



**PUBLIC TRUSTEE  
AND GUARDIAN**

## ELDER ABUSE

The Public Trustee and Guardian for the ACT (PTG) is concerned about Elder Abuse and seeks to play a role in our community to prevent or mitigate such abuse. Our Attorney, Guardianship and Financial Management Services play a significant role in addressing this concern however our main emphasis is to educate the community about the risks and pitfalls facing older people in our community.

This Fact Sheet seeks to go some way in providing awareness in the ACT community and outlines ways people can protect themselves.

### What is Elder Abuse?

Elder abuse is typically defined as any act that causes harm to an older person and is carried out by someone they know and trust. Elder abuse can include the following:

- **Psychological/Emotional Abuse** inflicting mental pain, anguish or distress through verbal or non-verbal acts such as humiliating, intimidating, or threatening behaviour. It may also include removing a person's autonomy, forcing decisions/behaviours/foods on the person.
- **Financial Abuse** stealing, misuse, or concealment of funds, property

or a person's assets. Case studies – (1) an older person has an informal arrangement with a neighbour, friend or family member to attend the ATM on pension day, withdraw cash using a known PIN and purchase essential groceries and supplies. The 'helper' withdraws \$200.00, purchases \$50.00 worth of goods and hands the person \$50.00 change, pocketing the rest. (2) unqualified trades-people making cold-calls on older people's homes offering to undertake some task at wildly inflated prices (eg paint a roof for \$2000.00 when a qualified person would charge \$900.00 for the same job). Although the work may be done it is frequently grossly sub-standard. (3) Undue pressure to make new wills or gifts: older people can fall prey to relatives or strangers who will suddenly befriend them after the onset of dementia. Playing upon the paranoid aspects of the symptoms of dementia, they can encourage negative attitudes ("they are only interested in your money") about the members of the person's traditional support network in favour of themselves, usually to their own financial advantage either by gift, testamentary gift or appointment under and Enduring Power of Attorney (EPA).



**PUBLIC TRUSTEE  
AND GUARDIAN**

# FACTSHEET

- **Physical Abuse** inflicting physical pain or injury including hitting, slapping, bruising or restraining either physically or through over medicating. It may also include restraining a person inside or using other forms of restraint.
- **Sexual Abuse** non-consensual sexual contact of any kind, including touching, unwanted talk about sexual matters, sexual assault or rape.
- **Neglect** the intentional or unintentional failure to meet basic needs such as adequate food, shelter, health care and medication, social contact, personal care and hygiene.

## Who can be affected by abuse?

Older people may experience more than one type of abuse eg. people who suffer from financial abuse often experience emotional manipulation and psychological abuse.

Abuse can be experienced by people from all cultures and races and by both rich and poor. An abused older person may live on their own or in a household. They could be taking care of themselves, caring for someone or being cared for by someone.

## Sources of abuse

Statistics tell us that elder abuse is unfortunately likely to come from someone the person knows and who enjoys a position of trust, often family, a carer or a friend.

## Why abuse often remains unreported?

There are many older people in the community who experience abuse. The real number is not known as many older people who experience abuse suffer from social or physical isolation.

Older people often feel shame, embarrassment or fear the consequences of speaking out. This stops them reporting abuse or seeking support.

Many believe that 'family matters' should be kept private. Most don't realise that the problem is not theirs alone, this problem is shared by many in the community.

Some older people state that they fear reporting abuse in fear of not seeing their grandchildren.

Many older people also place great importance on preserving their relationships with family and do not want to lose family support.



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## Why does abuse happen?

There are many reasons why older people experience abuse, these include social and personal factors. Each person's experience of abuse is different. The factors listed below do not directly cause abuse but research shows they can contribute to it -

- **Social factors** - societies may not value older people portraying them as incapable of making their own decisions, not contributing to their community or being dependent and a burden.
- **Economic factors** - some older people experience poverty as do those who care for them, low income and few assets result in fewer choices for where and how a person will live and this may also limit the support available outside the family.
- **Personal factors** - everyone's situation is different but sometimes abuse is more common where there is a history of abuse or violence. Some abusers can be experiencing addiction or mental illness. Abuse can also occur when a person is isolated from others or when there are differences in language and culture that make it harder for a person to seek support.

## What to do if you or someone you know is being abused

If you are experiencing abuse or suspect someone is being abused there are a number of options open to you.

Any kind of assault, including rape or other sexual assaults should be reported to ACT Policing.

Contact the ACT Abuse Prevention, Referral and Information Line (APRIL), a confidential telephone service for callers who want to discuss elder abuse issues and seek advice Ph (02) 62053535. This free and confidential service can help you to talk through the options open to you. They will also be able to provide you with referral to appropriate services including legal, community support and advocacy services.

A list of other organisations you can contact are listed at the back of this Fact Sheet.

The ACT Civil and Administrative Tribunal has authority to hear disputes relating to EPA's, particularly if an attorney is not acting in the best interests of a person.

S.19B(1)(b) of the *Public Trustee and Guardian Act 1985* confers investigative powers on the Public Trustee and Guardian. If you suspect



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that a person with an incapacity is experiencing neglect, physical or financial abuse you can contact the Public Trustee and Guardian phone **(02) 62079800**.

## **How you can protect yourself should you lose capacity for decision-making**

While you have capacity for decision making you can outline who you would like to manage your affairs in an EPA.

### **What is an Attorney?**

When we refer to the term **Attorney** in this brochure we are not meaning a 'Lawyer'. An **Attorney** is the person or persons you appoint in your EPA to manage your affairs and make decisions for you, if needed.

### **What is impaired decision-making ability?**

A loss of decision-making ability for decision making means a person is deemed not to be able to make decisions about their health and personal and financial matters.

### **Things to consider when preparing an EPA**

To minimise the potential for abuse, a well-prepared EPA should contain clauses to

protect your interests. It is recommended you obtain independent advice before preparing your EPA.

It is advisable that you consider the following before preparing your EPA:

- What end of life decisions do you want your attorney to make.
- When will your EPA commence? If the EPA is for financial matters, will it begin straight away or when you lose capacity?
- In the ACT, an EPA for personal and health care matters commences only on loss of capacity.
- Do you want to appoint more than one person to act as your Attorney?
- What sort of decisions will your Attorney/ Attorneys be able to make? Will they make health and personal decisions such as where you will live and what medical treatment you receive? Will they be able to make financial decisions such as managing your assets and paying your bills?



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## Should you appoint family members as your Attorney/s?

Family members, friends and carers generally have a person's best interest at heart and many do a wonderful job protecting the interests of people whom they have the EPA.

However, there are some instances when they are the most appropriate people to manage a person's affairs.

Appointing someone as your attorney is not something you should do automatically because they are family or close to you.

PTG is often appointed as attorney to manage your personal and health care and financial and property matters including where:

- there is a family conflict;
- there is a prior history of violence or other abuse;
- a potential attorney has difficulty managing their own personal and financial affairs;
- you have no suitable person you would like to appoint;
- you have a suitable person but you feel uncomfortable with them managing your affairs.

## Where can I have my EPA prepared?

The PTG can prepare your EPA for a competitive fee phone **(02) 62079800** to make an appointment, or you can contact your solicitor.

## What if someone is suspected of abusing their EPA for a person with impaired decision-making ability?

The ACT Civil and Administrative Tribunal can only appoint a **Guardian** or **Manager** if:

- someone has impaired decision-making ability in relation to the person's health or welfare, financial matters or property;
- there is, or is likely to be, a need for a decision in relation to the matter;
- the person is likely to do something in relation to the matter that involves, or is likely to involve, unreasonable risk to the person's health, welfare or property; and
- if a guardian is not appointed -
  - the person's needs will not be met; or
  - the person's interests will be significantly adversely affected.



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## About ACAT appointments

ACAT can appoint a Manager to make financial decisions. Often PTG is appointed Manager. When PTG is appointed Manager we assist our clients according to their financial needs. This can include financial management, preparing tax returns and paying bills.

The Tribunal can appoint a Guardian to –

- decide where, and with whom, the person is to live;
- decide what education or training the person is to receive;
- decide whether the person is to be allowed to work;
- decide the nature of work (if the person is to work), the place of employment and the employer;
- give consent required for a medical procedure or other treatment (including medical research or low-risk research but not including a prescribed medical procedure or medical treatment);
- give consent required for medical treatment or involving treatment, care

or support under the *Mental Health Act 2015* (other than a prescribed medical procedure); bring or continue legal proceedings for or in the name of the person.

Guardianship orders are time limited and are reviewed periodically.

## If you are asked to sign documents by a family member, friend or carer:

- You should always make sure you understand what you are signing.
- It is your right to only sign documents that you want to sign.
- You should not feel bullied, coerced or blackmailed into signing documents.

Any decisions you make can have implications for your pension, access to aged care etc and you may wish to obtain independent financial or legal advice from your solicitor or Legal Aid ACT (See Contacts page). You can also contact the the Older Persons Abuse Prevention Referral and Information Line (APRIL) to discuss a referral.

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Management POWERS Financial Man RESPECT Confiscated  
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## Other ways you can protect yourself

- Become familiar with services that can help you to deal with difficult situations and don't be afraid to contact them. See the list on page 8 of this brochure.
- Keep a network of friends, neighbours and family members and/or join organisations in your local community. Also ensure you receive support from health and community care providers if needed. Social isolation may impact on your ability to protect yourself.
- Before making changes to your financial arrangements eg lending money or transferring assets, seek your own professional and independent advice.
- Ensure that you keep your bank documents, title deeds and other key documents in a safe and secure place and do not give PIN numbers to people you do not trust.



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## CONTACTS

### Older Persons Abuse Prevention Referral and Information Line (APRIL)

ACT Community Services Directorate  
Ph (02) 6205 3535

### Care Financial Counselling and the Consumer Law Centre

Ph 1800 007 007

### Seniors Enquiry Line

1300 135 500  
[www.seniorsenquiryline.com.au](http://www.seniorsenquiryline.com.au)

### Lifeline Canberra

Ph (02) 6171 6300  
Crisis line 13 11 14  
[www.lifeline.org.au](http://www.lifeline.org.au)

### A.C.T. Disability, Aged and Carer Advocacy Service (ADACAS)

Suite 104, Block C  
Canberra Technology Park  
Phillip Avenue WATSON ACT 2602  
Ph (02) 6242 5060

### Public Trustee and Guardian

221 London Crct  
Canberra City ACT 2601  
Ph (02) 6207 9800

### Legal Aid Helpline

2 Allsop St  
Canberra City ACT 2601  
Ph 1300 654 314

### Council on the Ageing (COTA)

Hughes Community Centre  
Ph:(02) 6282 3777

### Carers ACT

Ph (02) 6296 9900

### Relationships Australia (ACT)

Ph 1300 364 277

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