

The Executive Officer

Family and Community Development Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002

By email: janine.bush@parliament.vic.gov.au

13 September 2011

Inquiry into the Opportunities for Participation of Victorian Seniors

Dear Dr Bush

I write on behalf of the Federation of Community Legal Centres (Vic), the peak body for Victoria's 49 community legal centres (CLCs).¹ On behalf of the working group, I would like to thank the committee for granting us an extension of time in which to make this submission.

This submission draws on the expertise of the Federation's Elder Law working group, which includes representatives from Seniors Rights Victoria, the Public Interest Law Clearing House (PILCH), Broadmeadows Community Legal Service, Springvale Monash Legal Service, Barwon Community Legal Service and JobWatch. Our case studies are based on the casework of these CLCs, although clients' names have been changed in the interests of confidentiality.

Our submission addresses:

1. Access to legal information and advice (including barriers to access, particularly for older people living in suburban and rural areas, and those from culturally and linguistically diverse backgrounds);
2. Improving community awareness of elder abuse (including awareness in the legal profession, the police force and the banking industry);
3. Age discrimination in the workplace; and
4. Guardianship and powers of attorney.

We believe that by instituting reform in these areas, the Victorian Government could do much to improve the wellbeing and participation of older Victorians.

Our **recommendations** are summarised on page 14 of this submission.

¹ For more information about the Federation and its member centres, please see our website: www.communitylaw.org.au.

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1. Access to legal information and advice

a) Access to specialist services

Seniors Rights Victoria (SRV) is a free service that seeks to prevent elder abuse and safeguard the rights, dignity and independence of older Victorians. SRV is funded by the Victorian Government's Office of Senior Victorians and Victoria Legal Aid. Collocated with the Council on the Ageing, SRV works in partnership with the Public Interest Law Clearing House (PILCH), Eastern Community Legal Centre, Loddon Campaspe Community Legal Centre and the Federation of Community Legal Centres.

The only service of its kind in Victoria, SRV is a vital resource for many older Victorians. It leads research, policy and advocacy on issues of elder abuse, mistreatment and neglect. SRV is an independent, not-for-profit, non-denominational organisation working with people from all religious, socioeconomic and cultural backgrounds. It employs professional translators and interpreters so every Victorian can access its services.

SRV commenced operation in May 2008. It has quickly established a responsive and comprehensive service addressing the needs of older people. Its services include:

- Legal advice
- Education and training
- Ongoing casework
- Referral
- Advocacy and
- Law reform.

SRV operates from offices in central Melbourne, as well as sites in Melbourne's outer east and, regionally, in Bendigo. SRV also operates four pro bono outreach clinics (Seniors Rights Legal Clinics, or SRLCs) around metropolitan Melbourne. The SRLCs assist older people who are unable to afford a lawyer and see an average of six clients per week. The clinics are staffed on a voluntary basis by lawyers from private law firms.²

Case study 1

Bob, an 85 year old man with cognitive decline, was persuaded to relocate to live with a distant relative, Sue, following the death of his wife. Sue took Bob to her solicitor and had Bob appoint her as his financial and medical power of attorney and enduring guardian. Sue then placed Bob in a makeshift granny flat at the back of her property and took all his bankcards and other identification from him. She gave him limited meals and prevented him from having much to do with the outside world.

One day Sue decided to withdraw \$60,000 from Bob's account without his knowledge and used that money to buy a gift for her child. Sue would not allow Bob to return to his home despite his requests to do so.

² Clinics are located at Dousta Galla Community Health Service (Niddrie), Western Region Health Centre (Footscray), Caulfield Hospital Memory Clinic (Caulfield) and Bundoora Extended Care Centre (Bundoora).

Through friends, Bob contacted SRV. SRV helped him to revoke the power of attorney, relocate to his home with extra care supports and recover the money from Sue after threatening legal action. Bob is now happy at home.

b) Suburban and rural services

Generalist CLCs in suburban and rural areas are a vital adjunct to the specialist services offered by SRV. Many older Victorians living in outer suburbs cannot access specialist services located in the Melbourne city centre. Moreover, as the committee has noted, a disproportionate number of older Victorians live in rural areas.³ Older Victorians living in rural areas face particular barriers to accessing legal advice and assistance.

Some of these problems are due to the limited capacity of rural legal services to meet demand. Rural CLCs (and rural lawyers more generally) face unique operational challenges. Many were documented by the Law Council of Australia and the Law Institute of Victoria, in their 2009 *Report into the rural, regional and remote areas lawyers survey*.⁴ As that report noted, legal practices in rural, regional and remote ('RRR') areas often have trouble attracting suitably qualified and experienced staff. Nearly half of the lawyers surveyed said their practice did not have enough lawyers to meet the demands of their client base or the wider community.⁵ The report also found that a 'reduction in the numbers of RRR lawyers undertaking legal aid work is making it difficult for country people to access legal aid,' placing 'increasing pressure on the remaining services.'⁶

Lack of accessible, affordable transport also limits access to legal advice for many older people in suburban and rural areas. In areas where public transport is scant or non-existent, older Victorians often rely on family members or friends in order to attend appointments. This may deter some older people from seeking legal assistance, particularly if their legal affairs have direct implications for friends and relatives (as is often the case with wills or powers of attorney).

Generalist CLCs have a vital role to play in providing accessible legal advice to older Victorians in suburban and rural areas.

Case study 2

Broadmeadows Community Legal Service (BCLS) was approached by Anna. Anna cared for her mother Betty 24 hours a day, seven days a week. Anna was having trouble dealing with banks, utility companies and various other organisations on Betty's behalf. Betty wished to instruct BCLS to prepare enduring powers of attorney, both financial and medical, but as she was elderly and bedridden, she was unable to leave her house. Moreover Betty's very limited English meant that she would require the assistance of an interpreter in

³ Parliament of Victoria Family and Community Development Committee, *Inquiry into the opportunities for participation of Victorian seniors: submission guide* (2011), 2.

⁴ Law Council of Australia and Law Institute of Victoria, *Report into the rural, regional and remote areas lawyers survey* (2009), available at http://rrrlaw.com.au/media/uploads/RRR_report_090709.pdf (accessed 30 August 2011).

⁵ *Ibid*, 17-18.

⁶ *Ibid*, 6.

order to make powers of attorney.

BCLS does not usually attend clients' homes due to its limited resources. However in light of Betty's difficult circumstances, BCLS decided to attend at Betty's home, once to take instructions and a second time to facilitate the signing and witnessing of the documents. The Service engaged an interpreter to attend on both occasions, at no cost to Betty.

BCLS has had three clients in similar circumstances in 2011. BCLS lawyers frequently attend the palliative care unit at Broadmeadows Health Centre to assist patients with the preparation of wills and Powers of Attorney. BCLS has made a commitment to assist as much as possible in such situations, given that clients would otherwise have very little chance of accessing legal services, although the Service generally restricts such assistance to Centrelink recipients. BCLS understands that the elderly have very little success in finding private practitioners willing to assist in such circumstances.

c) Culturally and linguistically diverse communities

In culturally and linguistically diverse (CALD) communities, access to interpreting services is a crucial determinant of older people's access to legal advice. Where interpreting services are not available, or are difficult to access, seniors must rely on friends and family to translate and interpret for them. This is clearly undesirable in some circumstances, for example in relation to wills, powers of attorney and cases of potential abuse.

Case study 3

The Seniors Rights Legal Clinic (SRLC) relies on the Translating and Interpreter Service (TIS) and the Victorian Interpreting and Translating Service (VITS) to provide free onsite interpreters for CALD clients attending the clinics. Onsite interpreters are almost always essential, given that documents (including legal documents like powers of attorney) need to be clearly explained to clients and translated for lawyers.

Erik and Anja made an appointment at the SRLC Bundoora clinic for assistance in drafting wills and powers of attorney for them both. While Erik was still mobile and living at home, his health had recently declined and it was likely that he would need to go into care in the near future. Erik had a will but it was drafted a long time ago in Germany.

As neither Erik nor Anna spoke English, an onsite German interpreter was required for the appointment. However, in attempting to book an interpreter for the appointment, the SRLC discovered that there are only two German onsite interpreters in Melbourne and only one of those interpreters was willing to travel to Bundoora. As that interpreter was unavailable at the scheduled appointment time, Erik and Anja's appointment had to be rescheduled.

Erik and Anna's case is not the only time the SRLC has had difficulty accessing interpreters for clients. There are several other languages, including certain Arabic dialects, where the number of available onsite interpreters is limited. For

an already isolated and vulnerable group of people, this creates a further barrier to access to justice and hampers lawyers' ability to provide advice.

Recommendation 1:

The Victorian Government should maintain and, if possible, increase funding for the SRV, so that it can continue to provide free, specialist legal advice and assistance to older Victorians. SRV's funding should increase over time, to reflect the rising demand for its services as the Victorian population ages.

Recommendation 2:

The Victorian Government should work with suburban and rural CLCs, to build their capacity to provide specialist elder law advice and assistance to older Victorians.

Recommendation 3:

The Victorian Government should take steps to recruit and train more interpreters of major community languages, for the purposes of legal and other community services.

2. Improving community awareness of elder abuse

a) Low levels of awareness

Elder abuse receives little attention in the media and community awareness of elder abuse is very low.⁷ This creates an environment in which many abusers believe that their behaviour will have no consequences. It also means that people are less likely to recognise or act to address situations of elder abuse.

Case study 4

Arthur had been diagnosed with mild dementia in 2007 and was eligible for a Community Aged Care Package to assist him at home. Arthur lived on a large estate with his long term companion, who assisted him with his daily chores and banking. Arthur also had a son, George, who lived approximately two hours away. Arthur was not very close to George and they saw each other a few times a year only.

In 2008 Arthur had a stroke. His companion was away at the time of the stroke. After the stroke, Arthur was admitted to hospital. While in hospital, George visited him with a person authorised to witness the signing of statutory declarations. George got Arthur to sign an enduring power of attorney (financial), appointing George as his attorney. Arthur claims that he did not know what he was signing and he felt really confused and disoriented at the time.

After being in hospital, George arranged for Arthur to be relocated to a residential aged care facility near him. The facility was far away from Arthur's home and friends. George wrote to the facility and instructed the manager of the facility that Arthur was not to speak with anyone or to leave the facility at all. George purported to use his power under the enduring power of attorney

⁷ We use the term 'elder abuse' as defined by SRV in its submission to this inquiry.

(financial) to do this. There was no enduring guardianship in place. George refused to give Arthur his personal belongings or bank cards and wrote to George's companion giving her notice to vacate George's property as he wanted to sell the property. At no time did George consult Arthur about these decisions. Arthur wanted to return home and his health was improving daily.

SRV took the matter to the Victorian Civil and Administrative Tribunal on behalf of Arthur and had the power of attorney revoked and an independent guardian and administrator appointed. SRV also obtained Arthur's personal belongings from George. Arthur is now at home with more home and community supports and still resides with his companion.

b) Media campaign to raise awareness

A media campaign may succeed in raising awareness of elder abuse. Such a campaign could be modelled on successful campaigns against family violence and violence against women, such as the national White Ribbon Day campaign.

c) Training of police officers

Better training could help police officers to identify and deal appropriately with cases of elder abuse.

Case study 5

Carmel was in her eighties and spoke limited English. Carmel resided in a granny flat on a property shared with her son Tony and granddaughter Maria. Tony began putting pressure on Carmel to move into care. Carmel wanted to remain at home and had a Community Aged Care Package which provided her with a case manager and services. Carmel had assistance with shopping and transport to appointments as well as meals and housecleaning. Carmel was able to manage her personal care independently. Tony and Maria provided little support to Carmel.

Tony and Maria began placing more and more pressure on Carmel to move into care. The conflict escalated until Maria pushed past Carmel causing her to fall and injure her ankle. Carmel was too frightened to go with either Tony or Maria to seek medical assistance, because they continually threatened to take her into care. Instead she waited for her case manager to visit the next day.

Carmel told her case manager what happened and then decided to report the incident to police. Local police attended to speak with Carmel but did not use an interpreter. Carmel had difficulty understanding what the police said to her. The police spoke with Tony and Maria, put the incident down to a 'family matter' and did not issue a safety notice. The police remarked that Carmel could not reside independently on the property and that therefore it was not appropriate to seek an intervention order.

Carmel's case manager sought advice from SRV. SRV advised her to seek a limited intervention order, which would forbid Tony and Maria from committing family violence but would not exclude them from property.

d) Education within the legal profession

Members of the legal profession could also benefit from more specialised training in elder law. At present, some Australian law schools offer elective subjects on elder law.⁸ Wider availability of specialist elder law subjects would improve lawyers' capacity to meet the needs of senior Victorians. We also believe that the profession could benefit from a wider range of continuing professional development or 'CPD' subjects with a focus on elder law.

e) Education in the banking industry

Bank personnel are often in a unique position to identify financial abuse, as financial abuse often involves the use of banking and financial services. Financial abuse may include:

- Forging another person's signature;
- Abusing a joint signatory authority on a blank form;
- Misusing ATMs and credit cards;
- Cashing an older person's cheque without permission;
- Misappropriating funds from a pension;
- Using an authorised power of attorney against the interests of the donor; or
- Pressuring an older person to act as a guarantor, or failing to provide proper details of such an agreement to enable the older person to make an informed decision.

Banks could play an important role by educating both their staff and their customers in relation to suspicious transactions. Banks could also introduce new terms into their contracts with customers, which would allow them to investigate or delay transactions where abuse is suspected.

Case study 6

Mary is in her mid to late eighties and has no children. Her husband passed away some time ago and Mary is quite independent. Mary does have some difficulties with her mobility although she is still driving and finds she is still able to get out and about. Mary owns her own modest home and has a small nest egg invested in a term deposit but is otherwise reliant on the pension. Mary is quite a frugal woman and likes to save her money so she can make a charitable contribution at Christmas time. Mary is quite traditional and does all her banking over the counter at her local branch where she has for the past twenty years. Members of staff at the bank know Mary well.

Mary is befriended by a woman Jane; she meets Jane while at the supermarket one day. Jane is a single mother with four children and Mary, being 'a good Christian' woman, sometimes helps Jane out by giving her small amounts of

⁸ The University of Western Sydney offers a subject on elder law. According to the subject description, the unit 'examines law relevant to an aging community. The legal issues are examined in a broad social, cultural and ethical context. Issues of legal capacity relevant not only to the law of contracts but also to medical treatment and end of life decisions are considered. Similarly the law relating to areas of special importance to the elder community such as age discrimination, pensions, retirement villages, wills and estate planning are also discussed.' See http://future.uws.edu.au/ug/law/non_grad_entry (accessed 13 September 2011). In Canada, the British Columbia Law Institute auspices a Canadian Centre for Elder Law, which develops educational resources for law students and lawyers, among many other activities. For more information see <http://www.bcli.org/ccel/about> (accessed 13 September 2011).

money to buy bread and milk to feed the children.

Over time Jane begins making greater demands on Mary. Jane borrows Mary's car and begins asking for larger sums of money. On numerous occasions Jane asks Mary for \$50 or \$150, which she says is a loan. Mary provides the money even though she can't really spare it and she feels it is unlikely Jane will repay the money.

Jane has a boyfriend, Gary. Gary drinks and often becomes quite aggressive. Mary is quite frightened by Gary. Jane and Gary are both putting pressure on Mary to provide money to them. Mary does not wish to give them any more money but is frightened Gary might harm her if she does not. Mary is not sleeping or eating well because of how fearful Gary makes her feel. The demands of Gary and Jane have quickly depleted Mary's savings account.

Jane and Gary have been escorting Mary to the bank and waiting either inside or just outside the bank for her. Bank staff members are suspicious of Jane and Gary. They ask Mary if she is okay and inquire why she is making so many withdrawals. Mary lies, telling them she is okay and the money is to pay for repairs to her car. Bank staff members do not report their suspicions to police or make any attempt to delay any transactions while further investigations are made.

Jane and Gary continue to intimidate Mary until they have taken all her savings, a total of \$25,000. Mary suffers a breakdown as a result and has to move into aged care, as she is no longer able to maintain her independence.

Should the bank's staff have done more to assist Mary?

In Western Australia, community lawyers and advocacy groups have worked with the Office of the Public Advocate, the police force and the banking industry to develop protocols for reporting and referral in cases of suspected elder abuse.⁹ Although the Western Australian system needs further refinement, according to some commentators,¹⁰ it could serve as a useful model for Victorian policymakers.

⁹ House of Representatives Standing Committee on Legal and Constitutional Affairs, Parliament of the Commonwealth of Australia, *Older People and the Law* (2007) 2.111.

¹⁰ Professor Mike Clare, Dr Barbara Black Blundell and Dr Joseph Clare, *Examination of the Extent of Elder Abuse in Western Australia* (2011), available at http://www.advocare.org.au/uploaded/files/client_added/Examination%20of%20the%20Extent%20of%20Elder%20Abuse%20in%20Western%20Australia.pdf (accessed 13 September 2011), 23-26.

Recommendation 4:

The Victorian Government should initiate a media campaign to raise awareness of elder abuse.

Recommendation 5:

Police officers should undertake training to better equip them to recognise possible situations of elder abuse and to take appropriate action.

Recommendation 6:

The Victorian Government should work with Victorian law schools and the Law Institute of Victoria to increase opportunities for professional training in elder law.

Recommendation 7:

The Victorian Government should work with the banking and finance sector to develop voluntary protocols to combat financial abuse of older Victorians. Western Australia's innovations in this area could serve as a model for Victoria.

3. Age discrimination in the workplace

Age discrimination is a growing problem in the Victorian workforce. Over the last three financial years, from 1 July 2008 to 30 June 2011, approximately 28% of callers to the JobWatch Telephone Information Service were people aged 45 and over.

a) Equal opportunity

Sections 17 and 19 of the *Equal Opportunity Act 2010* require employers to "accommodate" the parental or carer needs of their employees (including people to whom employment has been offered). Similarly, s 20 of the Act requires employers to make "reasonable adjustments" for employees (including people to whom employment has been offered) with a disability. We urge the Victorian Government to consider extending comparable obligations to employers of older workers. Such obligations would enable older Victorians to take time off work for the purposes of necessary health checks. They would also allow older Victorians to request flexible working arrangements in the years leading up to retirement, if they do not want to stop working but need to make some changes to their working arrangements.

Case study 7

Magda is a retail assistant in her sixties. She has asked her employer for time off work to see her doctor for a heart health assessment, to discuss her risk of heart disease. Her boss refuses to give her sick leave for this, saying that she is not unfit for work because of illness or injury.

b) Long service leave

Older workers are often encouraged to reduce their working hours rather than give up working altogether. This can mean that older workers lose significant entitlements such as long service leave and severance pay. To address this, the *Long Service Leave Act 1992* could be amended, to preserve the entitlements of older workers who shift from full time to part time work in the years immediately prior to retirement.

At present, s 64 of the Act provides that if employees reduce their hours in the 12 months before taking (or being paid out) their long service leave entitlements, then

their entitlements will be based on their average hours worked over the preceding five year period. This fails to protect workers who significantly reduce their hours more than 12 months before they retire. To protect the entitlements of older workers, s 64 could be amended to include employees who reduce their hours within the five years immediately prior to retirement. In these circumstances, their entitlements could be based on their average working hours over the last 10 years of their working lives.

Case study 8

Miguel has worked as a stacker for a large supermarket for 11 years. For the last two years he has worked on a permanent part time basis. Miguel is thinking of taking some long service leave and approaches his employer. His employer tells him that his long service leave entitlement is based on his current hours. Miguel had believed that his long service leave would be based on his average hours over the past 11 years.¹¹

c) Other forms of age discrimination in the workplace

The following case studies illustrate other types of discrimination commonly encountered by older Victorians in the workplace. For detailed commentary and further case studies, we refer the committee to the 2009 JobWatch report, *Workplace conditions and practices: barriers to older persons' participation*, and the Australian Human Rights Commission's 2010 report, *Age discrimination: exposing the hidden barrier for mature age workers*.¹²

Case study 9: Attempted forced retirement because of age, age-related bullying and harassment

Noel is 65. He has a permanent full-time job in the manufacturing industry. His supervisor, a younger man, recently told him they're bringing in a new computer system at work and, given Noel's age, he would probably struggle with it. The supervisor told Noel he thought it was time for Noel to retire. Noel felt insulted and complained in writing to a more senior manager, whose reassured him that he would not be forced to retire. Noel's supervisor then began to micro-manage Noel, harassing him and bullying him in what Noel felt was an effort to push him out of the workplace. Noel contacted JobWatch and subsequently lodged an age discrimination and victimisation complaint with the Victorian Equal Opportunity and Human Rights Commission (VEOHRC). He went on stress leave for two months. When he returned to work, a few weeks before his scheduled conciliation date, his supervisor effectively asked him, "Who gave you permission to come back?" He was stood down pending the outcome of the VEOHRC conciliation. The matter did not resolve at conciliation. Noel's claim has been referred to the Victorian Civil and Administrative Tribunal (VCAT).

¹¹ This case study is taken from JobWatch's 2009 report, *Workplace conditions and practices: barriers to older persons' participation*.

¹² Australian Human Rights Commission, *Age discrimination: exposing the hidden barrier for mature age workers* (2010), available at <http://www.hreoc.gov.au/age/hiddenbarrier/index.html> (accessed 13 September 2011).

Case study 10: Attempted forced retirement because of age/sham redundancy

Wayne is a 57 year old panel beater. He called JobWatch after his employment was terminated, purportedly because of a slow down in work. The day before sacking him, his employer had told Wayne that he was getting to an age when he might want to retire and asked him if he had considered this. Wayne had said that he did not want to retire. When he dismissed Wayne, the next day, his boss said that he had to keep on the younger workers as they would be working for him for a lot longer than Wayne would. Wayne decided not to pursue an age discrimination complaint because there were no witnesses to his employer's comments and he thought his claim would be too hard to prove, even though, in his words, "I honestly think I was sacked because of my age." Wayne spent almost four months out of work, before finding another (lower paid) job as a panel beater. He insists that he can still do the job, and that his capacity had nothing to do with his dismissal.

Case study 11: Age discrimination in the recruitment industry

Marta is a 64 year old job seeker. She is looking for work as a personal assistant in any industry. She has approached a recruitment agency about possible vacancies but before interviewing her, the agent asks Marta to provide a copy of her birth certificate or licence. Marta is sure that the only reason for this request is that the agent wants to know her age before considering her for a particular job. Marta doesn't think she will get any job because of her age so she simply withdraws from the recruitment process.

d) Recognising responsible employers of older workers

To promote the employment of older workers, the Victorian Government could formally recognise the best employers of older workers. Such recognition could be modelled on the annual awards and 'employer of choice' lists compiled by the Commonwealth Government's Equal Opportunity for Women in the Workplace Agency.

Recommendation 8:

The Victorian Government should consider amending the *Equal Opportunity Act 2010*, to require employers accommodate, or make reasonable adjustments for, the needs of older workers.

Recommendation 9:

The Victorian Government should consider amending the *Long Service Leave Act 1992*, to preserve the entitlements of older workers who shift from full time to part time work in the years immediately prior to retirement.

Recommendation 10:

The Victorian Government should investigate ways to promote the employment of older workers, including awards and 'employer of choice' lists similar to those compiled by the Commonwealth Government's Equal Opportunity for Women in the Workplace Agency.

4. Other issues

a) Guardianship hearings at VCAT

There is a growing need for legal representation of older people in the Guardianship List at VCAT. While Victoria Legal Aid provides a Duty Lawyer at VCAT, the Duty Lawyer is rarely able to represent older people in their hearings in the Guardianship List. For many older people, legal representation is essential, both in hearings and in associated negotiations.

Case study 12

Bruce was in his mid-seventies and in a rehab facility. During discharge planning it became apparent that Bruce's family did not all support his wish to return home and live independently. The facility was concerned about its duty of care and made an application to VCAT for the appointment of a guardian and administrator for Bruce.

Bruce had had a fall at home and was admitted to hospital, then discharged to the rehabilitation facility. He had three adult children, one of whom lived with him. Two were supportive of their father remaining independent but the other was not and felt that Bruce should be in a nursing home.

Bruce had lived in his own home for over 50 years and was well known within his community. He had a number of serious health issues and a physical impairment, and the facility was concerned about Bruce's nutrition and the safety of his home. A specialist's report, indicating dementia, was attached to their application. SRV obtained a copy of a recent Aged Care Assessment Service (ACAS) assessment which had not been provided to VCAT. The ACAS assessment indicated that Bruce had no cognitive impairment. Therefore there was a lack of information indicating Bruce's incapacity.

Bruce was becoming increasingly frustrated with the facility as he had been told he could not return home until the outcome of the VCAT application. He was told if he tried to leave the facility the police would be called.

With the assistance of SRV, Bruce attended the VCAT hearing. At the hearing the Tribunal member adjourned the further hearing of the matter until the facility could co-ordinate a meeting with the family and SRV. At the meeting a discharge plan was discussed.

Bruce was able to return home with the support of two of his children and a Home and Community Care (HACC) package. The facility then withdrew its application.

Recommendation 11:

The Victorian Government should consider providing additional legal services at VCAT, to facilitate representation of older people appearing in the Guardianship List.

b) Powers of attorney

In 2010, the Elder Law working group made a submission to the Victorian Parliament Law Reform Committee Inquiry into Powers of Attorney. When the Government responded to that inquiry early this year, we were please to note its support for several recommendations, including national harmonisation and the production of information about powers of attorney in a range of community languages.

In its response, the Government flagged several of the Law Reform Committee's recommendations for 'further consideration'. We are particularly interested in the Government's views regarding mandatory registration of powers of attorney (Recommendation 67), increasing access to legal support for people wishing to make powers of attorney (Recommendation 22) and measures to improve the detection and reporting of abuse of powers of attorney (Recommendation 53).

We understand that the Government has deferred its consideration of these issues until after the Victorian Law Reform Commission completes its inquiry into guardianship. We believe that the Government's response to these recommendations will have a significant impact on older people's participation and general welfare.

Recommendation 12:

As soon as is practicable, the Victorian Government should respond in full to the recommendations of the Victorian Parliament Law Reform Committee Inquiry into Powers of Attorney, including those marked for 'further consideration' in its initial response.

Thank you again for the opportunity to make this submission. If you would like to meet with members of the Elder Law working group, to discuss any of our recommendations, please contact me on the number below or via email at lucinda.obrien@fclc.org.au.

Sincerely



Lucinda O'Brien

Policy Officer

Direct line (03) 9652 1512

Summary of recommendations

Recommendation 1:

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The Victorian Government should work with suburban and rural CLCs, to build their capacity to provide specialist elder law advice and assistance to older Victorians.

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