

GOVERNMENT RESPONSE

'I NEVER THOUGHT IT WOULD HAPPEN TO ME': WHEN TRUST IS BROKEN

Final Report of the Select Committee into Elder Abuse

Introduction

The Government of Western Australia (the Government) welcomes the Final Report of the Select Committee into Elder Abuse (the Committee), *'I never thought it would happen to me': when trust is broken*, tabled in the Legislative Council on 13 September 2018.

Many of the report's findings and recommendations already align with work that is being undertaken by the Government to address elder abuse e.g. collaborating with the Commonwealth and other state and territory governments to develop a National Plan; and addressing issues arising from the Elder Abuse Summit held by the Minister for Seniors and Ageing, Hon Mick Murray MLA in June 2018, which brought together more than 40 people from organisations that respond to elder abuse in Western Australia.

The Government is considering a range of initiatives which will result in a better system to protect vulnerable older people from abuse.

Profile of the Government's response

Response	Definition
Accept	All elements of the recommendation are supported by the Government.
In principle	The Government generally supports the intent or merit of the policy underlining the recommendation, but does not necessarily support the method for achieving the policy; and/or additional funding will be required to implement the recommendation.
Further consideration	Further analysis is required before the Government can decide whether it supports the recommendation.
Not accept	The recommendation is not supported by the Government.

Recommendation 1

The Government's response to elder abuse in Western Australia be informed by a human rights-based approach that focuses on the inherent dignity and autonomy of older people.

Accept. The Government agrees that if human rights principles are kept at the forefront of any responses to elder abuse, this will ensure that the inherent dignity and autonomy of older people are supported and strengthened.

Recommendation 2

For the purposes of defining elder abuse, the starting age for status as an 'older person' in Western Australia be set at 55 years of age for Aboriginal and Torres Strait Islander people and 65 years of age for non-Aboriginal and Torres Strait Islander people.

Accept. In Australia, 65 years is the statistical starting age for 'older person' and the minimum age for access to the aged pension. The life expectancy for Aboriginal and Torres Strait Islander (ATSI) people is significantly lower than for non-Indigenous Australians, hence 55 years is an appropriate defining age for an ATSI older person.

Recommendation 3

The Department of Communities determine which agencies and government departments should be collecting data on elder abuse and also research methods to better collate that data and investigate more effective methods to increase the rate of reporting abuse.

Accept. The Government agrees with the finding that data on elder abuse has historically not been collected by government agencies or organisations which respond to elder abuse. Where data is being collected, it is not collated in a consistent or meaningful way.

The Department of Communities (Communities) is developing a comprehensive response to address elder abuse. It will liaise with the Department of Justice, WA Police Force, Department of Health, Department of Commerce, Landgate, and any other relevant agencies and organisations to determine data collection criteria, processes and protocols. Communities will also work with the Australian Institute of Family Studies, which has been commissioned by the Commonwealth Government to 'test data collection tools to measure the abuse of older people'.

Recommendation 4

The Department of Communities commission research into the prevalence and forms of elder abuse and the unique challenges that Aboriginal and Torres Strait Islander older people face in Western Australia.

In principle. The Government agrees that there is a need to build the evidence base on the prevalence and forms of elder abuse, including in ATSI communities in Western Australia. Aboriginal older people living in Western Australia may be particularly at risk, as supports may not be as readily accessible for a variety of reasons such as distance and cultural considerations. The Government recognises that family obligation and strong ties to kin are important in Aboriginal cultures and older Aboriginal people live in a diverse range of settings across the state.

The Commonwealth sought advice from Communities on high-need areas and potential providers for elder abuse service trials. In nominating potential sites, Communities strongly advised the Commonwealth Attorney-General's Department that there is a need to consider a specific pilot for older Aboriginal people experiencing, or at risk of experiencing, elder abuse in regional WA. It is expected that the Commonwealth will request nominated providers to apply for restricted-competitive grants in November 2018.

Recommendation 5

The Government develop an action plan that is culturally safe, developed in conjunction with Aboriginal and Torres Strait Islander people and acknowledges the unique circumstances that Aboriginal and Torres Strait Islander older people face in Western Australia.

Accept. The Government supports that any response to elder abuse must be culturally safe and be delivered by culturally competent professionals. Cultural safety can be defined as: "an environment that is safe for people: where there is no assault, challenge or denial of their identity, or who they are and what they need. It is about shared respect, shared meaning, shared knowledge and experience of learning, living and working together with dignity and truly listening."¹

¹ R Williams, 'Cultural Safety – what does it mean for our work practice?' (1999) 23(2) Australian and New Zealand Journal of Public Health 213, p 213.

The needs and unique circumstances of ATSI people will be addressed in Communities' current work to develop a comprehensive response to address elder abuse. It will include consulting directly with Aboriginal people to identify issues and appropriate responses. The development of a response to address elder abuse (Recommendations 34 and 35) will incorporate specific initiatives and measures designed for Aboriginal family and community circumstances. However, the development of specific strategies does not preclude Aboriginal elders from benefitting from mainstream services and support that will be provided in a broader response.

Recommendation 6

The Government ensures that, when the National Plan to combat Elder Abuse is released, it addresses humbugging as a form of elder abuse that affects Aboriginal and Torres Strait Islander older people and includes culturally safe strategies and responses.

In principle. Communities has recommended that, in addition to any State response, the abuse of older ATSI people needs to be addressed in the National Plan. Communities' response to address elder abuse will deal with issues for ATSI older people in WA, recognising that humbugging – applying pressure to obtain a benefit, whether money, medicine, food or other possessions – is an aspect of elder abuse that needs to be considered. Communities will work with Aboriginal people and Aboriginal controlled community corporations to understand and co-design a response in areas where the community recognises humbugging as an issue.

Recommendation 7

The Government facilitate more support services and information for carers of older people in Western Australia.

In principle. The Government agrees that carer stress or carer fatigue is a risk factor for elder abuse. Communities allocated \$1million in 2017–2018 to Carers WA to provide supports, services and programs (including counselling and training), social support, advice, respite, employment and engagement activities for unpaid carers. A review of the *Carers Recognition Act 2004* (WA) is underway to assess its objectives and look at opportunities for further support and recognition of carers. The Government will continue to work with the sector to equip unpaid carers with the necessary skills and support services to provide effective care for an older person. Additionally, carer needs will be addressed as part of Communities' response to elder abuse and as part of its broader mandate to support carers in our community.

Recommendation 8

The Government allocate funding to continue and expand peer education schemes, such as the Older People's Peer Education Scheme.

In principle. The Government agrees that peer support programs are one of a number of strategies to prevent elder abuse and increase the participation of older people in the community. Programs such as the Older People's Peer Education Scheme (OPPES), a partnership between the Northern Suburbs Community Legal Service and the Southern Communities Advocacy Legal and Education Service, utilise older people as peers to educate other older people about the risks and signs of elder abuse. Communities will consider peer education schemes in the development of its response to address elder abuse, pending an evaluation of OPPES which is currently underway.

Recommendation 9

The Government commission an audit into the quantum of funding, and its effectiveness, with a view to increasing funding to community organisations and agencies to raise awareness of elder abuse and educate the community.

In principle. Participants at the Elder Abuse Summit in June 2018 identified that education and awareness raising were issues that needed addressing. This is in line with the Committee's finding that the community is not well-educated on the specific signs of elder abuse; thus raising awareness, and educating both older people and those who interact with them, on the warning signs, would be effective ways of preventing elder abuse.

The Department of Justice through the Office of the Public Advocate provides community education activities which includes information about enduring powers of attorney, enduring powers of guardianship and advance health directives and the Public Trustee provides community education about financial elder abuse. Communities has continued funding to Advocare to promote the Elder Abuse Helpline and raise awareness of elder abuse across the community.

In developing its response to elder abuse, Communities will examine what agencies and community organisations are currently funded to raise awareness and provide education programs. This will inform the strategies identified as part of Communities' response to address elder abuse.

Recommendation 10

Western Australia Police develop a separate training module for all police officers that specifically covers the forms, signs and risk factors of elder abuse and how to respond effectively.

In principle. The WA Police Force has recently improved training for recruits and specialised family violence officers in managing incidents of suspected elder abuse. Further, the Family Violence Procedural Guidelines specify dynamics, indicators and some risk factors for elder abuse, as well as recording protocols to guide responses.

The WA Police Force recognise that in some instances elder abuse falls within the realms of family violence as defined within the *Restraining Orders Act 1997* (WA) (refer 6.30 and 6.31 pp62-63 of the final report).

Further enhancement of existing family violence specific training modules, or creation of new family violence training material, will include, where relevant, elder abuse specific content with a focus on understanding, recognising and responding to elder abuse.

The WA Police Force People Capability portfolio has reviewed the final report and will consider opportunities to incorporate this recommendation throughout the development and maintenance of both the existing and emergent in-service training curriculum.

Recommendation 11

The Government provide further funding to Advocare Inc. to continue the Elder Abuse Helpline beyond 31 December 2018.

Accept. The Department of Communities has extended the Elder Abuse Helpline grant agreement for a further 12 months ending 31 December 2019. Funding was increased to promote the Helpline and raise awareness of elder abuse across the community. The Helpline puts callers in direct contact with an advocate, and has been funded by Communities since the service commenced in 2014. Funding over the longer term will be considered in the development of the Communities response to address elder abuse and in line with State Government procurement policies.

Recommendation 12

The Government increase funding to Advocare Inc. to enable the organisation to train more volunteers and expand its advocacy services for older people.

In principle. Advocare provides an important service in Western Australia to address the risks and prevalence of elder abuse. There are however other organisations that also provide advocacy services for older people and train volunteers who work to address elder abuse. The Government, in developing its response to address elder abuse, will review the funding available to ensure that services provided result in better outcomes for people experiencing, or at risk of, elder abuse, in line with State Government procurement policies.

Recommendation 13

The Government ensure that every older person in Western Australia, regardless of where they reside, has access to specialised community legal services which provide advocacy and advice on elder abuse.

In principle. The Government notes that Legal Aid WA has significant experience in addressing elder abuse and currently provides legal advice and assistance in a range of matters where elder abuse is a feature, including the following:

- granny flats and assets for care arrangements;
- misuse of Enduring Powers of Attorney;
- legal capacity, guardianship and administration, State Administrative Tribunal (SAT);
- home loans/reverse mortgages and elderly guarantors/mortgage default;
- financial arrangements and financial abuse, including stealing and fraud;
- protection and safeguarding from violence (VROs);
- arranging grandparents' access to see their grandchildren; and
- seeking redress for elder abuse through the Civil Litigation Assistance Scheme (CLAS).

These services are delivered throughout WA.

In addition, the Northern Suburbs Community Legal Centre (NSCLC) provides a specialist legal service for older people experiencing elder abuse – the Older Peoples Rights Service. The service offers legal and social work assistance to those experiencing, or at risk of, elder abuse. It is available to older people who reside in the metropolitan area.

In the 2018–2019 Federal Budget, the Commonwealth Government committed \$18 million to build on existing dedicated services that provide support for people experiencing elder abuse. Funding will cover three main areas of services, including specialist elder abuse units such as that currently run by NSCLC. The Commonwealth will request nominated providers to apply for restricted-competitive grants in November 2018. The nominated providers in Western Australia are NSCLC, Legal Aid WA, Relationships Australia WA and Kimberley Community Legal Services.

Recommendation 14

The Government survey older clients of the State Administrative Tribunal to assess if this design and aspiration is effective to the end user.

In principle. The State Administrative Tribunal (SAT) aims to provide an accessible and user friendly forum for people experiencing elder abuse in Western Australia. This includes building and staffing facilities that cater to older people who are attending guardianship proceedings. In 2017, the SAT launched an online resolution tool which provides information about enduring powers and enables people to commence and lodge applications online. The Government recognises that it could be useful for SAT to survey how the online application process is working for older Western Australians, and any access issues regarding SAT hearings.

The Government notes that the report did not present any evidence that the current design and operation of the SAT is presenting issues for older Western Australians. Consequently, the SAT will consider this recommendation, and any privacy implications of a survey, and determine whether there is a business case to survey older clients.

Recommendation 15

Western Australia Police take definitive action to target elder abuse as a priority and increase its public information and community awareness campaigns.

In principle. Where police attendance requires the submission of an incident report, elder abuse is identified by a specific indicator and has been since 2013. Where the elder abuse indicator is checked and also constitutes family violence, the family violence process is well established.

In circumstances where elder abuse is identified and the perpetrator is not in a family relationship (as defined in Section 4(1) of the *Restraining Orders Act 1997 (WA)*) with the victim, police treat those victims in line with non-familial victims of crime, within existing investigation management frameworks.

In addition to the information for victims of elder abuse available on the WA Police Force Internet page, the WA Police Force Community Engagement Division (CED) has proactively generated posters and flyers, a media release and radio interviews to coincide with 'World Elder Abuse Awareness Day' in May 2018. Further, the CED will be present at the largest annual seniors event held in WA titled; '*Have a go day*' in November 2018 to distribute this material.

Recommendation 16

Circumstances of aggravation for property offences in the Criminal Code should be broadened to include where a victim is aged 60 years or more.

Further consideration. As noted in the Committee's report, some property offences currently have a tougher penalty where the victim is aged 60 years or more. Some property offences, while not having circumstances of aggravation where the victim is an older person, do have harsher penalties where the victim is in a special relationship with the offender; for example, an employee stealing from an employer. It may be appropriate to extend the circumstances of aggravation for these property offences to include the relationship of trust that characterises elder abuse; however, further consideration would be required with respect to how to define these relationships.

With respect to some property offences, it may not be appropriate to include circumstances of aggravation relating to elder abuse. In this regard, consultation with relevant parties and additional analysis of the relevant chapters in *The Criminal Code* is required to determine whether adding age to the circumstances of aggravation for the identified offences would assist with strengthening penalties in cases of elder abuse, noting that to have an impact on elder abuse the offences must be occurring within a relationship of trust. The Government will undertake further research and analysis of this proposal.

Recommendation 17

Specialist elder abuse units should be created within Western Australia Police.

In principle. The Commissioner of Police advised the Committee on 7 May 2018 of the provision of 56 additional police officers in the metropolitan area to be subject matter experts in the field of family violence within dedicated Family Violence Teams (FVT). Those FVT are now in place and operational throughout the metropolitan area, having commenced in August 2018.

Recognising the close nexus between family violence and elder abuse, these officers have received training in recognising and responding to elder abuse. There is no further intention to create specialist elder abuse units outside of the FVT.

Recommendation 18

The Government investigate further opportunities to develop and fund new health-justice partnerships and expand existing partnerships that are currently being delivered to older people in the community.

In principle. As mentioned above in respect of recommendations 4 and 13, the 2018–2019 Federal Budget allocated \$18 million to build on existing dedicated services that provide support for people experiencing elder abuse. The funding allocation included money for health-justice partnerships, whereby health care and social workers would be trained to identify vulnerable or at-risk individuals and refer them to specialised legal support services working in partnership with the health system and referral agencies. The Commonwealth Government is currently undergoing the grants process for the funding, and it is not yet known whether a health justice partnership unit will be funded in Western Australia. The Government believes that more research in this area is warranted, pending the outcome and success of the Commonwealth trials in this area.

Recommendation 19

The Government monitor and review the Office for the Ageing (Adult Safeguarding) Amendment Bill 2018 (SA) as it progresses through the South Australian Parliament.

Accept. The *Office for the Ageing (Adult Safeguarding) Amendment Bill 2018 (SA)* (the Bill) was introduced in June 2018. The Bill will establish a new adult safeguarding unit in South Australia to protect and support at-risk adults. The Government supports monitoring and reviewing the Bill as it progresses through the South Australian Parliament.

Recommendation 20

The Government review the witnessing requirements set out in the *Guardianship and Administration Act 1997* (sic) with a view to strengthening the protection for donors of Enduring Powers of Attorney and Enduring Powers of Guardianship.

In principle. The Statutory Review of the *Guardianship and Administration Act 1990* (WA) (the Act) recommended some changes to the Act to enhance witnessing requirements. The issue of witnessing requirements for enduring powers of attorney is currently being considered in the work being conducted for the Council of Attorneys General (CAG), in the context of identifying possible options for harmonising enduring powers of attorney (financial powers only). The Government agrees there is merit in investigating this issue further, in particular reviewing the experience in Queensland, New South Wales and Victoria, and also considering overlap with the CAG work.

Recommendation 21

The Government review the *Guardianship and Administration Act 1990* with a view to giving the State Administrative Tribunal jurisdiction to order compensation for the misuse or abuse of a power of attorney.

Further consideration. Section 107(1)(a) of the Act requires the donee of a power of attorney to "exercise his powers as attorney with reasonable diligence to protect the interests of the donor and, if he fails to do so, he is liable to the donor for any loss occasioned by the failure". Where a donee's misuse or abuse of a power of attorney results in loss, the donor must currently bring a civil action in order to obtain compensation.

The Government recognises that SAT is generally a cheaper, simpler and quicker option than litigation in the Court system, and giving SAT the jurisdiction to order compensation may appear to provide a less burdensome avenue for a donor to receive compensation. However, further consideration is required as to whether SAT is the appropriate forum to deal with property matters that give rise to potentially complex evidential issues.

In addition, the extent to which a State Parliament may confer jurisdiction on an administrative tribunal such as SAT has recently been brought into question. Significantly, the High Court recently delivered the decision of *Burns v Corbett* [2018] HCA 15, which determined that State tribunals do not have jurisdiction to hear matters between residents of different States. Since then, SAT has handed down a decision, GS [2018] WASAT 72 (delivered on 1 August 2018), dismissing an application made by a resident of New South Wales to have the donee of an enduring power of attorney produce his records, where the relevant donor and donee were both residents of Western Australia. In its decision, SAT noted that it did not constitutionally have the jurisdiction to hear the matter.

The Government understands the importance of enabling donors to easily obtain compensation and of holding donees financially accountable for misuse or abuse of a power of attorney; however, in light of the above jurisdictional difficulties further consideration is required to determine how best to address these concerns.

The Government notes this recommendation for review at a later stage when the issue of SAT's jurisdiction is dealt with.

Recommendation 22

The penalty in section 107 of the *Guardianship and Administration Act 1990* that currently only applies to a breach of section 107(1)(b) be expanded to apply to the entirety of section 107(1) of the *Guardianship and Administration Act 1990*.

Further consideration. The Committee argued that extending the penalty to the entirety of section 107(1) will help prevent elder abuse which may occur from the misuse of enduring documents. However, there are limitations with what can be made a criminal offence, and the Government does not consider it necessary or practical to expand the penalty as suggested.

Recommendation 23

Landgate urgently review its processes for registering land transfers where an Enduring Power of Attorney is lodged with a view to increasing the safeguards in place to ensure that only one valid and current document may be registered against a land transfer per individual.

Further consideration. Landgate has provided details about the number of Enduring Power of Attorneys (EPAs) that are deposited at Landgate. Paragraph 7.56 of the Committee's report states that there is a significant number of EPAs currently registered against properties in Western Australia. An EPA or other power of attorney is not registered against land in Western Australia, and do not form part of the Western Australian land register. Rather, EPAs are deposited with Landgate, and held in the event that a future land transaction is to exercise the power of attorney conferred under that EPA. The attorney under an EPA has a general power to do anything that the donor can lawfully do, including the power to execute any land transaction documents on behalf of the donor. EPAs are not required to be deposited with Landgate, although if a land transaction document is signed by an attorney and lodged for registration, the relevant EPA conferring that power upon the attorney must have been deposited with Landgate prior.

Paragraph 7.59 of the Committee's report states "*there are surprisingly few inbuilt checks in Landgate's titles register in relation to EPA*". The Registrar and Commissioner of Titles have very limited scope, at law, to scrutinise or enforce arrangements that have been put in place under an EPA. .

EPA documents do not form part of the Western Australian land register. Before accepting and noting an EPA, Landgate examines the document to make sure that:

- all relevant sections of the EPA have been completed in accordance with the *Guardianship and Administration Act 1990* (WA);
- the date the donor made the EPA has been filled in; and
- the donor and attorney(s) and substitute attorneys (if any) have executed and witnessed the document in accordance with the witnessing provisions in the *Guardianship and Administration Act 1990* (WA).

As a way to mitigate the lodgement of a fraudulent EPA, the Registrar of Titles is in the process of introducing Verification of Identity (VOI) for the EPAs that are lodged at Landgate. The identity of the donor will need to be verified at the time the document is executed.

When a land transaction is subsequently signed by an attorney and lodged for registration, the Registrar of Titles will ensure that the power of attorney has been deposited under section 143 of the *Transfer of Land Act 1893* (WA) and that the document has been executed by the attorney in accordance with powers contained in the power of attorney. If everything appears to be in order, the document signed under the power of attorney will be accepted for registration.

Short of clear evidence of fraud or improper dealing, the Registrar and Commissioner of Titles are required to administer the Western Australian land register impartially, taking into account all interests concerned. Holding up dealings by investigating beyond the authority of the Registrar and Commissioner of Titles can prejudice the rights of an innocent party such as an incoming purchaser or an incoming mortgagee.

The Registrar and Commissioner of Titles take allegations of fraud seriously and do all they reasonably can to maintain the integrity of the Western Australian land titles register. Landgate has, on several occasions, worked closely with the Major Fraud Squad to assist them in their investigation of documents, including powers of attorney.

While the intent of this recommendation in seeking to increase safeguards in relation to land transfers initiated by an attorney are supported, the nature of the current legal frameworks as

outlined here, mean the recommendation is unable to be implemented as outlined in the recommendation. Further consideration is required in relation to how any additional safeguards may be implemented.

Recommendation 24

The Government introduce a bill to amend the *Guardianship and Administration Act 1990* to implement the recommendations contained in the 2015 statutory review of the act as a matter of urgency.

Accept. As per the McGowan Government election commitment, the Government has committed to expedite the enactment of amendments set out in the recommendations of the Statutory Review. It is anticipated the Amendment Bill will be introduced in the first half of 2019.

Recommendation 25

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.

Not accept. 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.

Recommendation 26

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.

In principle. 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.

Recommendation 27

The Department of Communities, acting as lead agency for countering elder abuse in Western Australia, engage with the banking sector to develop safeguards and processes to reduce the risk of older people experiencing financial elder abuse.

Accept. The Government agrees that banks have the potential to play a crucial role in identifying and taking steps to prevent financial elder abuse in the community, by both effectively training frontline staff and using data analytics to raise red flags on suspicious banking activity. The Department of Communities will collaborate with the banking sector to help reduce the risk of elder abuse and protect greater protection for older people in Western Australia.

Recommendation 28

The Government direct the Law Reform Commission of Western Australia to inquire into the possible expansion of the State Administrative Tribunal's jurisdiction to cover disputes that involve assets for care arrangements.

Further consideration. The recommendation that state and territory tribunals should have jurisdiction to resolve family disputes involving residential property under an assets for care arrangement was also made by the ALRC. Allowing tribunals to hear disputes within families about assets for care arrangements would not necessarily provide a low cost and less formal forum for dispute resolution, particularly if disputes within families go all the way to a SAT hearing.

The constitutional difficulties that have arisen as a result of the decision in *Burns v Corbett* in relation to the conferral of jurisdiction on tribunals (see response under Recommendation 21) are also relevant to the consideration of Recommendation 28. The Government notes this recommendation for review and will consider it further when the issue of SAT's jurisdiction is dealt with.

Recommendation 29

The Government advocate strongly on behalf of all older Western Australians to the Commonwealth's peak body, Elder Abuse Action Australia, to ensure that the situation faced by older people in this State is recognised and addressed in any future action or policies relating to elder abuse.

Accept. See response to Recommendation 30 below.

Recommendation 30

The Government actively collaborate with Elder Abuse Action Australia to ensure that progress is made to address elder abuse in Western Australia and to contribute to a nationally consistent legal framework to address elder abuse.

In principle. The Department of Communities will embrace every opportunity to collaborate with the newly-formed Elder Abuse Action Australia (EAAA). It already has a close working relationship with the CEO of Advocare who is the co-chair of EAAA, and chair of the Alliance for the Prevention of Elder Abuse Western Australia. The Commonwealth Attorney General has funded EAAA to conduct a feasibility study for an online elder abuse knowledge hub which, if successful, Communities will be a key contributor. The Department of Justice is working with the Commonwealth and other states and territories to identify options for achieving more consistent arrangements for enduring powers of attorney.

Recommendation 31

The Government actively contribute to the National Plan to Combat Elder Abuse to ensure that the plan adequately reflects the needs of Western Australia's older population.

Accept. See response to Recommendation 33 below.

Recommendation 32

The Government scrutinise the National Plan to Combat Elder Abuse when it is released with particular emphasis on whether it adequately addresses our Western Australian experience of elder abuse.

Accept. See response to Recommendation 33 below.

Recommendation 33

After it has scrutinised the National Plan to Combat Elder Abuse, the Government report to the Parliament of Western Australia on whether or not the plan adequately addresses the Western Australian experience of elder abuse.

In principle. In May 2017, the development of the National Plan was a key recommendation of the Australian Law Reform Commission's final report into elder abuse. In February 2018, the Commonwealth Attorney General announced that a National Plan to combat elder abuse would be developed to ensure a consistent and effective response to elder abuse across Australia. Communities and the Department of Justice are members of the working group that has been developing the National Plan, which sets out the commitment of the Australian Government and each of the eight state and territory governments to undertake research, provide services, and develop policy and law reform responses. State and territory governments will continue to respond to emerging needs in ways which are appropriate in their jurisdictions.

Recommendation 34

The Government develop and fund a comprehensive plan to prevent and address elder abuse in Western Australia using a human rights based approach that upholds the inherent dignity and autonomy of older people.

Accept. Communities has commenced development of a comprehensive response to address elder abuse in Western Australia. It will develop an approach that upholds the inherent dignity and autonomy of older people, and protects their right to feel safe.

Recommendation 35

The Government urgently develop a State action plan to complement or improve the National Plan to Combat Elder abuse and to identify gaps and priorities in agency responses and create a more effective framework to address elder abuse in Western Australia.

Accept. Communities has commenced development of a comprehensive response to address elder abuse which will be finalised after the Council of Attorneys-General approves the National Plan in November 2018. See also response to Recommendation 33.