

THE POWER OF COLLABORATION

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Terry¹ was devastated to have discovered that the daughter he trusted enough to give his power of attorney to had abused that trust. She told him that she had purchased a home on his behalf, but instead registered the property in her own name. She also used the power of attorney to misappropriate funds in excess of \$50 000. After a lifetime of hard work, Terry was left with nothing except terrible grief at the loss of his relationship with his daughter.

Terry was able to obtain legal assistance, which resulted in his daughter repaying the \$50 000. She also signed a declaration of trust and power of attorney in favour of Terry in relation to the property, enabling him to sell the house and receive the money from the sale. Terry has regained control and decision-making power over his own affairs as well as his dignity, and looks forward to moving into new accommodation.

Sadly, Terry is not alone. Studies indicate that up to 5 per cent of older people in Australia have experienced some form of abuse or neglect and that up to half of this is financial abuse.² It is an issue that is likely to become more prevalent given the ageing population in Australia, and the increasing numbers of people with age-related health issues, particularly dementia.³ It is very likely that these numbers underestimate the reality. Elder abuse is generally under-reported, out of fear, embarrassment or simply because victims do not know what support is available to them. Many do not realise that independent advice is available, and that the situation can be addressed.

The Seniors Law service at Justice Connect assists vulnerable older Victorians with legal issues associated with ageing, focusing on the prevention of, and response to, elder abuse. Elder abuse is generally understood as any act occurring within a relationship where there is an implication of trust, which results in harm to an older person.⁴ Elder abuse can take various forms, including physical abuse, psychological/emotional abuse, sexual abuse, neglect and financial abuse.⁵ The impact of elder abuse on older Victorians can be life-changing, leading to poor physical and mental health outcomes, poverty and homelessness.

Seniors Law assists through collaboration with a number of supportive organisations and people who want to prevent elder abuse and address any abuse that may be occurring.

Justice Connect, the organisation that the Seniors Law service is part of, provides free legal advice to people and not-for-profit community organisations that cannot get legal representation any other way, by connecting them with lawyers who give their time for free.

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¹ Name has been changed.

² Georgia Lowndes et al, 'Financial Abuse of Elders: A Review of the Evidence' (Report, Protecting Elders' Assets Study, Monash University, June 2009) 11.

³ Victorian Law Reform Commission, 'Guardianship' (Consultation Paper 10, Victorian Law Reform Commission, 2011) 49.

⁴ Aged Care Branch, Victorian Government Department of Human Services, 'With respect to age – 2009: Victorian Government Practice Guidelines for Health Services and Community Agencies for the Prevention of Elder Abuse' (Practice Guidelines, State Government of Victoria, 2009) 4

<http://www.health.vic.gov.au/agedcare/downloads/wrta/with_respect_to_age.pdf>.

⁵ Ibid 12-16.

Justice Connect strives for a fairer and more just world by building on the culture and community of goodwill fostered over many years with lawyers, governments, professional legal associations, community groups and health and community professionals. By working with pro bono lawyers to develop and strengthen pro bono capacity and strategically match this with unmet legal need in the community, we avoid duplication, ease access for clients and deliver a holistic response to disadvantage.

Justice Connect was formed when PILCH NSW (established in 1992) and PILCH Vic (established in 1994) merged on 1 July 2013. We work with thousands of lawyers, including fifty NSW and Victorian law firms and hundreds of barristers. Justice Connect is financially supported by members, federal and state government and philanthropic support, fee for services and donations. We are also supported by the in-kind contribution made by our pro bono lawyers.

However, we recognise that lawyers cannot build a fairer and more just world alone. Pro bono lawyers from Justice Connect member firms provide free legal assistance through Seniors Law pro bono clinics at hospitals and health centres across metropolitan Melbourne.

We work with the health and community sector because research shows that people experiencing multiple and complex health problems also tend to experience more legal problems and vice versa with a causal effect in both directions.⁶ Legal problems can create stress which can lead to or exacerbate health problems. People with multiple and complex health problems tend to have more interaction with the legal system, like the situation of a child who is being treated for asthma but living in substandard housing infested with mould and rising damp. Resolving the underlying social problem, in this case the sub-standard housing, can result in improved health outcomes for patients.

Furthermore, Seniors Law recognises that research establishes that 30 per cent of people with a legal problem would initially turn to a trusted health professional or welfare adviser about the problem rather than a lawyer.⁷ This figure rises to 80 per cent in relation to legal problems associated with health.⁸ It is also likely that the person with the legal problem will present the problem as part of a complex life or social problem rather than identifying a specific legal issue. By working with health and community service professionals to identify legal issues and deal with our clients' legal and non-legal problems together, Seniors Law works to address the underlying social determinants of poor health to achieve better legal and health outcomes for our clients.

The Justice Connect Seniors Law service is also delivered in partnership with Seniors Rights Victoria (SRV). SRV was established in 2008 as a core service provider under the Victorian government's Elder Abuse Prevention Strategy. SRV is a specialist community legal centre which provides information, support, advice and education to help prevent elder abuse and to safeguard the rights, dignity and independence of older people. Service components include a helpline, specialist legal services, short term support and advocacy for individuals, community education, and legal services through the Seniors Law pro bono clinics.

⁶ Christine Coumarelos, Pascoe Pleasence and Zhigang Wei, 'Law and Disorders: Illness/Disability and the Experience of Everyday Problems Involving the Law' (Working Paper, *Updating Justice* no 22, Law and Justice Foundation of New South Wales, April 2013).

⁷ Christine Coumarelos et al, 'Legal Australia-Wide Survey: Legal Need in Australia' (Report, Law and Justice Foundation of New South Wales, August 2012) 112.

⁸ *Ibid* 116.

Justice Connect Seniors Law and SRV also provide leadership on policy and law reform work in which we advocate to change laws and policies that adversely impact on our clients. We advocate for the promotion and protection of the human rights of older people and for improved access to justice for people with a cognitive impairment.

In collaboration with our partners, we are well placed to further develop and strategically deploy pro bono resources to improve access to justice in response to the changing legal and social environment, so that we can assist more clients like Terry to age with dignity and respect.

For more about the Seniors Law Program, go to: <http://www.justiceconnect.org.au/seniorslaw> or call 1800 606 313.