

9 January 2020

Our ref: HS:ELC

Mr Leif Bremermann
Senior Analyst
Department of Communities, Disability Services and Seniors

By email: [REDACTED]

Dear Mr Bremermann

Review of the Seniors Legal and Support Services (SLASS) program

Thank you for the opportunity to provide comments on the review of the SLASS program. The Queensland Law Society (QLS) appreciates being consulted on this important matter.

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

This response has been compiled by the QLS Elder Law Committee whose members are practitioner volunteers with expertise in elder law. QLS has taken a special interest in the prevention of elder abuse for a number of years and is committed to advocating for services and policies that assist the victims of elder abuse and prevent further elder abuse within the community. QLS is therefore supportive of the SLASS. To the extent that they are relevant to QLS, we answer the specific questions in Mr Harper's email of 29 November 2019 as follows.

How your organisation typically works or interacts with the seniors legal and support service program

While our organisation does not directly interact with SLASS in terms of providing services to clients, members of our committee are employed by organisations who do provide such services. Committee members report a large and increasing number of people in the community over the age of 60 who require assistance facilitated by SLASS. Committee members have observed an increase in the number of older people requiring assistance, particularly in relation to financial and emotional abuse, but also in relation to neglect and physical abuse.

Committee members working in SLASS services note the value of collaborating with a social worker and the education and case management that can be provided to older persons. It is

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noted that many older persons are overwhelmed by trying to find help online and gaining the assistance of a lawyer and/or social worker in person or by phone is extremely helpful, as is ongoing interaction with this professional support where the person's needs are more complex due to long term abuse.

Any positive or negative outcomes that came about because of those interactions

- A committee member has provided three case studies illustrating assistance that was able to be given to clients who accessed their SLASS funded services:

Case study 1

The clients were two older woman (sisters) who had agreed to move next door to the adult child of one sister in order to help with baby sitting and to help the family by doing simple chores for them. An arrangement was negotiated on the basis that rent for the sisters would be paid for by the daughter/niece and the sisters would babysit for a number of hours per week at pre-arranged times. The clients would be given cash to buy food and clothing for the children when they shopped. The arrangement was to continue until the children were of 'age'. Both properties were rented through the same real estate agency.

Immediately after the clients moved into the house, they discovered rent on the property tenanted by the daughter/niece was behind. The clients paid the rent on both houses, thinking it was an oversight.

Over the next few months, the clients funded rental payments on both properties around half the time. They were not given any money for the children's food, having to fund this entirely from their pensions. Babysitting was not restricted to the hours previously agreed and became a full time job.

When the rental payments and cash for the children issue was raised by the sisters, the daughter and her male partner became aggressive and verbally abusive and the clients felt intimidated. The daughter and partner then started asking the clients for their pension, leaving them without enough money to support themselves. After a number of months, the clients heard about the SLASS program and approached the service.

We [the SLASS funded legal centre] advised the clients of their rights and the help available to them. We suggested we write a letter to the offenders making them aware of the action the clients could take under the *Criminal Code 1899* (Qld), notifying police and/or a domestic violence order.

The clients agreed and a letter was sent to the offenders, who immediately ceased their abuse. Over a number of weeks, the original agreed arrangement was bedded into routine to the satisfaction of all parties.

Case study 2

We were contacted by an external service advising one of their clients had been financially abused by his next-door neighbour.

The client had been rushed to the local hospital and was not expected to survive his illness. His next-door neighbours came to the hospital while the client was under strong medication and clearly without legal capacity to sign documents. The neighbour had him sign an Enduring Power of Attorney (EPOA) giving them immediate power in relation to financial matters.

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Two weeks after signing the documents, the neighbour placed the client's home on the market to sell and started to sell most of his personal possessions, placing the remaining personal property into an inappropriate shed on their property. The home sold within a few months.

Over this time, the client's health improved to the point where doctors advised he would be able to go home within a month or two. Immediately, he started thinking about his home (which he loved) only to discover his home had been sold while he was ill.

We were asked to intervene. The EPOA had already been revoked following action by his health provider but our client needed to know what he could do to be compensated for the loss of his home and personal property. Along with the referring service provider, we also had to provide help in finding our client somewhere to live, help him resettle into the new home and then proceed to have his remaining personal items returned to him.

We wrote a letter to the neighbour advising them of their breach of duty under the EPOA. They hired a solicitor. We negotiated to have all of the existing items delivered, at their cost, to our client's new home. Our client is now settled in a rental property. He wants to buy his own home but is unable to do so because he does not have the ability to repay a loan.

We are currently waiting for the balance of the changes to the guardianship legislation to be proclaimed to then file with QCAT for compensation for our client.

Working with a social worker (under the SLASS program) means that lawyers can immediately use that resource to help a client in distress.

Case study 3

The client agreed to gift her son \$300,000 toward the purchase of a house and another \$50,000 for the purchase of a motor vehicle to relieve financial strain on the son. The agreement was that our client would live with her son until she died and the vehicle would provide transport to medical appointments.

Our client became ill. While in hospital she noticed that her bank account contained no funds. On investigation, it was revealed her son and his new wife 'owned' all the assets purchased. Our client had believed her name would be on the title of the property and that she had full ownership of the car. She then discovered her daughter in law had been taking all of her pension monies without giving her any cash. When she raised questions regarding the assets and her cash, the son and daughter in law evicted her from the home she provided funds to purchase.

Our client had no funds and no home. She had been in hospital for a number of months and had already been transported to four different facilities – her tenure at the current residence was due to expire during the Christmas holidays. With the support of the SLASS social worker we were able to secure a roof over her head for another month. At least this meant she was not homeless while resolutions were sought for her legal issues.

Challenges encountered when working with or referring people to the seniors legal and support program

Committee members note the many challenges in assisting older people who have or may have been the subject of elder abuse given the nature of their vulnerabilities and, at times, the speed with which their circumstances can change. For example, where an older person suddenly loses their home because of financial abuse or is evicted by a family member. On top of their legal concerns, the clients have the far more immediate problem of trying to find accommodation in circumstances where they have limited funds. Compounding these

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difficulties is the inability of the court/tribunal system, including for reasons of procedural fairness, to act with the necessary agility to provide immediate relief and the lack of willingness of the police to act in many circumstances of elder abuse.

A significant factor for many older people is the question of their capacity. That is, their capacity to instruct a solicitor, to revoke enduring documents, to obtain legal advice and to seek legal recourse. Often, older persons the subject of abuse are left without access to justice and are unable to change their new circumstances. Limited assistance is available from advocacy service but this sector is underfunded and under-resourced.

Greater funding is required for matters that are more complex. In these cases, the work needs time, sometimes months. In the current model, there is some expectation to pass the file to pro bono solicitors through organisations such as LawRight. While these services are excellent, transfer of the file can intimidate and distress older clients where they have developed a relationship with their lawyer. Where matters need ongoing representation, the SLASS program should be able to see the matter through to conclusion, including briefing a barrister where necessary. Quite often matters are terminated early because of a lack of funding, leaving the client to flail.

Your organisation's views on the benefits of the SLASS program, and any aspects of it that you feel are working particularly well or that could be improved

Committee members note that the key benefit of SLASS is the ability to provide needed help to older persons in a respectful manner. The support offered through SLASS to older persons in our community who do not know how to deal with abusive children, relatives, friends or spouses is invaluable and difficult to access elsewhere.

SLASS also provides an opportunity, through outreach and presentations, to educate older people in aged care homes, other service providers and the public. The message spreads and referrals are directed to services delivering SLASS.

The SLASS program is critically important as a community service as older people exposed to abuse are often not able to access funds and therefore cannot instruct a private solicitor. Typical financial abuse includes depleting savings, transferring ownership of assets, and accrual of debt in the older person's name, leaving the older person without access to the reasonably large amount of money (eg \$50,000) required to initiate a legal challenge.


Which aspects of the program were most important for ensuring the wellbeing of clients and their ability to live a life free from elder abuse

The best outcomes are allowed to occur in circumstances where lawyers and social workers engaged through SLASS are able to dedicate sufficient time to clients. This allows the client to develop sufficient trust in the practitioners, thereby allowing conversation to flow and important details to emerge. For this to occur, practitioners need sufficient time and resources to visit clients in their homes, hospitals or aged care settings on as many occasions as necessary.

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We hope that the above is of assistance to your review. If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.

Yours faithfully



Luke Murphy
President