

Improving our response to elder abuse

Ageing Australia Qld Conference

11 June 2025

John Chesterman
Queensland Public Advocate



THE AIATSIS MAP OF INDIGENOUS AUSTRALIA

David W. Horton (creator), © AIATSIS, 1996. No reproduction without permission.

This map attempts to represent the languages, social or nation groups of Indigenous Australia. It shows only the general locations of larger groupings of people which may include clans, dialects or individual languages in a group. It used published resources from the eighteenth century - 1994 and is not intended to be exact nor the boundaries fixed. **It is not suitable for native title or other land claims.**

This map is a general overview of the languages, social or nation groups of Indigenous Australia. It shows only the general locations of larger groupings of people which may include clans, dialects or individual languages in a group. It used published resources from the eighteenth century - 1994 and is not intended to be exact nor the boundaries fixed. **It is not suitable for native title or other land claims.**

Map of Australia showing the distribution of Indigenous languages and social or nation groups.

Today's talk



1. I'll discuss the projects my office has recently finished and is currently undertaking
2. I'll talk about the proposed reform trajectory concerning elder abuse



Completed reports

A discussion
Criminal C

A call to re
relationship
the mind'

January 2022

Public ac
lives

Reconsidering
system's confic

August 2022

Improving

Adult Saf
Queensl

Volume 1. Ider

July 2022

Adult Safeguardin
Queensland

Volume 2. Reform recommen

November 2022

'Safe, secure and

The need for an inquiry into
accommodation in Queens

August 2023

**Inquiry into the provision and
regulation of supported
accommodation in Queensland**

Report No. 44, 57th Parliament
Community Support and Services Committee
June 2024

Parliamentary
Committees



Australian Ageing Agenda

Stopping the inappropriate use of restrictive practices



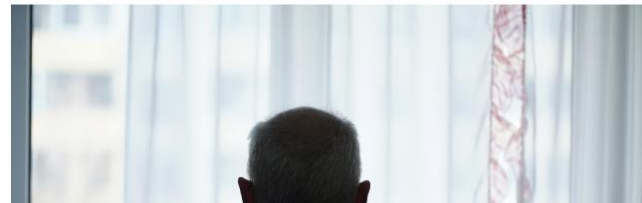
Are we regulating or regularising aged care restrictive practices?



Proposed restrictive practice changes 'deeply flawed'



A way forward on restrictive practice regulation



Comment



We asked four aged care stakeholders:

What needs to happen to significantly reduce restrictive practice use in Australia's aged care homes?

Homes need regular long-term staff and meaningful regulation

IF SOMEONE were yelling at you in a language you didn't understand, your immediate response would not be to restrain the person, nor would it be to locate a doctor who could prescribe a sedative. If you felt threatened, you'd no

they feel threatened? Are they scared? Do they think something is happening that actually isn't? Someone who knows them is much



John Chesterman

Proposal for the future regulation (and reduction in the use) of restrictive practices in Queensland

Discussion Paper March 2025

1. Introduction

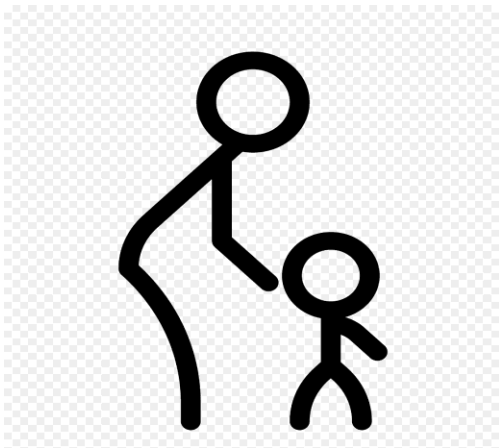
This discussion paper provides an outline of how a state-based system could be established for the authorisation of restrictive practices across a range of settings. It draws on earlier work I have conducted as Public Advocate, including an Options Paper from 2021,¹ a series of articles on aged care restrictive practices that were published in *Australian Ageing Agenda*,² and a book chapter in which I called for the adoption of a uniform authorisation process.³ The discussion paper identifies in greater detail the way in which a state-based authorisation mechanism could work.

The problems with the regulation of restrictive practices are well known.

Current projects



Adults with cognitive disability in the
Queensland criminal justice system



Parents with cognitive disability



[WATCH PARLIAMENT](#)[WATCH COMMITTEES](#)[CALENDAR](#)[REMOTE ACCESS](#) [Login to Parliamentary Library](#)[Advanced Search](#)

QUEENSLAND PARLIAMENT

[VISIT AND LEARN](#)[WORK OF THE ASSEMBLY](#)[WORK OF COMMITTEES](#)[MEMBERS](#)[EVENTS AND FUNCTIONS](#)

EDUCATION, ARTS AND COMMUNITIES COMMITTEE

[HOME](#) / [WORK OF COMMITTEES](#) / [COMMITTEES](#) / [COMMITTEE DETAILS](#)

WORK OF COMMITTEES

[Upcoming Committee Business](#)[About Committees](#)[Training Seminar - Committees@Work](#)[Committees \(10\)](#)[Committee of the Legislative Assembly](#)[Education, Arts and Communities Committee](#)[Ethics Committee](#)

INQUIRY INTO ELDER ABUSE IN QUEENSLAND

[Inquiry Overview](#)[Related Publications](#)[View Submissions](#)[Committee Details](#)

ABOUT THE INQUIRY

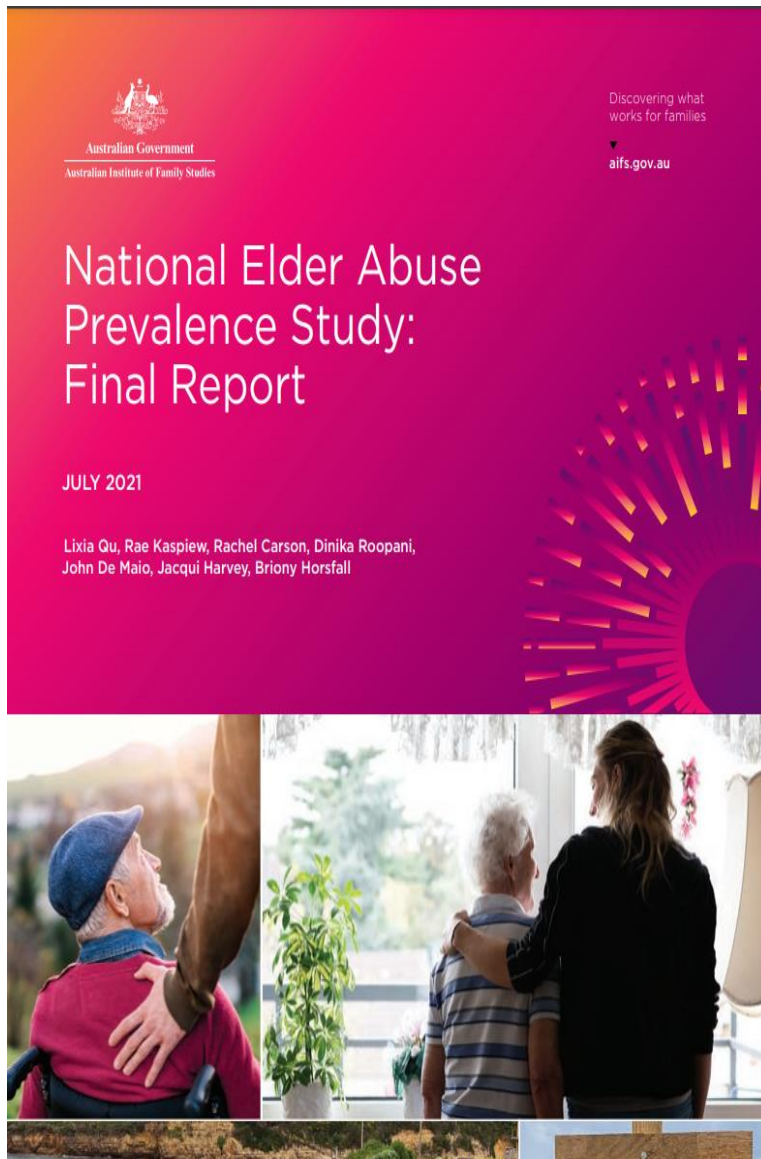
On 10 December 2024 the Legislative Assembly agreed to a motion that the Education, Arts and Communities Committee (the committee) inquire into and report on Elder Abuse in Queensland.

Inquiry flyer

What is elder abuse?

The terms of reference call upon the committee to consider:

Final report due: Friday 12 December 2025



Conducted in response to Australian Law Reform Commission, *Elder abuse – A national legal response*, final report, 2017, Rec. 3-5.

Survey of 7000 people 65+ in general community.

‘In the 12 months prior to being surveyed, 14.8% of the sample reported experiencing at least one form of elder abuse ... Psychological abuse was most commonly reported (11.7%), followed by neglect (2.9%), financial abuse (2.1%), physical abuse (1.8%) and sexual abuse (1%)’, p. 32.

‘Just over one-third (36%) reported that they had sought help or advice from a third party in relation to their experience’, p. 83.

Australian Law Reform Commission

- **New investigatory powers**
- Rec. 14–1 ‘Adult safeguarding laws should be enacted in each state and territory. These laws should give adult safeguarding agencies the role of safeguarding and supporting “at-risk adults”’.
- Par. 1.48 ‘Existing public advocates and public guardians ... may be appropriate for this broader safeguarding function ... However, some states or territories may prefer to give this role to another existing body or to create a new statutory body.’
- Rec. 14–6 ‘Adult safeguarding laws should provide adult safeguarding agencies with necessary coercive information-gathering powers ...’

Australian Law Reform Commission, *Elder abuse – A national legal response*. Final report, 2017.



Australian Law Reform Commission

Criteria for intervention

Rec. 14–3 ‘Adult safeguarding laws should define “at-risk adults” to mean people aged 18 years and over who:

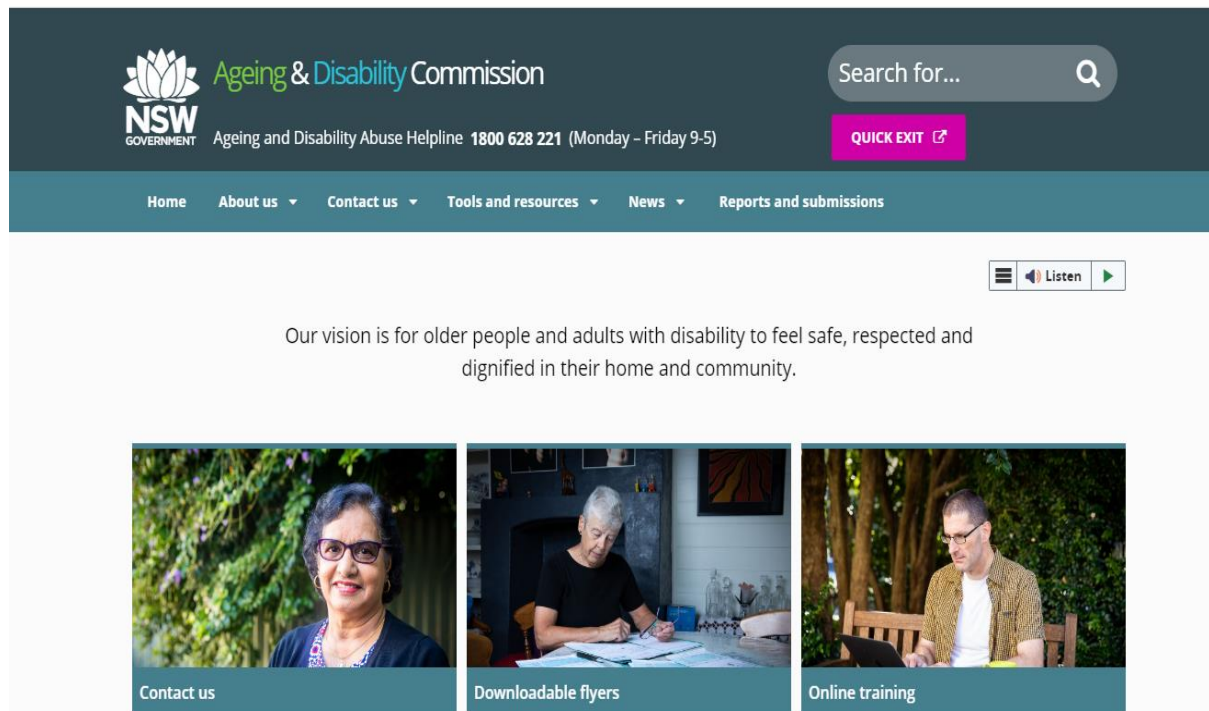
- a. have care and support needs;
- b. are being abused or neglected, or are at risk of abuse or neglect; and
- c. are unable to protect themselves ... because of their care and support needs.’

Australian Law Reform Commission, *Elder abuse – A national legal response*. Final report, 2017.



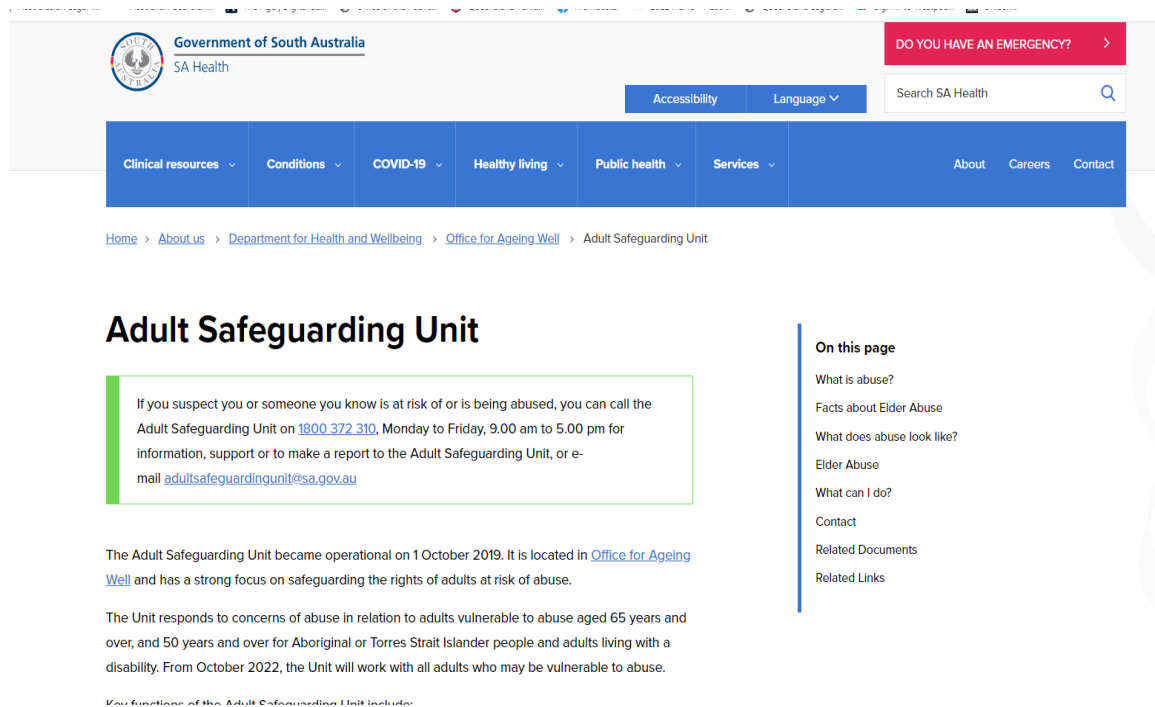
New South Wales

In July 2019 NSW created the office of Ageing and Disability Commissioner, with broad investigative powers.



South Australia

In South Australia from October 2019 an Adult Safeguarding Unit, with broad investigative powers, has been operating.



The screenshot shows the official website of the Government of South Australia, specifically the SA Health section. The header includes the SA Health logo, navigation links for Accessibility and Language, and a search bar. A red emergency button is also present. The main navigation bar lists various health services. The breadcrumb trail indicates the current location: Home > About us > Department for Health and Wellbeing > Office for Ageing Well > Adult Safeguarding Unit. The page title is "Adult Safeguarding Unit". A green-bordered box contains contact information for the unit. The main content area provides details about the unit's operational start date, location, and focus. A sidebar on the right lists links to related content.

Government of South Australia
SA Health

DO YOU HAVE AN EMERGENCY? >

Accessibility Language

Search SA Health

Clinical resources Conditions COVID-19 Healthy living Public health Services About Careers Contact

Home > About us > Department for Health and Wellbeing > Office for Ageing Well > Adult Safeguarding Unit

Adult Safeguarding Unit

If you suspect you or someone you know is at risk of or is being abused, you can call the Adult Safeguarding Unit on [1800 372 310](tel:1800372310), Monday to Friday, 9.00 am to 5.00 pm for information, support or to make a report to the Adult Safeguarding Unit, or e-mail adultsafeguardingunit@sa.gov.au

The Adult Safeguarding Unit became operational on 1 October 2019. It is located in [Office for Ageing Well](#) and has a strong focus on safeguarding the rights of adults at risk of abuse.

The Unit responds to concerns of abuse in relation to adults vulnerable to abuse aged 65 years and over, and 50 years and over for Aboriginal or Torres Strait Islander people and adults living with a disability. From October 2022, the Unit will work with all adults who may be vulnerable to abuse.

Your functions of the Adult Safeguarding Unit include:

On this page

- What is abuse?
- Facts about Elder Abuse
- What does abuse look like?
- Elder Abuse
- What can I do?
- Contact
- Related Documents
- Related Links



Adult Safeguarding in Queensland

Volume 1. Identifying the gaps

July 2022



Adult Safeguarding in Queensland

Volume 2. Reform recommendations

November 2022

Adult safeguarding 'gap'

- Who is contacted when an adult is considered to be at risk but there is no pressing medical emergency or obvious criminality?
- The Australian Law Reform Commission identified the existence of an 'investigation gap' when it came to possible responses to situations of abuse or neglect. ALRC, *Elder Abuse Discussion Paper*, 2016, p. 61.

We conducted research

- Eight in-person roundtables throughout Queensland exploring situations where adults are at-risk of harm.
- Roundtables real and virtual with people with disability (organised with Queenslanders with Disability Network and Dementia Australia).
- We asked roundtable participants to consider a range of hypothetical (though drawn from real life) scenarios.
- Key questions:
 - What happens in this situation?
 - What ideally should happen?






Lee



Lee has been living alone since his wife Margaret passed away eight months ago. Lee's neighbour doesn't know him that well, but waves hello to Lee every weekend when Lee goes outside to mow the lawn and tend to his rose garden. A few weeks ago, Lee's neighbour waved hello, but Lee seemed confused and didn't wave back. Since then, Lee's neighbour has rarely seen Lee outside anymore. He also noticed that Lee's lawn and garden have become overgrown, and the bins have not been taken out for several weeks.

Adult Safeguarding in Queensland

Vol 2. Reform Recommendations

- **Recommendation 1** The Queensland Government should appoint an Adult Safeguarding Commissioner in Queensland.
 - **Recommendation 10** The Queensland Government should facilitate the establishment of local Adult Safeguarding Networks ...
 - Each Adult Safeguarding Network should have three core roles:
 - the consideration of complex social care situations involving at-risk adults in that Network's region;
 - the promotion of local-area knowledge and collaboration among Network members; and
 - the development and implementation of local awareness raising activities to enhance community knowledge about preventing and responding to adult safeguarding concerns.
- 



A diagram illustrating the components of adult safeguarding. A purple silhouette of a person stands on the left, operating a spotlight on a tripod. Four spotlights are mounted on a black truss system at the top. Each spotlight shines a colored beam onto a group of purple silhouettes representing a crowd. The beams are labeled: 'Police' (green), 'Ambulance' (yellow), 'Guardianship' (orange), and 'Complaints' (pink). The entire scene is set on a brown wooden floor against a light grey background.

Police

Ambulance

Guardianship

Complaints

Adult Safeguarding Agency

Support for Adult Safeguarding reform in Queensland

In 2023 the **Disability Royal Commission** (Rec. 11.1 & vol. 11, p. 45) called on states and territories to legislate 'to establish nationally consistent adult safeguarding functions' to be operated by 'independent statutory bodies', not Public Guardians and Public Advocates.

In 2023 the **Independent Review into the National Disability Insurance Scheme** (*Working together to deliver the NDIS*, final report, pp. 203, 206) supported the ALRC's call regarding 'adult safeguarding agencies'.



Proposal for a Queensland **Adult Support and Safeguarding Act**

This would replace the *Guardianship and Administration Act*, and see consequential amendments made to other legislation (including the *Powers of Attorney Act*, *Public Guardian Act*, *Public Trustee Act*, and *QCAT Act*).

Key reform proposals

Adult guardianship

- Enable the personal appointment, and tribunal appointment, of **supporters**, who would be able to access otherwise confidential information about a person in supporting them to make their own decisions.
- Specify two criteria for the appointment by QCAT of **decision-making representatives**,¹ in relation to personal and/or financial matters:
 1. The person has significantly impaired decision-making ability such that they are unable to understand, weigh up, retain and communicate information relevant to the particular matter; and
 2. There is a need for the appointment (without which there will be a significant risk to the person's health, welfare or property).
- Require decision-making representatives and attorneys to support people to make their own decisions wherever possible, and to use a substituted judgement (will and preferences) approach when making decisions on a person's behalf.
- Specify default position in relation to QCAT hearings that information identifying parties may be published unless an order is made otherwise.

Adult safeguarding

- Establish an Adult Safeguarding Commissioner with the power to investigate (with the consent of the person except in cases of suspected serious abuse) the position of **at-risk adults** (defined as people with care and support needs who are unable to protect themselves).
- Included among the Adult Safeguarding Commissioner's functions:
 - To investigate allegations that at-risk adults have been subject to violence, abuse, exploitation or neglect;
 - To identify, promote and undertake mechanisms of ensuring the safety and wellbeing of at-risk adults (this would enable, for instance, the establishment and running of regionally-based adult safeguarding networks).

Other potential reforms

- Combatting social isolation and loneliness
 - Nudge policies to promote interactions (urban design, technologies ...)
- Education of attorneys (under EPAs)
- Harmonisation of financial enduring powers of attorney laws



‘Nationally consistent’ enduring powers of attorney laws

‘A national online register of enduring documents, and court and tribunal appointments of guardians and financial administrators, should be established after:

- (a) agreement on nationally consistent laws governing:
 - i. enduring powers of attorney (including financial, medical and personal);
 - ii. enduring guardianship; and
 - iii. other personally appointed substitute decision makers; and
- (b) the development of a national model enduring document.’

Australian Law Reform Commission, *Elder abuse – A national legal response*. Final report, 2017, Recommendation 5-3.



Harmonisation of financial EPAs


Model financial enduring powers of attorney law

This document contains proposed core provisions that could form the basis of nationally-harmonised state and territory financial enduring powers of attorney laws.

This document has so far been endorsed by the following individuals and agencies:

- Queensland Public Advocate, John Chesterman
- Queensland Law Society
- Law Institute of Victoria
- Age Discrimination Commissioner, Kay Patterson
- Victorian Public Advocate, Colleen Pearce

https://www.justice.qld.gov.au/__data/assets/pdf_file/0007/770794/final-qpa-model-financial-enduring-powers-of-attorney-law.pdf





Questions and
comments?

Thank you

