

# elder abuse and health justice partnerships

northern metro

September 2018

## Agnes' story

**When legal and health professionals work together to find solutions with clients they can complement each other. By getting in early, Agnes\* can avoid an escalation of family conflict and prevent a more serious legal issue arising in the future.**

Agnes has been seeing a counsellor. In these sessions Agnes reported patterns of emotional and social abuse and denigration perpetrated by her son. Many of his tactics mirror those used by her abusive ex-husband.

Recently, Agnes' son asked her to get a mortgage to help him enter the property market. While she was happy to leave her property to him in her will, she didn't want to do anything in the meantime that would allow the bank to sell it. When Agnes refused, her son accused her of "blocking him from buying his home". While it was difficult to say "no" at first, she felt better about asserting herself after the work she had done with her counsellor.

In light of these discussions, Agnes started thinking about making arrangements for the future. She wanted to remain living in the property for as long as possible. She also wanted to make sure her son was involved, but was concerned he might make decisions that were good for him, but not good for her.

Agnes and her son went to see a person from Centrelink to discuss how she might pay for her future care. At the meeting her son suggested they could build a unit on her property, where he could live with his wife and new-born child. He could care for her, as needed.

Agnes, feeling a bit baffled and apprehensive, left the meeting with a 17-page document detailing the different options available to her. Conveniently, the part on granny-flat arrangements had been highlighted.

She mentioned this to her counsellor, who immediately recognised she had a legal problem and suggested she speak to one of Justice Connect's lawyers. Initially, Agnes was reluctant – she didn't want to jeopardise her relationship with her son. But she trusted her counsellor, who assured her she could trust the lawyer.

When Agnes had her first legal appointment she was thinking about appointing her son under an enduring power of attorney. The lawyer outlined her options, explained what the role entailed, emphasising her right to choose who she wants.

After this advice, she decided to appoint her nephew, who she believed was better equipped to understand what she wanted and manage her finances. However, Agnes wanted her nephew to consult with her son and obtain financial advice to see if she could pay for her care, while also leaving some money for her son.

Justice Connect arranged an expert pro bono lawyer to draft enduring powers of attorney for Agnes appointing her nephew, with the appropriate restrictions. They also advised her on the significant legal and financial risks of entering into a granny-flat arrangement and what things need to be considered before deciding it was appropriate for her.

While the counsellor was able to help Agnes assert herself; the lawyer was able to provide a practical solution that was acceptable and meaningful to her. Agnes' son might have otherwise mortgaged or sold the property leaving Agnes in the Supreme Court, with the Sherriff, or on the street.

*\*Name has been changed*



# Elder abuse in the north

In March 2015 a lawyer from Justice Connect joined the cohealth team, having an ongoing physical presence in Collingwood 1 day per week from May 2016, as part of the gradual expansion of the service over various cohealth sites.

**The team has assisted 29 older people experiencing elder abuse — more than 35% of all our clients — providing 134 acts of legal help.** These figures suggest multiple legal issues often arise in a case of one person’s experience of elder abuse.

More than half of all our clients — not just those experiencing abuse — identified as being part of a CALD community.

## Gender

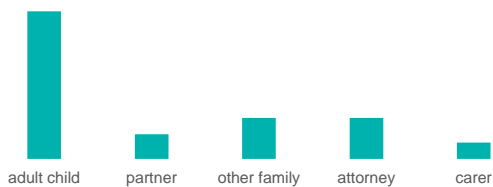
Of the clients identified as experiencing abuse, approximately **three-quarters were female**, and one-quarter was male.



An identified perpetrator of abuse was male in 60% of matters, female in 40%

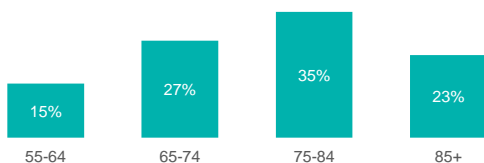
## Relationship

While abuse was **typically perpetrated by an adult child**, we did see instances of abuse perpetrated by other family members. They may also have been the client’s administrator, attorney or recognised carer.



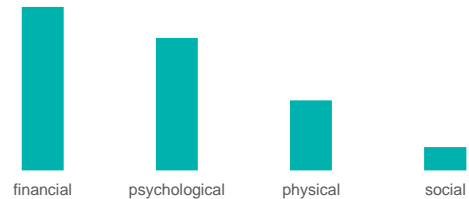
## Age

Most of our clients, 62%, were aged between 65 and 84 years.



## Type of abuse

The most common type of abuse was financial, followed by psychological, then physical and social.



## Surrounding circumstances



Some of the common circumstances surrounding an older person’s experience of elder abuse included:

- providing, or being **pressured to provide, financial assistance** to help a family member purchase their own property, start a business or avoid financial distress – 62% of clients
- being adversely affected by a family member’s or friend’s problematic **drug and alcohol use, or gambling** – 27% of clients
- tolerating living in a **high-risk situation**, because action was likely to result in the **perpetrator becoming homeless** – 15% of clients
- wanting to prepare **legal documents to protect themselves** if they lost capacity, or to ensure their bequeathed assets were not spent on problematic drug, alcohol use or gambling – 38% of clients
- an attorney, administrator or guardian **misusing their appointment** – 15% of clients



## Kim's story

Kim attended an activity group for older members of the Vietnamese community. She mentioned to cohealth's outreach worker that she had given some money to her son so he could start his business — she mortgaged her property to do this. Having attended one of the PD sessions delivered by the lawyer, the worker recognised the client would benefit from some independent legal advice and encouraged Kim to speak to the lawyer about it. The lawyer met with Kim and arranged for a pro bono firm to advise her on the legal risks of this arrangement and draft documents to reduce these risks.

## Legal issues

An older person's experience of elder abuse can give rise to a myriad of complex legal issues.

The most common request for legal help was secondary consultations — with the lawyer providing 217 secondary consultations with health professionals for clients on many issues. When the HJP lawyer met with an older person, the legal help on offer varied — from discrete advice to more intensive assessments and referrals to pro bono lawyers for complex matters:

- one-off **advice and information** in 58 and 17 instances, respectively
- **casework** in 23 instances
- **referrals** to pro bono lawyers in 58 instances

