older people victims and put them in the invidious position of being abused. Once again, I commend the report.

Hon STEPHEN DAWSON: I just want to acknowledge the purple wreath —

Hon Alison Xamon: It is a road.

Hon STEPHEN DAWSON: The purple road in the hall on the first floor of Parliament was made by the Northern Suburbs Community Legal Centre. That agency has a long history of doing fantastic work. We have spoken previously about the late Karen Merrin. That agency prepared the purple road. Members have the opportunity to have their photo taken in front of it, which they can post on their social media account to create awareness of World Elder Abuse Awareness Day. I encourage members who have not seen it yet to check it out and take the opportunity to use photos of it so that we can ensure that the community continues to have a conversation about this important issue.

Hon NICK GOIRAN: I would like now to give some consideration to the government response to recommendation 25 in the report, which states —

The Government investigate the viability and timeframe for creating a Western Australian central register of Enduring Powers of Attorney, with a view to integrating it with any national model that may be agreed to in the future.

The government’s response was provided on 20 November 2018, so, obviously, it predates the verbal update provided by the minister today. The report states that the government does not accept that recommendation and continues —

As part of handing down the 2018–2019 Federal Budget, the Commonwealth Government announced it would work with states and territories to develop a national online register for enduring powers of attorney. Commonwealth funding for the register is subject to the in-principle agreement of state and territory governments to reform enduring powers. On 8 June 2018, all Australian Attorneys-General agreed to identify possible options for harmonising enduring powers of attorney, in particular financial powers—an important step forward in the development of a national register of enduring powers.

There is considerable complexity and cost involved in establishing a separate Western Australian register and the Government does not agree that it would be a smooth transition to integrate a state register with a national register. Given the large amount of work that is underway to inform the development of a national

register, the Government does not agree that work should be pursued in isolation to establish a separate state register for Western Australia.

That is where that matter has been left. We have been provided an interim update by the government today. It would be good to see some momentum behind this initiative. I think the heart of the committee's concern at the time was, unfortunately, if we wait for national schemes, we will be waiting sometimes decades for things to occur, whereas the committee's view was that it would be worthwhile commencing with a Western Australian state-based central register for enduring powers of attorney.

I turn to further matters outlined in recommendation 26 of the report. The Australian Law Reform Commission recommends that newly appointed private guardians and financial administrators should be required to sign an undertaking with respect to their responsibilities and obligations. The committee, which I had the opportunity to chair, agreed with the Australian Law Reform Commission's view, but our view was that this should also apply to attorneys under an enduring power of attorney. Recommendation 26 states —

The Government amend the *Guardianship and Administration Act 1990* to include a requirement that private guardians, attorneys or administrators be required to sign an undertaking with respect to their statutory responsibilities and obligations.

This is yet another area in which the Guardianship and Administration Act 1990 is in need of some reform, and it is yet another example of why it is disappointing to be here, in June 2020, with no such bill and no such reform before the Parliament, despite the fact that the Attorney General of Western Australia, Hon John Quigley, said that something had been approved by cabinet as far back as December 2017. He said that something would be brought in during the spring session of 2018, and here we are now, two years later, seeing nothing but an excuse provided by the government that there have been legislative priorities.

The government's response to recommendation 26 was provided on 20 November 2018 and said that it agreed with the recommendation in principle. It states —

As noted by the Committee, the Australian Law Reform Commission (ALRC) report, *Elder Abuse—A National Legal Response*, identified that a key cause of the misuse of enduring powers of attorney was the attorney not understanding the nature of their role or the limits on their authority.

Currently, in Western Australia, the Public Trustee issues a *Private Administrator's Guide* to assist people in understanding and carrying out the role and responsibilities as an administrator. The Office of the Public Advocate publishes both a *Guide to Enduring Power of Guardianship in Western Australia* and a *Guide to Enduring Power of Attorney in Western Australia* which explain the responsibility and obligations of the roles and also outline pertinent questions for a person to consider before accepting the role as enduring guardian or attorney.

In addition, the Office of the Public Advocate provides an advisory service for community members and service providers which can be accessed by telephone, in-person or in writing and is developing a *Private Guardian's Guide* for publication on its website.

The Statutory Review made recommendations for proposed legislative amendments to provide more detail in the Act, explaining the power and authority of an attorney appointed under an enduring power of attorney. The Government supports this recommendation in principle, but notes that it would require legislative amendment to the Act and the development of a standard form obligation which could slow down the progress of the Amendment Bill.

Let us be clear about what we are saying here. The government told us in November 2018 that it agreed with the committee's recommendation in principle, but it is now a bit concerned that if it does anything about it, it might "slow down the progress of the Amendment Bill". That is the amendment bill that the Attorney General said was approved by cabinet in December 2017, that he was going to bring in during the spring session of Parliament in 2018 and that is the bill that we have never seen. Here we are in June 2020. The government did not want to do any work on that because, and I quote from the government response, it would "slow down the progress of the Amendment Bill". How could we go any slower than what has been happening at the moment? It is like there is some kind of competition within government between a snail and a tortoise to see which one can move more slowly.

Hon Alannah MacTiernan: Two hours on the proclamation section.

Hon NICK GOIRAN: How we have missed the Minister for Regional Development! Is it not wonderful to see her arrival back in the chamber from urgent parliamentary business? The minister will be delighted to know that what we are discussing is the matter of elder abuse. The minister will be interested to know that —

Hon Alannah MacTiernan: I had worked that out.

Hon NICK GOIRAN: The minister had worked it out.

Hon Alannah MacTiernan: Because it happens every week like clockwork.

Hon NICK GOIRAN: While the minister is working it out, could she go and have a chat to the Attorney General and say, “What’s happened to that bill that I agreed to in cabinet in December 2017?” According to him, the cabinet that that minister is a member of agreed to it in December 2017. Here we are waiting for the bill.

Hon Alannah MacTiernan: Let us get some legislation through.

Hon NICK GOIRAN: We want to see the bill! We are waiting for you to bring it in; that is why you keep hearing from me about it every Wednesday, and now I am reading the government’s response saying that it does not want to do anything else on it because it might “slow the progress of the Amendment Bill”. That is exactly my point, Minister for Regional Development. Thank you for coming back into the chamber from urgent parliamentary business, now that you are so familiar with this particular topic. How ridiculous! In December 2017, you approved the bill and we are waiting for it in June 2020. We are still waiting. But maybe the Minister for Regional Development is quite happy with the progress there has been; she is quite pleased with her government’s progress that it is nearly going to be three years before we see anything on this matter to do with elder abuse. The minister is very pleased about that tortoise-like speed that the government is operating on! It is a fantastic performance by this government when it comes to abuse and this particular issue. How disgraceful is it to say to the Parliament, “We are a bit concerned that it could slow down the progress of the amendment bill”? How embarrassing! I hope, especially for the Minister for Regional Development, that we get an opportunity to debate this particular matter again next Wednesday and maybe by then the Minister for Regional Development would have had a quiet word with the Attorney General and said, “Mate, what’s going on with that bill that I agreed to in December 2017, because this is getting embarrassing, Wednesday after Wednesday?”

The DEPUTY CHAIR (Hon Martin Aldridge): Hon Nick Goiran.

Hon NICK GOIRAN: Thank you, Mr Deputy Chairman.

Maybe the Minister for Regional Development will do this; we will see next Wednesday. I hope that because of this revelation that has been made today, the Leader of the House does not try to push off consideration of committee reports next week. I hope that that does not happen because I want to hear from the Minister for Regional Development. I would like to know what conversation she has had with the Attorney General, because I know that she is passionate about the issue of elder abuse, like all the other members of this chamber. It is no good having a government pushing out media releases, saying everybody should acknowledge World Elder Abuse Awareness Day on Monday and two days later on Wednesday we have revealed to us that the government has had nearly three years to do something but it did not do anything because it was concerned that it might slow down the amendment bill that it has never brought in. We cannot have that two days later after a media release. We cannot have the government beating its chest about elder abuse on Monday, but on Wednesday get the revelation that this matter is exposed and then we never talk about it until the famous spring session of 2020, which will be exactly two years after the Attorney General said that he would bring that bill in! We cannot have that. I would like a response from the government next Wednesday.

I will conclude by saying that, in all sincerity, I thank Hon Stephen Dawson for the seriousness with which he has treated this matter on behalf of his government, unlike some other members who will remain nameless. I thank him for the seriousness with which he has taken this important matter, and I hope that we can have a proper explanation next week about what is happening with the amendment bill. An explanation that there have been other legislative priorities will not cut it in these circumstances, least of all when a committee of the Parliament has recommended something that the Australian Law Reform Commission has recommended. The government said that it agreed with that in principle but it did not want to do anything at that moment because it did not want to slow down progress. There cannot be any slower progress than we have seen in this matter. I hope that we get a proper explanation by next Wednesday. Unless any other member has anything further to say, I ask that this matter be deferred to the next occasion.

The DEPUTY CHAIR: Members, that is the end of the consideration of committee reports.

Consideration of report adjourned, pursuant to standing orders.

Progress reported and leave granted to sit again, pursuant to standing orders.