Council of Attorneys-General

National Plan to Respond to the **Abuse of Older Australians** (Elder Abuse) 2019–2023

Endorsed by the Council of Attorneys-General (CAG):

- The Hon. Christian Porter MP, Commonwealth Attorney-General
- The Hon. Mark Speakman SC MP, Attorney General, New South Wales
- The Hon. Vickie Chapman MP, Attorney-General, South Australia
- The Hon. Yvette D'Ath, Attorney-General and Minister for Justice, Leader of the House, Queensland
- The Hon. Elise Archer MP, Attorney-General and Minister for Justice, Corrections, Environment, the Arts and Racing, Tasmania
- The Hon. John Quigley MLA, Attorney General, Western Australia
- The Hon. Jill Hennessy MP, Attorney-General, Victoria
- Mr Gordon Ramsay MLA, Attorney-General and Minister for Seniors and Veterans, Australian Capital Territory
- The Hon. Natasha Fyles MLA , Attorney-General and Minister for Justice, Northern Territory

Further significant contributions from the following portfolios/Ministers are acknowledged:

- The Hon. Greg Hunt MP, Minister for Health, Commonwealth
- The Hon. Tanya Davies MP, Minister for Ageing, New South Wales
- The Hon. Stephen Wade MLC, Minister for Health and Wellbeing, South Australia
- The Hon. Coralee O'Rourke, Minister for Communities and Minister for Disability Services and Seniors, Queensland
- The Hon. Roger Jaensch MP, Minister for Human Services, Minister for Housing and Minister for Planning, Tasmania
- The Hon. Mick Murray MLA, Minister for Seniors and Ageing, Western Australia
- The Hon. Luke Donellan MP, Minister for Child Protection and Minister for Disability, Ageing and Carers, Victoria
- The Hon. Dale Wakefield MLA, Minister for Territory Families, Northern Territory

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www.ag.gov.au/ElderAbuseNationalPlan

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What is abuse of older Australians (elder abuse)?

All governments in Australia agree that we must act now to do more to reduce the prevalence of abuse of older people.

The abuse of older people is a complex health and social problem that can have devastating physical, emotional and social consequences for older people, their families and their communities.

The abuse of older people occurs within a complex interplay of individual, interpersonal, community and social factors. It can be challenging to identify abuse when it occurs, as there is no single type of older person who is at risk, and no single type of person who may cause harm.

The World Health Organisation defines elder abuse as a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person.

Abuse can be deliberate or unintentional. It can occur once or many times. Abuse does not have to be physical – misusing an older person's money or threatening to restrict access to friends and family can cause immeasurable and lasting damage to an individual and their family. It can also lead to older people needing more help from the health and aged care systems, government benefits, and other services.

The National Plan refers to 'abuse of older Australians' instead of 'elder abuse'. This is because in Aboriginal and Torres Strait Islander culture the term 'Elder' refers to appointed community representatives with cultural and other responsibilities. An Aboriginal or Torres Strait Islander Elder is not necessarily an older person. The National Plan is concerned with responding to the abuse of older people, as defined by age. Some service providers may still use the term elder abuse as referring to violence towards, or abuse or neglect of, an older person.

There are five commonly recognised forms of abuse of older people

Physical abuse is an act that causes physical pain or injury to an older person. It can include, but is not limited to, actions such as hitting, pushing or kicking. Inappropriate use of drugs or physical restraints is also an example of physical abuse.

Sexual abuse is any sexual behaviour without a person's consent. It includes sexual interactions and non-contact acts of a sexual nature.

Psychological or emotional abuse is an act that causes emotional pain or injury to an older person. It can include insulting or threatening a person, acts of humiliation or disrespect, and controlling behaviours including confining or isolating a person.

Financial abuse is the misuse or theft of an older person's money or assets. It can include but is not limited to, behaviours such as using finances without permission, using a legal document such as an enduring power of attorney for purposes outside what it was originally signed for, withholding care for financial gain, or selling or transferring property against a person's wishes.

Neglect is the failure to meet a person's basic needs such as food, housing and essential medical care.

Australia's ageing society

Australians are now expected to live almost 10 years longer than they did 50 years ago, with our life expectancy the fifth highest in the OECD. Australia also has an ageing population, as people live longer and have fewer children.

According to the Australian Institute of Health and Welfare, in 2016[1] 15% of the population was aged 65 or over. By 2056 the number of older Australians is projected to increase to 22% of the population—or 8.7 million people.

Almost 1 in 10 Australians aged 65 and over—an estimated 354,000 people in 2016[2] are living with dementia. Although dementia is not caused by age it primarily affects older people, with only 1% of cases occurring among people under 60.[3] Without a medical breakthrough, the number of people with dementia is expected to increase to 536,000 by 2025 and 1,100,000 people by 2056.[4]

Impacts of ageism

Ageism, and associated negative attitudes towards the experience of ageing, includes perceptions that older people lack worth and make less of a contribution to our society. While this may not cause abuse of older people, it can contribute to an environment in which individuals who abuse older people fail to recognise that their behaviour constitutes abuse; other members of society fail to notice these negative behaviours or take action to stop them; and older people experiencing elder abuse blame themselves and are too ashamed to seek assistance.

Raising community awareness of the effects of ageism and its consequences is an important part of the response to abuse of older people.

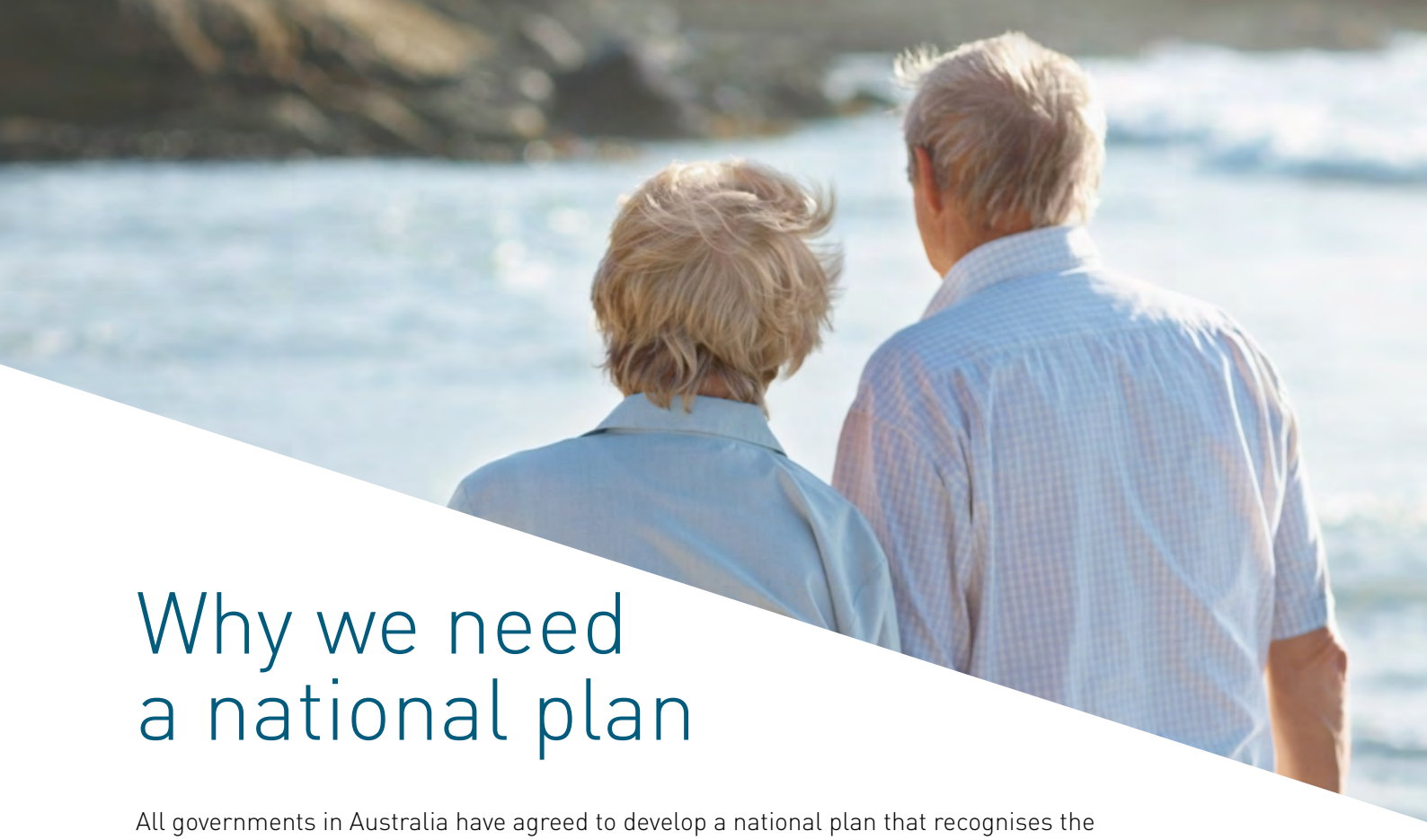
Similar to sexism and racism, ageism is a set of negative or hostile attitudes towards a person or group of persons due to their age which gives rise to prejudicial acts and social disenfranchisement. Ageism includes all forms of discrimination and segregation based on age.

1 Australian Institute of Health and Welfare (AIHW) (2017) Older Australia at a glance. Accessible at https://www.aihw.gov.au/reports/older-people/older-australia-at-a-glance/contents/summary

2 Australian Institute of Health and Welfare (2016). Australia's health 2016. Australia's health series no. 15. Cat. no. AUS 199. Canberra: AIHW.

3 Ibid.

4 Brown L et al (2017) Economic Cost of Dementia in Australia 2016-2056 Canberra: National Centre for Social and 6 Economic Modelling, University of Canberra.



Why we need a national plan

All governments in Australia have agreed to develop a national plan that recognises the emerging and growing problem of abuse of older Australians.

While all governments are committed to responding to the abuse of older people, we still don't fully understand the nature and extent of the problem, or the best way to respond in all circumstances. We need to pay attention to the particular needs of older Aboriginal and Torres Strait Islander People, and older people from culturally and linguistically diverse (CALD) backgrounds.

As governments, we need to actively plan the best way to respond to an issue that will continue to grow with our ageing population. Where possible, we should do this in a nationally consistent way, based on evidence.

In its 2017 report Elder Abuse—A National Legal Response, the Australian Law Reform Commission (ALRC) recommended that all governments in Australia work together to develop a national plan to combat abuse of older people. This would include establishing a national policy framework, outlining strategies and actions by government and the community, setting priorities for implementing agreed actions, and conducting further research and evaluation.

The ALRC highlighted five key objectives of a national plan:

- empowering all older Australians to live with their preferred level of autonomy, and have a say in decisions that affect their day-to-day life
- promoting positive views of ageing in the community
- ensuring there's somewhere to turn if an older person needs help to prevent abuse and neglect
- developing a nationally consistent approach to identifying and responding to abuse and neglect of older Australians, and
- building on our understanding of abuse of older Australians and its effects.

In September 2018, the Australian Government announced the Royal Commission into Aged Care Quality and Safety, reinforcing the need to develop a set of responses that work together to protect older Australians. While the Royal Commission into Aged Care Quality and Safety will be considering the quality of care provided in Residential and Home Aged Care, abuse of older Australians can occur outside of these arrangements.

The Royal Commission will also take time to investigate and report, and government responses may need to be reviewed in light of its recommendations. The Royal Commission will be conducted in addition to, not instead of, other actions to improve the safety of older Australians.

In order to act now, we need to know more about the ways in which abuse is manifesting, and build collaborative networks to address the issues.

The purpose of the National Plan is to provide a framework for action over the next four years, to respond to abuse of older people.

It 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 reforms to address a complex problem in need of a comprehensive response.

These foundations will enable us to better address abuse of older people as our population ages, and the number of older people at risk of abuse increases.

We can start now with governments, but over time we must extend our responses to encompass other sectors in our community—the services we access, the businesses we deal with, and the carers and professionals who support us.
Ending abuse of older people is everyone's responsibility, not just a responsibility of governments.

All governments are aware of distressing accounts of abuse of older people. We must act to address cases such as the one below.

A daughter wrote to the government to outline her mother's experience of abuse. Her mother had granted power of attorney to her son, as the only family member living nearby.

The son used the power of attorney to progressively transfer all his mother's assets to himself, including the family farm and trust accounts. Other family members allege that he progressively reduced the care his mother received and used the enduring powers to place his mother in a residential aged care facility. Family also believe he used this to deny her medical care, ultimately leading to her death.

Priority areas for action

Developing this first National Plan has been an opportunity for federal, state and territory governments to work together to identify how they will:

- build our understanding of abuse of older people, so we can better target our responses
- build community awareness to create the momentum for change
- continue to strengthen our service responses
- help people better plan for their future
- strengthen safeguards for vulnerable older people.

The National Plan describes why each of these priority areas is important, and outlines high level initiatives for governments to pursue.

A timeframe is provided to indicate when it is expected that each initiative will be achieved.

TIME FRAME	TIME FROM COMMENCEMENT OF NATIONAL PLAN
Short term	1–2 years
Medium term	2–3 years
Long term	3–4 years
Ongoing	May extend beyond the term of the National Plan.

Implementation and governance of the National Plan

Each government has a different role to play in responding to abuse of older people. This is because each jurisdiction has its own laws, institutions and frameworks within which it will develop individual responses to the National Plan's five priority action areas.

To further support the National Plan, an Implementation Executive Group of senior officials from the federal, state and territory governments will develop an Implementation Plan to provide more detail to the community on the activities that will be undertaken under the National Plan. In developing this Implementation Plan, the views of the broader community may be sought.

The Implementation Executive Group will then drive and monitor the implementation of initiatives, and review the effectiveness of the National Plan and the Implementation Plan.

To measure progress, the Implementation Executive Group will be responsible for reporting against initiatives to the Council of Attorneys-General.

INITIATIVES		TIMEFRAMES
PRIORITY AREA 1—ENHANCING OUR UNDERSTANDING		
1.1	Conduct a national prevalence study on abuse of older people	Short term
1.2	Develop an agreed set of national research priorities	Medium term
1.3	Improve our ability to share learnings from existing programs, in order to better target future programs	Ongoing
1.4	Evaluate and report on the effectiveness of the National Plan through monitoring and review	Ongoing
PRIORITY AREA 2—IMPROVING COMMUNITY AWARENESS AND ACCESS TO INFORMATION		
2.1	Develop a communication strategy that integrates the views of older people, including diverse groups of older people, to increase understanding and awareness of abuse of older people in the community	Short term
2.2	Start building a National Knowledge Hub to consolidate information and resources about abuse of older people in one online location, including information and resources for diverse groups of older people	Short term
PRIORITY AREA 3—STRENGTHENING SERVICE RESPONSES		
3.1	Establish and evaluate front-line support services for older people experiencing abuse in a range of locations across the country	Short term
3.2	States and territories continue to provide and strengthen front-line responses to emerging needs	Ongoing
PRIORITY AREA 4—PLANNING FOR FUTURE DECISION-MAKING		
4.1	States and territories consider developing options for harmonising enduring powers of attorney, particularly in relation to financial powers of attorney, to achieve greater national consistency	Medium term
4.2	Investigate the feasibility of developing a national online register of enduring powers of attorney	Short to medium term
4.3	Better inform people of rights and obligations when entering into arrangements that enable others to make decisions on their behalf	Ongoing
PRIORITY AREA 5—STRENGTHENING SAFEGUARDS FOR VULNERABLE OLDER ADULTS		
5.1	Review state and territory legislation to identify gaps in safeguarding provisions	Medium to long term
5.2	Continue to reform the Commonwealth's regulatory framework for aged care to protect and enhance the safety, health, well-being and quality of life of aged care consumers	Short term

PRIORITY AREA ONE: ENHANCING OUR UNDERSTANDING

Abuse is an individual experience—it affects everyone differently and there is no single response to its causes or effects.

Abuse of older people is a complex problem

We don't yet have a detailed picture of how extensive the problem of abuse of older people is in Australia. What we do know from overseas studies is that abuse of older people affects between 2% and 12% of older people, and it affects both women and men. It has been estimated that as many as 185,000 older people in Australia experience some form of abuse or neglect each year.

Abuse of older people can happen both inside and outside the home. It can also involve those who we love and trust.

Anecdotal evidence suggests that financial abuse is the most prevalent form, but it frequently co-occurs with one or more of the other recognised forms of abuse of older people.

All governments have implemented a range of responses to the growing problem of abuse of older people. However, responses have been fragmented and developed without a robust body of evidence to make the case that one response works better than any other.

It is essential that we know more, to inform our collective responses, and target our efforts in the right places. That is why the centrepiece of the National Plan is to build an evidence base, to better inform policy and service responses, over the next four years and into the future.

Since 2016, the Australian Government has funded a National Research Agenda on abuse of older people. The first national prevalence study—the critical first step in building the evidence base— will commence in 2019. It will generate reliable estimates of how many older Australians have experienced abuse, and provide some data to understand the characteristics, contexts and consequences of abuse. This data will help shape the design and delivery of services to prevent and respond to the abuse of older people. The national prevalence study will also provide a platform for identifying future research priorities that can be addressed through the National Plan.

Building our evidence base

Robust evidence of what kinds of approaches work to prevent and reduce the abuse of older people is scarce. This is not just an Australian problem, it is an international problem—experts agree that knowledge about the abuse of older people lags two decades behind knowledge about child abuse and family violence.

The governments of Australia can work together to support high quality research to build the evidence base. This includes research to measure how many Australians have experienced abuse, improve our understanding of risk and protective factors, as well as the dynamics and contexts of abuse, and identify approaches to prevent abuse from occurring.

We can also use existing surveys and data sources to fill gaps in our knowledge and understanding, while more complex and detailed research studies are being conducted. For example, data on physical abuse collected by the Australian Bureau of Statistics as part of its Personal Safety Surveys gives us some information to estimate how many people are impacted by physical abuse, and to identify the older people who might be most likely to experience this type of abuse.

Sharing learnings from existing programs

In addition, all governments have the opportunity to evaluate the success of their programs. Through the Implementation Executive Group we will share the outcomes of evaluations to help governments understand what is working, when, where, how, and for whom.

While the Australian Government's research agenda is a good starting point, more needs to be done. Governments have agreed to work together to establish research priorities, and combine their skills and knowledge to create better research outcomes.

INITIATIVES		RESPONSIBILITY	TIMEFRAME
1.1	Conduct a national prevalence study of abuse of older people	Australian Government	Short term
1.2	Develop an agreed set of national research priorities	Australian Government, state/territory governments	Medium term
1.3	Improve our ability to share learnings from existing programs, in order to better target future programs	Australian Government, state/territory governments	Ongoing
1.4	Evaluate and report on the effectiveness of the National Plan through monitoring and review	Australian Government, state/territory governments	Ongoing

PRIORITY AREA TWO: IMPROVING COMMUNITY AWARENESS AND ACCESS TO INFORMATION

Innovative ways of sharing the message about abuse of older Australians

Raising community awareness is an important pillar on which the National Plan rests.

While we know abuse of older people occurs, we also know many people are not aware of it, or cannot identify signs of abuse. We need to educate the community about the abuse of older people, along with its risks, warning signs and damaging effects.

By developing the National Plan, we will help shape public opinion and build momentum for positive change.

For those who are currently experiencing difficulties, including older people and their families, it can be a struggle to find information about abuse of older people, or support they can access in times of need.

Having access to the right information might help someone recognise that what's happening to them, or someone they know, is unacceptable. It might help people understand that it's okay to ask for help, and that support is available.

Every state and territory has created information resources designed to help people find out more about abuse of older people, or seek support. A range of different approaches have been used to communicate to older people and their families, in a supportive and sensitive way, what abuse of older people means and how to find help.

The National Plan documents our commitment to improving the availability and accessibility of information for those who need it, while recognising that individual segments of Australia's diverse older population may require different methods of delivery.

Awareness raising efforts will be targeted towards all older people and their families. Particular efforts will be made to increase awareness and understanding among Aboriginal and Torres Strait Islander people and people from CALD backgrounds and those from other diverse groups who may experience elder abuse in different ways.

Together we can build on the work already underway to make sure every Australian understands these issues.

Making this information easier to find is also a key response of the National Plan.

2017 ALRC Submission 43:
Elder Abuse—A National Legal Response

Mr J lived in his own home with support services. A, his only child, was unemployed and visited his father on pension days when Mr J would withdraw large sums of money to pay for food and utility bills. A would verbally abuse and physically threaten his father until he handed the money over to him. Mr J did not make any reports to the police because his son was already well known to police due to previous drug offences. On the last occasion his son visited him, his son was very intoxicated when again, he began physically threatening his father. Mr J tried to stand up to his son's physical threats but was brutally assaulted. Mr J was found on his lounge room floor bleeding when his service provider called for an ambulance and admitted him to hospital. Mr J shared his concerns with the service provider and with his permission, contacted [a specialist support service provider in his jurisdiction].

Council on the Ageing (COTA) Tasmania's highly trained volunteer peer educators operate across the state to raise awareness of financial abuse of older people. Sessions help older people protect their own finances and identify friends who may be at risk. Demand for the sessions has been strong every year since 2015, and their success is evident in consistently positive evaluations from participants.

Recognising and responding to diversity

We know it can be very hard for Aboriginal and Torres Strait Islander people and people from CALD backgrounds to access the range of support and services that other Australians access. There may be language, cultural and other barriers that prevent older people from these communities being able to get the support they need. If faced with abuse, older people from these communities are likely to confide in someone they know and trust from their own family, community, or cultural organisation. It is essential that the key messages about abuse of older people are communicated in appropriate and individually tailored ways to cultural organisations and communities. This way, when older people confide in someone they trust, that person has the knowledge and skill to help identify and proactively address any abuse. This is an important way we can improve the safety and wellbeing of older people.

INITIATIVES		RESPONSIBILITY	TIMEFRAME
2.1	Develop a communication strategy that integrates the views of diverse groups of older people, to increase understanding and awareness of abuse of older people in the community	Australian Government with state/territory governments and community sector	Short term
2.2	Start building a National Knowledge Hub to consolidate information and resources about abuse of older people in one online location, including information and resources for diverse groups of older people	Australian Government with state/territory governments and community sector to encourage publication of quality material on the site	Short term

PRIORITY AREA THREE: STRENGTHENING SERVICE RESPONSES

When older people experience abuse within a relationship of trust it can lead to a wide range of problems relating to their physical and/or mental health, financial difficulties, substance dependency, or inability to remove themselves from the cause of harm.

Having the right support services in place can help keep older people safe, while also promoting their ability to continue making decisions on issues that affect them. While there are a range of excellent services available across the country targeted at older people, specialist services focused on the effects of abuse of older people are limited. Appropriate services may be particularly hard to access for people from Aboriginal and Torres Strait Islander communities, people from CALD communities, LGBTIQ+ people, people with a disability or people with impaired capacity.

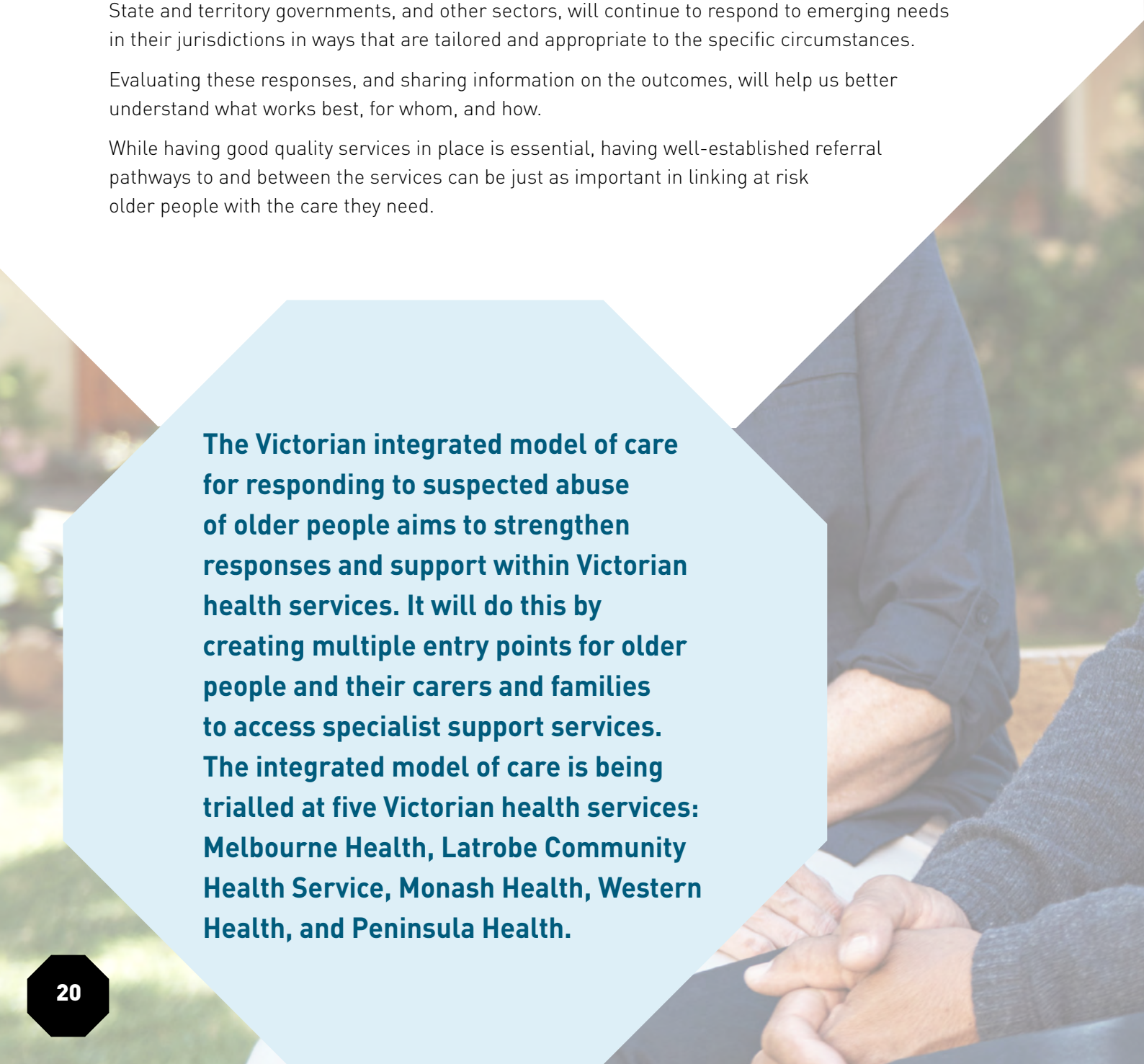
Over the life of the National Plan we expect there will be an expansion of such response services.

The Australian Government has announced it will fund trials of specialist units to provide dedicated services to support older people experiencing abuse. These trials will run until 2022, testing the value of having specialist, multi-disciplinary services that provide holistic support to older people experiencing abuse.

State and territory governments, and other sectors, will continue to respond to emerging needs in their jurisdictions in ways that are tailored and appropriate to the specific circumstances.

Evaluating these responses, and sharing information on the outcomes, will help us better understand what works best, for whom, and how.

While having good quality services in place is essential, having well-established referral pathways to and between the services can be just as important in linking at risk older people with the care they need.



The Victorian integrated model of care for responding to suspected abuse of older people aims to strengthen responses and support within Victorian health services. It will do this by creating multiple entry points for older people and their carers and families to access specialist support services. The integrated model of care is being trialled at five Victorian health services: Melbourne Health, Latrobe Community Health Service, Monash Health, Western Health, and Peninsula Health.

The Australian Government has committed $18.3 million to deliver trials of specialist units to provide dedicated services across the country, to support older people experiencing abuse. These include:

Specialist elder abuse units—combining the work of lawyers, social workers and other specialist and support staff (for example financial counsellors, to develop a case plan and respond to the individual's needs).

Health-justice partnerships—training for health care and social workers to identify vulnerable or at-risk individuals in the health system, and refer them for support.

Case management and mediation services—working closely with older people and their family to find solutions to the underlying problems of abuse.

The Darwin Community Legal Service Elder Abuse Prevention Project has developed resources for education, advocacy, community awareness activities and legal assistance to urban, regional and remote areas in the Northern Territory. This project includes an information line that assists people suffering from abuse through referrals to support organisations, and providing legal information to people wanting to make informed choices about their situation.

While there are already some well established referral pathways in place, particularly within states and territories, many of these are not well known across the broad range of agencies offering support. As a result, they may not be being used to their full extent. Sharing information across and between support agencies can also be challenging, with an older person having to tell their story many times to many different organisations.

INITIATIVES		RESPONSIBILITY	TIMEFRAME
3.1	Establish and evaluate front-line support services for older people experiencing abuse in a range of locations across the country	Australian Government	Short term
3.2	States and territories continue to provide and strengthen front-line responses to emerging needs	State and territory governments	Ongoing

PRIORITY AREA FOUR: PLANNING FOR FUTURE DECISION-MAKING

Substitute decision-making

In Australia, we have a range of formal and informal arrangements that someone can put in place to prepare for decision-making in their later years. This includes financial, medical and lifestyle matters. To make the most of the opportunities a longer life provides, Australians need to prepare early by understanding what these arrangements are, and how best to use them at different stages of life. These include substitute decision-making arrangements such as powers of attorney, enduring powers of attorney, enduring guardianships, and advance health/care directives.[5]

GENERAL POWER OF ATTORNEY (POA)

A POA gives one or more persons the authority to act for you in financial or legal matters, including:

- buying or selling your real estate or shares
- operating your bank accounts
- spending money on your behalf, or
- giving gifts on your behalf.

A POA is only effective while you have capacity to make and communicate decisions for yourself. You can appoint a representative (called an attorney) to act for you in a variety of circumstances, such as an extended interstate or overseas trip.

ENDURING POWER OF ATTORNEY (EPOA) AND ENDURING POWER OF GUARDIANSHIP (EPG)

An EPOA allows your representative to make financial, and in some states personal, decisions on your behalf. In other jurisdictions the power to make personal decisions comes from an EPG. Enduring powers continue if you lose the ability to make decisions or have diminished decision-making capacity. If you do not have an arrangement in place prior to losing decision-making capacity, the opportunity to appoint someone is gone. Applications to tribunals or boards may need to be made so that they can appoint someone to act on your behalf, such as a guardian or financial administrator.

ADVANCE HEALTH/CARE DIRECTIVES

An advance health directive, or advance care directive, is a statement that sets out a person's directions before medical treatment decisions are made on their behalf.[6] Advance health/care directives are only effective if the principal has lost capacity to make decisions about healthcare matters.

While these formal and informal arrangements are designed to support an older person, we know they can unfortunately also be used to take advantage of them, particularly when it comes to their finances. The diversity of arrangements, the lack of understanding of roles and responsibilities, privacy issues, and limited oversight mean that abuse can become serious before it is detected or addressed.

The National Plan provides an opportunity to improve arrangements available to Australians in preparing for future decision-making.

While governments will contribute to making improvements to the laws governing these arrangements, individual Australians also need to take control by understanding the arrangements, how to put them in place, the benefits, and the risks and limitations.

5 In Australia, the laws regarding advance health directives, powers of attorney, and enduring guardianships vary between the different states and territories.

6 As noted above, in some jurisdictions, an advance health/care directive can also be used to appoint one or more substitute decision-makers.

It is important for people to protect themselves by planning ahead and appointing trusted decision makers using enduring powers of attorney, enduring powers of guardianship, and advance health directives.

Greater consistency in enduring power of attorney laws

Each state and territory has its own legal framework for granting decision-making authority to another person.

As noted by the ALRC in its Elder Abuse Report, the legislation in each jurisdiction enables a person to appoint someone to make decisions in relation to financial matters and/or personal/lifestyle/health matters on their behalf, immediately or in circumstances where the person has lost decision-making ability. In each state and territory there is also a process for mutual recognition of interstate enduring documents.

To improve this arrangement, the ALRC recommended that nationally consistent laws governing enduring powers of attorney (financial), enduring guardianship (health and personal), and other personally appointed substitute decision-making frameworks be adopted. It also recommended that a national register be established after agreement on national consistency.

In response, the Australian Government asked the Australian Guardianship and Administration Council (AGAC) to undertake an extensive analysis of existing arrangements. The focus of AGAC's work has been to prepare an options paper about the potential development of national consistency in enduring financial appointment laws, as well as to prepare a best practice resource on making enduring appointments. AGAC's work will assist jurisdictions to identify inconsistencies between state and territory laws, as well as options for achieving nationally consistent arrangements.

The ALRC heard many cases of abuse in developing its report *Elder Abuse—A National Legal Response*, such as the one below (submission 173).

Ellie, who has been widowed for a long time, managed a rural property in remote Queensland. Ellie and her husband had built a substantial portfolio of several rural properties during their time on the property. About 10 years ago, she gifted ownership of several of these rural properties to her son Peter. This included gifting the property on which she lived. Several years later, she wrote an enduring power of attorney, under which she appointed Peter as attorney for financial, and personal and health matters. About a year after this, she was formally diagnosed with dementia.

A later investigation into her finances showed that substantial sums of her pension were being spent in a way that did not appear to benefit Ellie. Her son had been using Ellie's income to supplement his own expenses to address his cash flow problems.

Supported decision-making

Some people may have cognitive impairments or other disabilities that mean they require some assistance with making decisions. Supported decision-making supports people to exercise their own preferences in the context of making legal and day-to-day decisions. In Australia, arrangements for supported decision-making vary between the states and territories, so it is important to check what is available in the state or territory in which a person lives before pursuing a supported decision-making arrangement.

Successful supported decision-making relies on organisations that work with older people having a good understanding of the processes in their own jurisdictions and the potential risks to the older person. It is important that the final decisions in supported decision-making arrangements are made by the older person themselves.

SUPPORTED DECISION-MAKING

This encompasses a range of processes to support individuals to exercise their legal capacity. These may consist of:

- effective communication, including providing information and advice to a person and ensuring that a person is able to communicate their decision to others
- spending time to determine a person's preferences and wishes
- informal relationships of support between a person and members of their social networks
- agreements or appointments to indicate that a relationship of support exists, and
- statutory relationships of support—whether through private or court/tribunal appointment.

Easy access to information that explains the different arrangements in each jurisdiction is critical. There are differences in the way the legislation prescribes the form of enduring documents, and in the legal test of capacity or decision-making ability. There are also differences about who has the authority to assess and certify capacity or decision-making ability.

Navigating the differences across jurisdictions can be especially challenging for those trying to provide support across borders.

In 2017–18 the Western Australian Public Advocate was asked to investigate the situation of an elderly Aboriginal man with dementia. He was a renowned Aboriginal artist, generating substantial income from the sale of his artwork but unable to pay for his accommodation and services. After initial enquiries were made, the Public Advocate applied to the State Administrative Tribunal for an emergency provision under section 65 of the *Guardianship and Administration Act 1990* (WA), for the immediate interim appointment of the Public Trustee as administrator. The Public Trustee was appointed and able to secure the man's estate, stopping his attorney from accessing his finances, while the investigator carried out a comprehensive investigation. At a later Tribunal hearing it was found that the attorney was using the man's money for her own benefit, rather than for his care and support. The enduring power of attorney was revoked and the Public Trustee was appointed as administrator.

INITIATIVES		RESPONSIBILITY	TIMEFRAME
4.1	States and territories consider developing options for harmonising enduring powers of attorney, particularly in relation to financial powers of attorney, to achieve greater national consistency	State/territory governments, assisted by the Australian Government	Medium term
4.2	Investigate the feasibility of developing a national online register of enduring powers of attorney	Australian Government	Short to medium term
4.3	Better inform people of rights and obligations when entering into arrangements that enable others to make decisions on their behalf	State/territory governments	Ongoing

PRIORITY AREA FIVE: STRENGTHENING SAFEGUARDS FOR VULNERABLE OLDER ADULTS

Abuse can happen to anyone. However, there are a number of known factors that may increase a person's vulnerability, including isolation from family and friends, cognitive decline, need for care, a history of trauma or family conflict, and language and cultural barriers.

Through the National Plan, we have an opportunity to ensure that the institutions and laws charged with keeping vulnerable older people safe are as effective as possible. There is also an opportunity to do more and act early to prevent abuse from occurring.

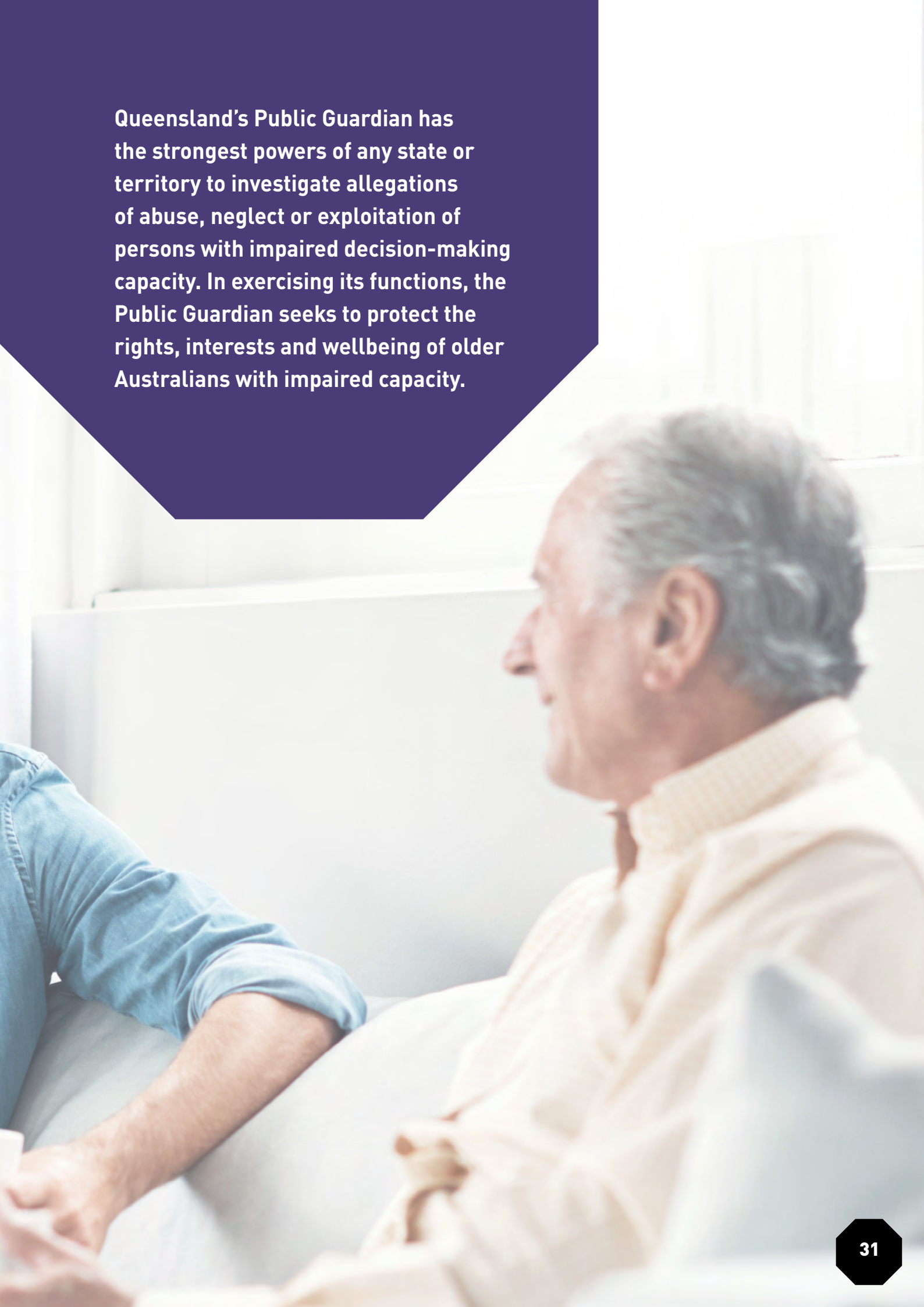
Safeguarding requires delicately balancing the principles of autonomy and dignity with protection and risk. Community awareness of safeguarding principles and approaches will develop over time. The National Plan offers the opportunity to start the process of improving this important area of policy.

It is also important to map existing legislation that establishes powers to investigate concerns involving vulnerable older people. This will enable governments to identify gaps and opportunities, and work together to improve our laws in this complex area.

Building our ability to understand what is happening in the community, and in particular in the aged care sector, will help us understand what safeguards may be required. Creating communication channels between governments is one way to share knowledge and experience, to improve our systems.

A new and independent Aged Care Quality and Safety Commission was established on 1 January 2019. The Commission oversees the approval, accreditation, assessment, complaints handling, monitoring and compliance of Commonwealth funded aged care providers. This Commission brings together the functions of the former Australian Aged Care Quality Agency, the Aged Care Complaints Commissioner, and from 1 January 2020, the aged care regulatory functions of the Department of Health. A new Chief Clinical Advisor will provide advice to the Commission, particularly on complex clinical matters.

Queensland's Public Guardian has the strongest powers of any state or territory to investigate allegations of abuse, neglect or exploitation of persons with impaired decision-making capacity. In exercising its functions, the Public Guardian seeks to protect the rights, interests and wellbeing of older Australians with impaired capacity.



South Australia's *Office of the Ageing (Adult Safeguarding) Amendment Act 2018* is the first of its kind in Australia. A new Adult Safeguarding Unit will be established, to safeguard the rights of adults who are vulnerable to abuse or neglect. The Adult Safeguarding Unit will be an approachable, empowered body, with statutory responsibility and accountability for responding to reports of abuse, or neglect of vulnerable adults.

The South Australian Parliament recently passed Australia's first rights-based adult safeguarding legislation. This is one model of how to address abuse of vulnerable adults, and its effectiveness will be of interest to other governments over the life of the National Plan.

INITIATIVES		RESPONSIBILITY	TIMEFRAME
5.1	Review state and territory legislation to identify gaps in safeguarding provisions	State and territory governments	Medium to long term
5.2	Continue to reform the Commonwealth's regulatory framework for aged care to protect and enhance the safety, health, well-being and quality of life of aged care consumers	Australian government	Short term

NSW will establish an Ageing and Disability Commissioner from 1 July 2019. The Commissioner will be a new, independent statutory appointee with an investigative function to respond to abuse, neglect and exploitation of people with disability and older people in home and community settings. It will have the power to initiate investigations, apply for and execute search warrants and share information with relevant agencies. The Commissioner will also report and make recommendations to Government on systemic issues related to the abuse, neglect and exploitation of adults with disability and older people.