Adult Safeguarding in Queensland

Volume 1. Identifying the gaps

July 2022

The Public Advocate

Influencing change to empower lives

Acknowledgement of Country
The Public Advocate and staff acknowledge Aboriginal and Torres Strait Islander peoples as Australia's first peoples and as the Traditional Owners and custodians of the land on which we live. We celebrate the diversity of Aboriginal and Torres Strait Islander cultures across Queensland and pay our respects to Elders past, present and emerging.

Acknowledgement of Lived Experience
We acknowledge the experiential expertise of adults with impaired decision-making ability, whose rights we seek in our work to promote and protect.

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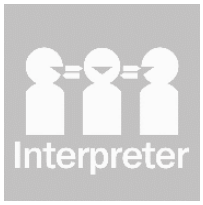


Foreword

This is the first volume of a two-volume report on adult safeguarding in Queensland.

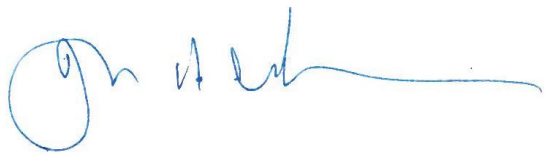
The origins of this project reach back to the ground-breaking Australian Law Reform Commission report entitled *Elder Abuse – A National Legal Response* and the subsequent adoption of the 'National Plan to Respond to the Abuse of Older Australians [Elder Abuse] 2019-2023'. The Commission's 'adult safeguarding' recommendations extended beyond the field of elder abuse and were geared towards the situation of 'at-risk adults', a term utilised in this project (I was fortunate enough to serve on the Commission's advisory committee).

Queensland is yet to make significant reforms in the wake of the Commission's report. The aim of this office's work on adult safeguarding in Queensland is to explore, enliven and expand on the Commission's adult safeguarding recommendations as they relate to Queensland, taking account of the particular features of Queensland's geographically diverse social and health services sectors, and the diverse characteristics of the state's people, while also considering recent state and national regulatory developments.

The first volume of the report identifies adult safeguarding 'gaps' that exist. The second volume, due to be completed later this year, will identify reforms that will address these gaps.

In this first volume, the analysis considers existing literature and thinking on adult safeguarding, as well as drawing heavily on the eight in-person roundtables that my colleagues and I conducted throughout Queensland during 2021 and 2022, and on other in-person and online consultations that we have held with people who possess a range of professional and experiential expertise. The roundtables – which included sessions in Townsville, Mt Isa, Rockhampton, Toowoomba, Southport, Caloundra and two sessions in Brisbane – have been an early highlight of my time as Public Advocate. I asked participants at the roundtables – who included representatives from the Queensland Police Service, Queensland Ambulance Service, regulators, advocates, health professionals, guardianship agency staff members, and people with disability – to consider and help to identify current safeguarding shortcomings; and, even more importantly, to help identify ways in which we can improve what we currently do. The energy and collaborative spirit that people brought to the roundtables far exceeded my expectations; in addition to ensuring that this work is grounded and informed about the particular situation (or situations) in Queensland, this was quite energising.

The writing of this volume has been led by Jacinta Colley, who has been ably assisted by Tracey Martell and other staff members in this office (including Yuu Matsuyama). Jacinta and Tracey accompanied me at every roundtable, and I thank them for their hard and high-quality work. We are halfway there.



John Chesterman (Dr)
Public Advocate

Acronyms

ACCC	Australian Competition and Consumer Commission
ADA	Aged and Disability Advocacy Australia
AIFS	Australian Institute of Family Studies
ALRC	Australian Law Reform Commission
ART	Assessment and Referral Team
CALD	Culturally and Linguistically Diverse
EAPU	Elder Abuse Prevention Unit
EPOA	Enduring Power of Attorney
GP	General Practitioner
MTA	Medium Term Accommodation
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
NIISQ	National Injury Insurance Scheme Queensland
OPG	Office of the Public Guardian
QAI	Queensland Advocacy for Inclusion
QAS	Queensland Ambulance Service
QCAT	Queensland Civil and Administrative Tribunal
QDN	Queenslanders with Disability Network
QPS	Queensland Police Service
SDA	Specialist Disability Accommodation
SIL	Supported Independent Living
SLASS	Seniors Legal and Support Service
UNCRPD	United National Convention on the Rights of Persons with Disabilities

Contents

Executive summary

Adult safeguarding refers to 'actions designed to protect the rights of people to be safe from the risk of harm, abuse and neglect, while maximising the choice and control they have over their lives.'[1]

Adult safeguarding is linked to fundamental human rights principles articulated in the United Nations Convention on the Rights of Persons with Disabilities and the *Human Rights Act 2019 (Qld)*.

While safeguarding does involve protecting people from harm, it is also a critical component of the broader objectives associated with human rights laws and conventions – allowing people, to the greatest extent possible, to be the author of their own lives.

The focus of this report is safeguarding for 'at-risk adults' living in the general community. In accordance with the Australian Law Reform Commission's definition of 'at-risk adults', this includes:

> 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 from abuse or neglect because of their care or support needs.[2]

The Public Advocate focuses on protecting and promoting the rights of adults with impaired decision-making ability through systemic advocacy. While we note that many adults with impaired decision-making ability will come within the above definition of 'at-risk adults', we also recognise that not all adults with impaired decision-making ability come within that definition. Similarly, while a significant proportion of 'at-risk adults' have impaired decision-making ability, not all do.

The Adult Safeguarding project aims to:

1. identify issues and gaps in current adult safeguarding legislation, policy, and practices (Volume One of this report), and;
2. make recommendations about opportunities for reform to strengthen Queensland's adult safeguarding system (Volume Two of this report).

To assist in the identification of current safeguarding issues and gaps in Queensland, consultation was undertaken with a broad range of stakeholders, including representatives from the guardianship and administration, advocacy, emergency services, aged care, disability, health, and legal sectors. Consultation was conducted via eight roundtables held across Queensland, other group and individual discussions, and written information and feedback provided to the Office of the Public Advocate by those who were invited to take part but were unable to attend.

Across the consultations, stakeholders identified a range of adult safeguarding issues and gaps that have implications for choice and control, dignity of risk, risk of abuse, neglect and violence, and the health and wellbeing of at-risk adults.

[1] Commonwealth Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Issues paper: Safeguarding and quality* (2020), p.2.
[2] Australian Law Reform Commission, *Elder Abuse – A National Legal Response*, ALRC report 131 (2017) p.387.

Adult safeguarding issues included:

- Elder abuse
- Financial abuse
- Scams and fraud
- Health emergency and disaster preparedness
- First responders and crisis responses
- Authorisation and use of restrictive practices
- Information sharing
- National Disability Insurance Scheme service provision
- Navigating complex systems and system interfaces
- Appropriate, accessible, and affordable housing
- Separation of housing and support services
- Supporting the transition to the community
- Decision-making
- Developing, strengthening, and maintaining informal safeguards
- Investigation of adult safeguarding issues

Elder abuse was identified as a growing problem, with key challenges highlighted including awareness and identification of elder abuse, early intervention, and investigation of potential elder abuse.

Financial abuse, including financial abuse of older adults and misuse of powers of attorney, can be challenging to identify, compounded by often inconsistent responses to this type of abuse across cases. The prevention of financial abuse is impacted by a lack of awareness about what financial abuse is and a lack of understanding of the role and obligations associated with enduring powers of attorney.

At-risk adults can also be the target of **scams and fraud**, resulting in a loss of personal information, money, and significant stress. Strategies to prevent individuals from being the target of scams can sometimes emphasise protection while removing opportunities for choice and autonomy.

There is often limited inclusion and consideration of at-risk adults in emergency plans and planning processes, which has led to gaps in **emergency preparedness, responses, recovery, and communication during natural disasters and emergencies**.

In situations where at-risk adults are experiencing a crisis, **emergency responses** are not always appropriate to meet their needs and can, in some circumstances, serve to escalate rather than de-escalate situations. There is a lack of alternative services for people to contact for assistance in non-emergency situations.

The authorisation and use of restrictive practices in community settings is complicated by the absence of a clear authorisation framework.

Information sharing and privacy laws and their interpretation by various agencies can limit the sharing of information critical to protecting the safety and wellbeing of at-risk adults.

National Disability Insurance Scheme service provision and access to high quality supports and services can be impacted by issues including thin markets, workforce shortages, and limited oversight of unregistered service providers.

Challenges **navigating complex systems and system interfaces**, including accessing services and a lack of integration and communication between different systems, can also prevent at-risk adults from accessing timely, necessary care and supports.

A shortage of **appropriate, accessible, and affordable housing** stock prevents many at-risk adults from living in accommodation that meets their needs and preferences.

There is a need for greater **separation of tenancy and other support services** provided under the NDIS to prevent conflicts of interest for service providers and ensure greater choice and control for NDIS participants.

A person's **transition to the community** from settings such as hospitals and prisons can be negatively impacted by challenges with interfaces between systems, access to timely supports, and the availability of stable, appropriate housing.

A lack of understanding about **decision-making** ability, the role of appointed decision-makers and assessment of decision-making ability can lead to decisions being made for, instead of with, adults with impaired decision-making ability. Navigation of guardianship systems can also be challenging and stressful for those involved.

Informal safeguards such as supporting an individual to build their skills, developing and maintaining their personal relationships and connections to the community, supporting informal carers, and ensuring more inclusive communities, are critical to empowering at-risk adults and supporting formal safeguards.

The **investigation** of particular adult safeguarding issues can be limited due to gaps in powers and willingness to investigate, which can result in issues going unaddressed and situations of abuse, neglect or exploitation continuing.

Based on the issues identified in Volume One of this report, Volume Two will provide recommendations for reform to improve safeguards to protect the rights and wellbeing of at-risk adults.

Introduction

The Public Advocate

The Public Advocate is established under chapter 9 of the *Guardianship and Administration Act 2000* (Qld) to promote and protect the rights and interests of Queensland adults with impaired decision-making ability through systemic advocacy.

Section 209 of the *Guardianship and Administration Act* states that the functions of the Public Advocate are:

(a) promoting and protecting the rights of adults with impaired capacity (the adults) for a matter;
(b) promoting the protection of the adults from neglect, exploitation, or abuse;
(c) encouraging the development of programs to help the adults to reach the greatest practicable degree of autonomy;
(d) promoting the provision of services and facilities for the adults;
(e) monitoring and reviewing the delivery of services and facilities to the adults.

Impaired decision-making ability

'Having capacity' means a person can understand the nature and effect of decisions about a matter, can freely and voluntarily make decisions about it, and can communicate their decisions in some way.[3] If a person is unable to do one or more of these things, they may have impaired decision-making ability.

There are several conditions that may affect a person's decision-making ability. These include intellectual disability, acquired brain injury, mental illness, neurological disorders (such as dementia) or alcohol and drug misuse. While not all people with these conditions will experience impaired decision-making ability, many will at some point in their lives. For some, impaired decision-making ability may be episodic or temporary, requiring intensive supports at specific times, while others may require lifelong support with decision-making and communicating their choices and decisions.

People with impaired decision-making ability are a broad and diverse group. They can be from all age groups, cultures, and demographics.

[3] *Guardianship and Administration Act 2000* (Qld) sch 4.

Adult Safeguarding

What is adult safeguarding?

The broad definition of adult safeguarding employed in this report is drawn from the definition used by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission), as follows:

> Safeguards can be defined as 'actions designed to protect the rights of people to be safe from the risk of harm, abuse and neglect, while maximising the choice and control they have over their lives'. Safeguards can be both informal and formal. Informal safeguards include self-advocacy and building a network of trusted relationships. Formal safeguards include legislative and administrative requirements, policies and practices, organisational culture, complaint processes (including within organisations and to external bodies like the police) and regulatory oversight of service providers' staff.[4]

This project focusses on adult safeguarding in the general community only and does not include adult safeguarding in residential aged care, inpatient facilities, or institutional settings, however some issues noted by stakeholders that arise in these spaces are mentioned in relevant sections of the report.

In any project on adult safeguarding, one needs to recognise that a balance needs to be struck between promoting the autonomy of people to make their own decisions and be the authors of their own lives, while also meeting society's duty to protect those people who are most at-risk of harm.

That requires us to carefully identify the people who are the focus of our attention.

In this project we use the term 'at-risk adults' to identify the people who are the subject of our work.

In doing so, we adopt the definition of 'at-risk adults' used by the Australian Law Reform Commission (ALRC) in its report; *Elder Abuse - A National Legal Response:*

> 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 from abuse or neglect because of their care and support needs. [5]

This office focusses on promoting and protecting the rights of adults with impaired decision-making ability. While we note that many adults with impaired decision-making ability will come within the above definition of 'at-risk adults', we also recognise that not all adults with impaired decision-making ability come within that definition. Similarly, while a significant proportion of 'at-risk adults' have impaired decision-making ability, not all do.

What is the adult safeguarding system?

The 'adult safeguarding system' is the term given to the range of agencies that seek to ensure that people we identify as 'at-risk' are provided with support services and are protected from harm.

The system includes:

- Mainstream organisations that provide protections, services and supports to people, including at-risk adults. For example, this includes the Queensland Police Service (QPS), Queensland Ambulance Service (QAS), Queensland Health, and other health services providers.

[4] Commonwealth Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Issues paper: Safeguards and quality* (2020) p.2.
[5] Australian Law Reform Commission, *Elder Abuse – A National Legal Response*, ALRC report 131 (2017) p.387.

- Service organisations which are oriented to a greater or lesser degree towards providing services to at-risk people, for example, mental health services, disability service providers, aged care service providers, advocacy agencies and non-government organisations.
- Agencies that have a particular safeguarding role in relation to at-risk adults, including the NDIS Quality and Safeguards Commission, the Aged Care Quality and Safety Commission, the Queensland Civil and Administrative Tribunal (QCAT), the Mental Health Review Tribunal, the Mental Health Court, the Chief Psychiatrist, the Health Ombudsman, the Public Guardian, the Public Trustee, and the Public Advocate.

Human Rights

Adult safeguarding is linked to fundamental human rights principles articulated in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the *Human Rights Act 2019* (Qld).

While safeguarding does involve protecting people from harm, it is also a critical component of the broader objectives associated with human rights laws and conventions – allowing people, to the greatest extent possible, to be the author of their own lives. This aligns with recent changes to the *Guardianship and Administration Act 2000* in Queensland, which now includes general decision-making principles that place an obligation on substitute decision makers for people with impaired decision-making ability to consider the 'will and preference' of individuals and actively support them to make decisions, rather than decision-making being based on a judgement of what is considered to be in the person's 'best interests'.

As such, any adult safeguarding reforms must balance any protections with human rights concepts, including the 'dignity of risk'. This refers to the concept of affording a person the right (or dignity) to take reasonable risks, and the recognition that the impeding of this right can suffocate personal growth, self-esteem and the overall quality of life.[6]

Adult safeguarding reforms to date

Following calls for reform from several states and territories dating back to 2010, the ALRC's 2017 Elder Abuse Report made a series of recommendations including that:

> 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. [7]

The National Plan to Respond to the Abuse of Older Australians [Elder Abuse] was drafted in response to the ALRC's report. The National Plan (Initiative 5.1) commits all state and territory governments to review legislation and identify any gaps in safeguarding provisions.

Two states (New South Wales and South Australia) have moved to establish new adult safeguarding agencies with legislative powers, however other states and territories, including Queensland, are yet to complete legislative reviews or develop specific safeguarding responses.[8]

The Australian Government as well as State and Territory governments have also committed to actions to improve the safety and rights of people with disability in the Safety Targeted Action Plan, under Australia's Disability Strategy 2021-2031.[9]

Social change

One of the key service development contexts for the adult safeguarding system is the consumer choice principle, which is increasingly underwriting social welfare reforms, most notably in the aged

[6] J. Ibrahim and A. Davis, 'Impediments to applying the "dignity of risk" principle in residential aged care services', *Australasian Journal on Ageing*, vol. 32, no. 3, 2013, pp. 188-93.
[7] Australian Law Reform Commission, *Elder Abuse – A National Legal Response*, ALRC report 131 (2017) p.377
[8] J. Chesterman, 'The future of adult safeguarding in Australia', *Australian Journal of Social Issues, vol. 54, no. 4, pp. 360-370.*
[9] Department of Social Services, *Safety Targeted Action Plan*, Department of Social Services, Canberra, 2021.

care and disability sectors. There are many upsides to this more personalised approach, including people being supported to live in their own preferred accommodation settings.

However, there are challenges presented by this societal change, especially for at-risk adults, including people with significant cognitive disability. Modern regulatory mechanisms are heavily complaints-based, which can be less than optimal for people who, for one or more reasons, find it difficult to complain.

Relatedly, with more in-home individual care, there is a risk of isolation and of situations of neglect and other harms going unnoticed (e.g., Ann-Marie Smith's horrific death in Adelaide in 2020).[10]

Other situations of concern related to this change include service providers simply not being able to provide individualised services commensurate with the person's level of support needs. Situations like this occur when there are administrative issues, market failure (e.g., there are no service providers available in that area) or due to providers making a choice, often in a competitive market, to not provide services to a particular individual.

[10] A. Robertson, *Independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020*, report to the Commissioner of the NDIS Quality and Safeguards Commission, 2020.

The Queensland Adult Safeguarding Project

Aims and scope

The Public Advocate's Adult Safeguarding Project aims to:

1. identify, through consultation with stakeholders, issues and gaps in current adult safeguarding legislation, policy, and practices in Queensland; and,
2. make recommendations about opportunities for reform to strengthen Queensland's adult safeguarding system.

The focus of this project is safeguarding of at-risk adults (aged 18 years and over) living in the community. As such, safeguarding issues relating to adults in other settings such as hospitals, residential aged care, prisons, and authorised mental health facilities were outside of the scope of this project.

Issues relating to these settings do remain a focus of the Public Advocate, and submissions, discussion papers and statements in these areas are available on the Public Advocate's website (www.justice.qld.gov.au/public-advocate).

Approach

To assist in identifying current safeguarding issues and gaps in Queensland, consultation was undertaken with a broad range of experts including representatives from the guardianship and administration, advocacy, emergency services, aged care, disability, health, and legal sectors. Consultation was conducted via a series of roundtables, group and individual discussions, as well as written information and feedback provided to the Office of the Public Advocate by those who were invited to attend but who were unable to participate in person. Several organisations also provided case studies, based on real stories, which further highlight the range of safeguarding issues at-risk adults may experience.

Roundtables and lived experience group discussions

Eight roundtables were held in locations across Queensland (see Table 1), attended by around 110 people from 65 different agencies. Agencies and organisations which participated in the consultations are listed in Appendix A.

At each roundtable, three different hypothetical scenarios (15 scenarios in total across the roundtables; see Appendix B) were used to help generate discussion among participants about potential adult safeguarding issues, how these issues are currently addressed, and how they could ideally be addressed or prevented in the future. These hypothetical scenarios, while not based on actual individual cases, drew heavily from real situations identified in published papers and reports, and through discussions with key stakeholders.

The hypothetical scenarios discussed included issues such as:

- possible abuse and neglect of an older adult by a family member;
- physical and psychological abuse of an older adult;
- possible financial abuse of an older adult by a family member;
- possible financial abuse and targeting by financial scammer of person with disability;
- refusal of services by a person with disability;
- self-neglect and refusal of services by a person with disability;
- withdrawal of services due to client challenging behaviour;

- admission to hospital emergency department due to public behaviours related to dementia;
- tenancy issues for a person with disability;
- challenges with securing appropriate accommodation following release from prison;
- an isolated older adult whose neighbour feels they may need support;
- issues with access to culturally appropriate aged care services;
- issues with access to suitable disability support services; and,
- issues with service access and availability in rural and remote areas.

Roundtable participants were also invited to raise any other safeguarding issues they had seen or were aware of from their professional experience.

Several group discussions were also held with people with lived experience, including lived experience of disability, dementia, and carers or family members of a person with dementia (see Table 2). These discussions were arranged and supported by Queenslanders with Disability Network (QDN) and Dementia Australia. During each of these discussions, a hypothetical scenario was used as a prompt to begin (see Appendix C). Following this, participants were invited to raise any other safeguarding issues they had experienced or knew about.

Table 1. Adult safeguarding roundtable locations

Roundtable location	Date
Roundtable 1- Brisbane	17 November 2021
Roundtable 2- Brisbane	2 December 2021
Roundtable 3- Townsville	15 March 2022
Roundtable 4- Mount Isa	17 March 2022
Roundtable 5- Rockhampton	22 March 2022
Roundtable 6- Toowoomba	24 March 2022
Roundtable 7- Southport	29 March 2022
Roundtable 8- Caloundra	31 March 2022

Table 2. Lived experience group discussions

Lived experience group discussions	Date
Dementia Advocates with lived experience of dementia (online discussion)	11 January 2022
Dementia Advocates with experience as carers or family members of people with dementia (online discussion)	11 January 2022
Queenslanders with Disability Network Consultants- People with lived experience of disability (face-to-face discussion in Brisbane)	7 April 2022
Queenslanders with Disability Network Consultants- People with lived experience of disability (online discussion with people living outside of Brisbane)	8 April 2022

Case studies

Several organisations (QDN, Queensland Advocacy for Inclusion, Caxton Legal Centre, Aged and Disability Advocacy Australia) also provided information for the development of case studies highlighting situations faced by adults living in the community. While some identifiable details, such as names, have been altered or excluded to protect the privacy of these individuals, these case studies describe real life situations faced by at-risk adults in the community and serve to further highlight gaps in adult safeguarding legislation, policy and practice. These case studies have been included in relevant sections throughout this report to illustrate the safeguarding issues identified.

Limitations

The current project takes a broad approach to adult safeguarding, considering issues across multiple sectors for a broad cohort of 'at-risk adults'. As such, it is not possible to comprehensively cover all potential safeguarding issues. The issues included in this report are those that were identified by stakeholders who participated in the consultations as critical to supporting the rights and wellbeing of at-risk adults. Where appropriate, references have been provided for reports and other publications that explore particular issues raised in greater detail.

The Adult Safeguarding reports

The results of the Adult Safeguarding Project will be published as two volumes.

Volume One (this report) describes the consultation undertaken for the purpose of this project, identifies a range of safeguarding issues for adults in Queensland, and the case for addressing these issues to strengthen the adult safeguarding system in Queensland. Where appropriate, some references have been made to policies or programs that may relate to or aim to address the issues raised, however reforms will be considered more comprehensively in Volume Two.

Volume Two, to be released later in the 2022, will detail recommendations for reform to strengthen Queensland's safeguarding system for at-risk adults.

Adult safeguarding issues

A range of adult safeguarding issues were identified during this consultation and review. Broad themes and issues described include:

- elder abuse;
- financial abuse;
- scams and fraud;
- information sharing;
- National Disability Insurance Scheme (NDIS) service provision;
- health emergency and disaster preparedness and response;
- appropriate, accessible, and affordable housing;
- separation of housing and support services;
- authorisation and use of restrictive practices;
- navigating complex systems and system interfaces;
- supporting transition to the community;
- first responders and crisis responses;
- decision-making;
- developing, strengthening, and maintaining informal safeguards; and,
- investigation of adult safeguarding issues.

The following sections discuss stakeholder feedback relating to each of these key topics.

Elder Abuse

Key issues raised: Elder abuse was identified as a growing problem, with key challenges highlighted including awareness and identification, early intervention, and the investigation of potential elder abuse.

Background

The concerns about Australia's response to prevent and address elder abuse were the reason why the ALRC was asked to undertake its inquiry into this issue, which culminated in the 2017 report *Elder Abuse – A National Legal Response* (the Public Advocate was a member of the ALRC's advisory committee). That report has led to many of the adult safeguarding reforms that have occurred, or are in train, throughout Australia, including the establishment of the New South Wales Ageing and Disability Commission, and the creation of the Adult Safeguarding Unit in South Australia.

Elder abuse is thus a very important subset of the problem designed to be addressed by adult safeguarding reforms.

The World Health Organization describes 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'[11]. Common types of elder abuse include physical abuse, sexual abuse, psychological or emotional abuse, financial abuse, and neglect.

While the term 'elder abuse' is commonly used in Australia and internationally, it may also be referred to as 'abuse of older adults', which is the terminology adopted in the 'National Plan to Respond to the Abuse of Older Australians (Elder Abuse) 2019-2023'. This terminology is sometimes used to avoid confusion with the term 'Elder', which, in Aboriginal and Torres Strait Islander culture, refers to an appointed community representative, of any age, with cultural and other responsibilities.

This project uses the generally accepted term 'elder abuse', to describe abuse of older adults, which is consistent with the ALRC report, and uses the term 'Elder', with capitalisation, when referring to an Elder in Aboriginal or Torres Strait Islander culture.

In 2022 the Public Advocate, in partnership with the Queensland Law Society, released the *Elder Abuse: Joint Issues Paper*, which updated a previous collaborative undertaking by both agencies that had been released in 2010. This joint paper highlights current international, national, and state developments in this field, with a particular focus on legal developments.[12]

The following section describes issues highlighted by stakeholders across the consultations in relation to elder abuse.

Stakeholder feedback

Elder abuse prevalence

Roundtable participants spoke frequently about elder abuse, noting that it is a growing issue. Many participants reported that the hypothetical scenarios of elder abuse presented at the roundtables (e.g., financial abuse, violence, neglect) reflected situations that they encountered frequently in their work.

[11] World Health Organization, *Abuse of older people* (13 June 2022) <https://www.who.int/news-room/fact-sheets/detail/abuse-of-older-people>.
[12] The Public Advocate (Qld) and Queensland Law Society, *Elder Abuse: Joint Issues Paper,* Brisbane, 2022.

Elder abuse has long been thought of as a significant and growing problem, but development of a clear understanding of this issue has been hindered by a lack of available data on its prevalence. To address this lack of data, one of the ALRC's recommendations (Rec. 3-5) was for a national elder abuse prevalence study to be conducted.

In 2021, the Australian Institute of Family Studies (AIFS) published the results of its *National Elder Abuse Prevalence Study*, which examined the nature and prevalence of elder abuse within the Australian population.[13] Its national prevalence statistics drew on a telephone survey of 7000 people who were 65 years of age or older, and who were living in the general community. The study revealed that 14.8 per cent of individuals had experienced elder abuse in the preceding 12 months. The most frequent type was psychological abuse, which was experienced by 11.7 per cent of people. The prevalence of other forms of abuse included 'neglect (2.9%), financial abuse (2.1%), physical abuse (1.8%) and sexual abuse (1%)'.[14] Of those reporting that they had experienced elder abuse, 24 per cent reported experiencing more than one type of abuse.

The AIFS study found that perpetrators of elder abuse include spouses and children, as well as neighbours, friends and service providers. Patterns relating to the perpetrator of abuse vary depending on the type of abuse. However, overall, perpetrators of elder abuse were most commonly reported to be sons or daughters (18.0%), friends (11.6%), and spouses/partners (10.4%).

It is important to note that this study only surveyed individuals in the general community who were able to participate in a telephone conversation about their experiences. It did not capture the abuse experiences of people with significant cognitive disability, or people living in residential aged care facilities. This means, among other things, that the survey did not capture instances of abuse such as financial abuse through misuse of an enduring power of attorney, since enduring powers of attorney are typically utilised in situations where principals lose the capacity to make particular decisions.

Notwithstanding its limitations, the *National Elder Abuse Prevalence Study* is a significant development that for the first time enables policy makers to have data that illustrates the widespread nature of the problem.

In Queensland there is some additional data available regarding elder abuse. The Uniting Care's Elder Abuse Prevention Unit (EAPU) operates Queensland's Elder Abuse Helpline. This helpline recorded 3,430 calls in total in the 2020-21 financial year, an increase of 31.8 per cent compared to the previous year.[15] Similar to the results of the National Elder Abuse Prevalence Study, psychological abuse was the type of abuse most commonly reported (72.9% of cases reported to the Helpline). Financial abuse (62.6%) and social abuse (20.8%) were also commonly reported, with many cases reporting multiple types of abuse.

However, an estimation of the true prevalence of elder abuse in Queensland is challenging due to the likely under-reporting, the absence of a consistent operational definition, and differences in how relevant data is collected, recorded and categorised by the various agencies involved.[16]

Throughout the roundtable discussions a number of different elder abuse scenarios were identified, however a particular concern noted was elder abuse in Indigenous communities, an area in which the national elder abuse prevalence study was limited in its reach.[17]

[13] L. Qu, R. Kaspiew, R. Carson, D. Roopani, J. De Maio, J. Harvey, and B. Horsfall, *National Elder Abuse Prevalence Study: Final Report,* research report, Australian Institute of Family Studies, Melbourne, 2021.
[14] Ibid., p.32.
[15] A. Gillbard and C. Leggatt-Cook, *Elder abuse statistics in Queensland: Year in review 2020-21*, Elder Abuse Prevention Unit, UnitingCare, Brisbane, 2021.
[16] B. Blundell, J. Clare, E. Moir, M. Clare and E. Webb, *Review into the prevalence and characteristics of elder abuse in Queensland*, Curtin University, Perth, 2017.
[17] L. Qu, R. Kaspiew, R. Carson, D. Roopani, J. De Maio, J. Harvey, and B. Horsfall, 2021, p.32.

One scenario considered by some of the roundtables concerned Maureen, and a form of financial elder abuse known colloquially as 'humbugging' (see the box below for the hypothetical scenario of Maureen). Humbugging refers to situations where:

> someone demands money that belongs to someone else with no intention of repaying it. 'Resource-sharing' is a cultural practice commonly seen among Aboriginal people. However, 'humbugging' usually has a negative connotation. It is used to describe demands that are repeated, often with a threat or actual physical, emotional or psychological abuse if the person refuses.[18]

Hypothetical scenario used at the roundtables: Maureen

Maureen is an older Aboriginal woman who lives at home with her family and helps to care for her grandchildren. Maureen pays most of the bills, and each time Maureen receives her pension, several of her family members will ask for money and become threatening if she refuses.

At the roundtables where the hypothetical scenario of Maureen was used, participants reported that this scenario was very common, and they shared a number of stories about similar situations they had seen. While this scenario was not used in Mount Isa, it was also raised as an issue of concern in that community.

Further research is required in relation to Indigenous perspectives on elder abuse, particularly abuse that occurs in remote and regional communities, something the Public Advocate may explore further in 2023/24.

Financial abuse of older adults was also frequently discussed across the roundtables and is reported separately and in greater detail in the section below.

Identification and reporting of elder abuse

Roundtable participants explained that the identification of situations involving elder abuse could be difficult at times, and that, in many scenarios, both the person experiencing elder abuse and the perpetrator of the abuse may be unaware that the situation would constitute elder abuse. This impacts the likelihood of reporting the abuse or seeking assistance.

Increasing awareness amongst the community about the issue of elder abuse, including how to recognise, respond and report it, was considered important for preventing and responding to these issues.

Roundtable participants also noted that there was no mandatory reporting of elder abuse and that pathways for reporting and escalating concerns were often unclear. It was suggested that more education and training could benefit staff, particularly in healthcare roles, to support the early identification of elder abuse and timely intervention.

Queensland prevention and response services

To respond to elder abuse, participants across the roundtables emphasised the importance of initiatives targeting prevention and early intervention.

Queensland's current elder abuse prevention and response initiatives include an array of generalist or mainstream agencies together with a mixture of state and federally funded specialist services. Many of these are detailed in the Public Advocate and Queensland Law Society's *Elder Abuse: Joint Issues Paper*.[19]

[18] Kimberly Jiyigas, *No more humbug: Reducing financial elder abuse in the Kimberley,* 2020.
[19] The Public Advocate (Qld) and Queensland Law Society, *Elder abuse: Joint issues paper,* Brisbane, 2022 pp. 25-31.

The activities of each agency are summarised below.

Mainstream elder abuse responses

QPS – Domestic, Family Violence and Vulnerable Persons Command

This Command was established in 2021 to drive QPS reforms to strengthen the capability of the service to respond to the needs of communities, including victims and those over-represented in the criminal justice system.

The Command acts as a central point of contact for state-wide, national and international non-government entities, stakeholders and academics for matters related to domestic, family violence and vulnerable persons.[20]

Oftentimes domestic and family violence responses are warranted in situations of elder abuse. However, even in those situations where a family member is involved, there is often a difference in elder abuse scenarios from general family violence ones. Whereas in a paradigmatic family violence situation a partner may be seeking to sever a relationship and move away from the perpetrator, intergenerational elder abuse may see the victim strongly wishing to maintain contact with the abuser. This can affect everything from likely reporting through to appropriate service responses.

This aside, it is important to ensure that general domestic and family violence responses are available for, and can be utilised in, those elder abuse situations that come within the family violence frame. It is anticipated that the joining of these areas within one central command at the QPS will facilitate this response.

QAS

The QAS is operated state-wide by Queensland Health, and is responsible for delivering pre-hospital ambulance response services, emergency and non-emergency pre-hospital patient care and transport services.[21]

From an elder abuse perspective, the QAS, along with the QPS, may be the first response to incidents where elder abuse has resulted in physical or mental harm to a person that requires urgent medical attention. They may also be involved in the identification of elder abuse associated with the patterns of transport and care provided to individuals over time.

The Office of the Public Guardian (OPG)

In addition to providing guardianship services for people with impaired decision-making ability, the OPG has the power to investigate allegations of abuse, exploitation, neglect and inadequate or inappropriate decision-making arrangements related to adults with impaired decision-making ability.[22]

The powers provided to the Public Guardian under the *Public Guardian Act 2014* include (but are not limited to):

- requiring people to produce financial records and accounts;
- gaining access to any relevant information, such as medical files;
- cross examining witnesses;
- issuing a written notice ordering a person who is non-cooperative to attend OPG offices at a stated time and place, give information, answer questions and produce documents;

[20] Queensland Police Service, *Domestic, Family Violence and Vulnerable Persons Command* (14 October 2021) <https://www.police.qld.gov.au/organisational-structure/crime-counter-terrorism-and-specialist-operations/domestic-family-violence>.
[21] Queensland Ambulance Service, *About the Queensland Ambulance Service* (4 March 2022) <https://www.ambulance.qld.gov.au/about.html>.
[22] Office of the Public Guardian, *Annual Report 2020-21*, Office of the Public Guardian, Brisbane, 2021, p.33.

- applying for an entry and removal warrant to remove an adult at immediate risk of harm; and
- suspending all or part of an attorney's power.[23]

When a power of attorney is suspended for personal and/or health decisions, the Public Guardian is automatically appointed as attorney for personal and/or health decisions for up to three months. When a power of attorney is suspended for financial decisions, the Public Trustee of Queensland is automatically appointed as attorney for financial decisions for up to three months.[24]

Another focus of the OPG investigation team is education, and as such they participate in forums across the state, building awareness amongst key stakeholders and the community regarding the identification of red flags, appropriate referrals pathways, and OPG's investigation functions.[25]

The Public Trustee

The Public Trustee provides financial administration services for people with impaired decision-making ability. The Public Trustee is appointed through QCAT, or via a person's power of attorney.

In cases of financial elder abuse, the Public Trustee may be appointed, or assume the role of a person's financial attorney from others (like family who may be responsible for the financial abuse) following a QCAT application and hearing.

Specialist elder abuse services

State based services

The EAPU

The EAPU promotes the rights of older people to live free from abuse. It operates Queensland's Elder Abuse Helpline, which provides support, referrals and information to community members. Free assistance is provided over the phone to anyone who experiences, witnesses or suspects the abuse of an older person.

The helpline does not operate as a crisis line, reporting agency, investigative service and does not undertake case work, however staff may be able to refer people to agencies that offer this type of assistance.

The EAPU also provides community awareness sessions and education for groups or workplaces wanting to better understand and prevent elder abuse.[26]

Seniors Legal and Support Services (SLASS)

SLASS provides free legal and social work support for older persons experiencing elder abuse, mistreatment, neglect or financial exploitation. Lawyers and social workers will talk through with older people the steps that can be taken to address elder abuse including; steps to stay safe, short-term counselling, how to keep money and assets safe or recover money or assets, legal rights and options, and, in some circumstances, representation before a court or tribunal.[27] There are currently five services operating from community legal centres across Queensland.

Elder Abuse Prevention and Support Service

There are currently six Elder Abuse Prevention and Support Services operated by Relationships Australia across the state. Services available include: case management services; development of safety plans; referral to legal practitioners; referral to counselling or mediation; referral to other

[23] Ibid., p.33.
[24] Ibid., p.34.
[25] Ibid., p.48.
[26] Elder Abuse Prevention Unit, *About us* (2022) <https://www.eapu.com.au/about>.
[27] Caxton Legal Centre, *Seniors Legal and Support Services* <https://caxton.org.au/how-we-can-help/seniors-legal-and-support-service/>.

community services; and community education and information regarding elder abuse prevention strategies.[28]

Advocacy services

Several advocacy and information services also operate across Queensland, focussed on advancing the rights and interests of older persons. Aged and Disability Advocacy Australia (ADA) advocate for older Queenslanders, assisting them to exercise their rights, resolve conflicts with service providers, and support them through formal hearings, including QCAT proceedings. Other services include the Australian Pensioners' and Superannuants' League, the Council on the Ageing Queensland and Older People Speak Out.[29]

Health Justice Partnerships

There are a number of Health Justice Partnerships across Queensland, which involve the provision of legal assistance within healthcare services and teams.[30] One such Health Justice Partnership is operated by Caxton Legal Centre in collaboration with the Metropolitan South Hospital and Health Service. This program places two lawyers and a social worker in four hospitals across Queensland's South-East. Their role is to educate health professionals and respond to referrals of patients who are at risk of experiencing elder abuse or require support with decision-making. The overall objective of the program is to have health professionals able to identify the red flags associated with elder abuse and put appropriate supports in place that reduce the risk of ongoing abuse.[31]

National initiatives

Nationally, the Australian Government is responsible for the funding of specific programs including the Elder Abuse Prevention and Support Service and Health Justice Partnership noted above. An elder abuse phone line is also advertised nationally, which connects people to a relevant service in the state or territory where they live (the EAPU in Queensland).

Elder Abuse Action Australia also operates, at a national level, as a peak for senior's rights agencies. It hosts 'Compass', a national website which aims to create a national focus on elder abuse by raising awareness of the issue and connecting people to services and information.[32]

Many of the Australian Government's initiatives in elder abuse have been driven by the 'National Plan to Respond to the Abuse of Older Australians 2019-23'. As previously noted, this plan was developed in response to growing concerns regarding elder abuse in the context of an ageing Australia, with all governments agreeing to develop a plan to recognise the emerging and growing problem of the abuse of older Australians.[33]

Challenges with service responses

While a number of services are available to respond to situations of elder abuse, roundtable participants explained that there could be challenges with the investigation of elder abuse and that it was not always clear which agency should, and could, investigate situations of potential elder abuse. Issues relating to the investigation of safeguarding issues, including elder abuse, are explored further in a separate section of this report.

The real case study of Alice, below, demonstrates some of the complexities that can be faced in responding to elder abuse.

It was also reported by roundtable participants that there are limited services available to work with the perpetrators of abuse.

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[28] The Public Advocate (Qld) and Queensland Law Society, *Elder Abuse: Joint Issues Paper*, Brisbane, 2022, p.30.
[29] Ibid., p.31.
[30] Health Justice Australia, *Health justice landscape: July 2021 snapshot,* Health Justice Australia, 2018.
[31] The Public Advocate (Qld) and Queensland Law Society, *Elder Abuse: Joint Issues Paper*, Brisbane, 2022, p.31.
[32] Elder Abuse Action Australia, *Compass* (2021) <https://eaaa.org.au/our-work/>.
[33] Councils of Attorney Generals, *National Plan to respond to the abuse of older Australians (elder abuse) 2019-2023*.

Case study: Alice

Alice, a woman in her mid-80s, was living interstate when she reconnected with her estranged son. Alice's son pressured her to move closer to him, and she moved to Queensland, away from her friends and support networks.

While Alice felt that their relationship was initially positive, over time her son became more controlling. He pressured Alice to appoint him as her attorney under an Enduring Power of Attorney (EPOA), which she eventually did, even though this was not her preference.

Alice came to Caxton Legal Centre's Seniors Legal and Support Service (SLASS) for assistance with revoking her EPOA. She also wanted assistance to put other supports in place so that she would not be as reliant on her son.

When Alice went to visit her general practitioner (GP), they informed her that her son had alleged that she had dementia and was no longer able to make decisions. The GP told Alice that her son was planning to apply to the Queensland Civil and Administrative Tribunal (QCAT) to be appointed as her guardian and administrator. Alice's GP assured her that he did not believe she had dementia or that she had lost the capacity to make decisions.

QCAT granted the interim order quickly and without the involvement of Alice. Alice was cut off from her bank accounts and was unable to access her money, as her son would not allow her to have input over how her money was used.

Prior to the QCAT hearing to determine if Alice's son would be permanently appointed as Alice's guardian and administrator, the SLASS team sent correspondence to QCAT on Alice's behalf, informing them that there was no new medical evidence to support the application.

Alice's son found out that Alice was receiving assistance from SLASS and wrote to the service demanding that they stop providing her with assistance. A member of the SLASS team called Alice to let her know that, regardless of her son's demands, they would continue to assist her if she wanted to continue with their services.

Shortly thereafter, SLASS received a handwritten letter from Alice terminating their services.

A member of the SLASS team called Alice and she told them that she had written the letter under duress and would have liked to continue with the service. However, eventually, Alice decided not to continue with SLASS because she was fearful of how her son might react.

With Alice's consent, SLASS connected Alice with Aged and Disability Advocacy Australia so that she could have an advocate assist her at her QCAT hearing. QCAT dismissed the application, so her son was not granted the guardianship or administration order that he had sought.

Alice then worked with a social worker to reconnect with an old friend so she could appoint them as her attorney under an EPOA, instead of her son. She also made a plan to move interstate, back to her support network, and put a deposit down on an apartment.

However, Alice's son found out about her plans and applied to QCAT again to be appointed as her guardian and administrator. This situation remains ongoing, as Alice's son refuses to accept that Alice has capacity to make her own decisions.

Potential consequences for at-risk adults

Elder abuse presents risks to an older person's physical and mental health as well as potentially jeopardising their financial future, creating a situation where they are financially dependent on others, and may feel that they must remain in an abusive relationship. Elder abuse can often be hidden and even 'not noticed' by the victim and perpetrator until reaching a crisis point where significant intervention is required to prevent a tragic outcome.

Financial abuse

Key issues raised: Financial abuse, including the financial abuse of older adults and misuse of powers of attorney, can be challenging to identify, and responses are often inconsistent across cases. The prevention of financial abuse is impacted by a lack of awareness about what financial abuse is, and a lack of understanding of the role and obligations associated with enduring powers of attorney.

Background

Financial abuse, sometimes referred to as economic abuse, refers to situations where 'someone takes away your access to money, manipulates your financial decisions, or uses your money without consent'.[34] Financial abuse is a type of domestic and family violence, and while any person can experience financial abuse, women, particularly women with disability, long-term health conditions, from culturally and linguistically diverse (CALD) backgrounds, or who are Indigenous, may be at greater risk.[35]

As with elder abuse, it is challenging to determine the prevalence of financial abuse due to variation in the definitions used and likely underreporting. However, it is estimated that in 2020 in Australia, over 623,000 people experienced financial abuse by a current of former intimate partner, with one in 30 women and one in 50 men reporting to have experienced financial abuse.[36]

As described in the section above, financial abuse is also a common type of elder abuse. Data from the Queensland EAPU identified financial abuse as the second most common form of abuse reported to the helpline in 2020-21(after psychological abuse), with 62.6 per cent of cases reported including some form of financial abuse.[37] Most often, this was reported to include financial abuse through undue influence (32.9%), misuse of an Enduring Power of Attorney (18.6%), and misuse of debit and credit cards (12.8%).

While the elder abuse section of this report includes the issue of financial abuse, financial abuse is also considered here separately in recognition that this significant issue is not limited to older adults, but rather is a concern for many at-risk adults.

Stakeholder feedback

Identifying financial abuse

The identification of financial abuse was noted as a particular challenge by roundtable participants. While financial abuse may be clear in some situations, roundtable participants also described a range of situations where it was more difficult to identify. For example, in responding to

[34] Money Smart, Australian Securities & Investments Commission, *Financial abuse: Protect yourself and your money* <https://moneysmart.gov.au/financial-abuse>.
[35] Department of the Prime Minister and Cabinet, *Literature and desktop review- Preventing the financial abuse of women*, report prepared by KPMG, 2020.
[36] Deloitte Access Economics, *The cost of financial abuse in Australia*, report produced for the Commonwealth Bank of Australia, 2022.
[37] A. Gillbard and C. Leggatt-Cook, *Elder abuse statistics in Queensland: Year in review 2020-21*, Elder Abuse Prevention Unit, UnitingCare, Brisbane, 2021.

the hypothetical scenario of Janet, an older woman whose adult son accompanies her to the bank where she withdraws large sums of money to give to him (see below), roundtable participants explained that it can be difficult to identify when the money is being freely and willingly gifted to a person, or when this is financial abuse. The case study of Sue (below) provides another example of a complex situation where it can be difficult to determine if financial abuse is occurring.

Hypothetical scenario used at the roundtables: Janet

Janet, an older woman in her 80s, is accompanied at the bank by her son. They withdraw a large amount of money from Janet's account. This is not the first time that Janet and her son have withdrawn a significant amount of money at once, and the bank manager is concerned about potential financial abuse but has no evidence of this.

Case Study: Sue

Sue, 83 years old, lives in a rural area in Queensland and the Public Trustee has been appointed as her administrator.

Following a stay in hospital, Sue was told she had dementia. Sue also required additional assistance with daily tasks and the accommodation she was living in at that time was no longer suitable, so Sue moved in with her sister who lived in the same area.

In her new living arrangement with her sister, Sue agreed to pay two-thirds of the rent for the house, which was in her sister's name, in return for her sister supporting her with personal care tasks. Sue was unable to drive, so her brother also offered to assist her with transportation, particularly when Sue needed to travel outside of the main town in her local area.

In the area where Sue and her sister lived, there were limited shops and banks in the main town. Sue's bank did not have a local branch located in town and, as a result, Sue was not easily able to access her bank. To address this challenge, when Sue needed to withdraw money from the bank, she would give her bank card to her brother or another family member, who was able to drive to a branch in another town and withdraw money on her behalf.

While these arrangements reflected Sue's preferences, the Public Trustee became concerned that Sue was paying too much rent and about potential financial abuse by her family members. The matter was referred to the Queensland Civil and Administrative Tribunal (QCAT), to determine if informal care could be used as a reason to pay board for someone else.

QCAT determined that the arrangement was reasonable.

While these arrangements continued for some time, eventually the situation broke down and Sue moved out to live with her other sister who was able to provide her with assistance. This time, the lease for the property was in Sue's name, so it did not raise the same concerns as the previous arrangement.

Responding to financial abuse

In addition to concerns about the increasing prevalence of financial abuse, roundtable participants also noted a lack of consistency in responses to this abuse. For example, banks, whose staff may be in a situation where they are able to identify signs of potential financial abuse, each have their own policy regarding financial abuse and these policies and the related response can vary greatly from one institution to the next. Participants suggested that improved consistency in

financial institution policies relating to the detection and reporting of suspected financial abuse could provide improved safeguards for at-risk adults.

The Australian Bankers' Association has developed industry guidelines on protecting vulnerable customers from potential financial abuse to support greater consistency and responses across the sector.[38] The guidelines provide information about financial abuse, how to identify situations of abuse, and how it can be addressed.

In addition to greater consistency among financial institutions, participants also suggested that earlier intervention and escalation of issues (e.g., referral to the OPG) could support improved responses. Several participants described situations where financial abuse occurred and was reported, but it was too late for any action to be taken to have the money returned to the person. It was suggested that greater clarity around how to report suspected financial abuse, and a clear pathway to escalate these concerns, could support more timely intervention.

Preventing financial abuse

Participants at the roundtables described how a lack of understanding about issues such as elder and financial abuse can contribute to its prevalence in the future. For example, if people do not understand what constitutes financial abuse, they may be unlikely to seek help.

Roundtable participants also described the need for more education to help prevent the misuse of enduring powers of attorney. It was suggested that people should receive more information about the role of attorneys and their obligations prior to signing appointment forms. Additionally, it was suggested that education about EPOAs for bank staff may also assist people to better understand the responsibilities of attorneys and how to identify and prevent misuse.

The Australian Banking Association has developed industry guidelines on responding to requests from an attorney or court-appointed administrator, which provides a framework for banks to manage these requests that helps protect consumers from misuse of enduring powers of attorney.[39] There is also work currently underway to harmonise state and territory laws relating to powers of attorney, which may help to reduce complexity and confusion, and support greater consistency in identifying, preventing, and responding to EPOA misuse.

Potential consequences for at-risk adults

Financial abuse, similar to elder abuse, presents significant risks to an adult's health and wellbeing. It has the potential to negatively impact an adult's day-to-day life, as well as their financial future, removing from them the right to make choices about their life, including decisions such as where they live in the future.

[38] Australian Bankers' Association, *Protecting vulnerable customers from potential financial abuse*, Industry guideline, 2014.
[39] Australian Banking Association, *Responding to requests from a power of attorney or court-appointed administrator*, Industry guideline, New South Wales, 2020.

Scams and fraud

Key issue raised: At-risk adults are often the target of scams, resulting in the loss of personal information, money, and significant stress. Strategies to prevent individuals from being the target of scams can emphasise protection and prevention, which may sometimes be achieved at the expense of choice and control.

Background

Over the past few years, scam activity has increased, as has the loss of personal information and money due to scams.[40] There are many different types of scams however some common types include:[41]

- Investment scams, where scammers may present opportunities for investment in a range of things such as cryptocurrency, business ventures, and superannuation schemes.
- Threat and penalty scams, for example, where the scammer calls and threatens a person with arrest, fines, or deportation if they do not immediately pay a fee or bill.
- Dating and romance scams, where scammers may create fake profiles on social media, dating websites, or other mobile applications to try to establish a relationship with a person. They may then ask for money to pay for medical expenses, travel, a family crisis, or other expenses.
- Prize and lottery scams, which try to convince people to provide their personal information or money so that they can receive a prize from a competition that they did not enter.
- Online shopping, classifieds and auction scams, which try to convince people to pay for goods that are never provided.
- Identity theft, where scammers steal a person's personal information and use it for fraudulent activities. This could include unauthorised credit card purchases, opening bank or telephone accounts, or illegal activities.

Although scams do not always involve a direct request for money, many do result in financial losses. In 2020, Queenslanders lost over $32 million due to scams, with an average loss of $8,329.26 for scams that included a financial loss.[42] However, the actual cost of financial scams is likely much higher due to under-reporting.

Some adults, including those with disability or older adults, may be at particular risk of financial loss due to scams. In 2020 older adults (65 years and over) across Australia reported losing almost $38 million due to scams, the highest losses across all age groups.[43] Nationally, people with disability also reported around $10 million in losses, with nearly half of this loss being due to romance scams. Scams are therefore an issue of concern for at-risk adults.

Stakeholder feedback

Identifying scams

Roundtable participants reported an increase in the targeting of potentially vulnerable or at-risk adults by scammers. In particular, this issue was raised several times during the lived experience discussions, where participants reported being the target of an increasing number of telephone, text message, or email scams requesting that they provide money or personal information.

During the lived experience discussions, participants also described significant fear and anxiety about potentially being the target of scams. They believed that scams were becoming increasingly sophisticated in how they targeted people with disability and more difficult to recognise. Several

[40] Australian Competition and Consumer Commission, *Targeting scams: Report of the ACCC on scams activity 2020*, Canberra, 2021.
[41] Australian Competition and Consumer Commission, *The little black book of scams*, Canberra, 2021.
[42] Australian Competition and Consumer Commission, *Targeting scams: Report of the ACCC on scams activity 2020*.
[43] Ibid.

people described measures they had taken to avoid scams, including not answering their phone unless they knew who was calling.

Roundtable participants also suggested that providing more education to the public, and in particular at-risk adults, around managing finances and cyber security could people to identify scams and help to prevent financial losses due to scams.

Responses to and prevention of scams

While many scams may be breaches of Australian Consumer Law or criminal offences, it can be difficult for law enforcement agencies to locate and prosecute individuals or groups, particularly as many are based overseas.[44] Unfortunately, recovering money lost due to scams can be challenging, and is, in most situations, unlikely to occur.[45] As such, responses often focus on prevention of scams, aiming to educate and support people to recognise and protect themselves. While people are encouraged to report scams, these reports are often used to understand trends and identify opportunities to prevent future losses from those or similar scams.

There are several agencies and services that provide information to support the prevention of scams or identity where scams can be reported, depending on the type of scam and the outcome that is sought.

Scams can be reported to Scamwatch, which is a service operated by the Australian Competition and Consumer Commission (ACCC) that provides information on scams and how to recognise, avoid and report them.[46] The ACCC uses the information provided to monitor trends and take action to disrupt scams. However, the ACCC does not provide legal advice or assistance to individuals who have been targeted by scams and are not able to assist with efforts to recover any money lost.

In Queensland, scams can also be reported to the Office of Fair Trading. The Office of Fair Trading also provides information to assist people to protect themselves from scams and has a list of current scam warnings on its website. In limited situations, and where it is in the public interest to do so, the Office of Fair Trading also provides public warnings identifying businesses and traders to avoid.

Certain types of scams can also be reported to specific government agencies. For example:

- Cybercrime, including online scams and fraud, can be reported to the Australian Cyber Security Centre through ReportCyber.[47] Reports made in this way are used to disrupt cybercrime operations and, where appropriate, will also be referred to the police for further assessment.
- Scams related to Centrelink, Medicare, Child Support and myGov can be reported to the Services Australia Scams and Identity Theft Helpline.
- Tax-related scams can be reported to the Australia Taxation Office.
- Financial and investment scams can be reported to the Australian Securities and Investment Commission.

People who believe they have been the victim of a financial scam can also report the scam to their bank. While it is unlikely that banks will be able to recover the money lost, there may be some situations where the bank can cancel payments, or credit card providers may be able to reverse a fraudulent transaction. Banks may also be able to assist by closing the account if the scammer has obtained the account details, cancelling and reissuing any bank or credit cards, or assisting the person in other ways to protect themselves from further financial loss.

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[44] Australian Competition and Consumer Commission, *Scamwatch role* <https://www.scamwatch.gov.au/about-scamwatch/scamwatch-role>.
[45] Australian Competition and Consumer Commission, *Where to get help* <http://www.scamwatch.gov.au/get-help/where-to-get-help>.
[46] Australian Competition and Consumer Commission, *Scamwatch role* <https://www.scamwatch.gov.au/about-scamwatch/scamwatch-role>.
[47] Australian Cyber Security Centre, *ReportCyber*, Australian Signals Directorate, Australian Government <https://www.cyber.gov.au/acsc/report>.

Most banks also provide information about how to avoid scams and may provide alerts to customers when scams are identified. The Australian Banking Association has also produced a resource titled *Safe & savvy: A guide to help older people avoid abuse, scams and fraud.*[48] This guide provides information on how to identify and safeguard yourself or others from financial abuse.

Scams related to the National Disability Insurance Scheme (NDIS), for example a person pretending to be an NDIS service provider or employee of the National Disability Insurance Agency (NDIA), and requesting personal information, bank account details or payment, can also be reported to the NDIS Fraud Reporting and Scams Helpline. The NDIA also provides some information on their website about scams and how to avoid them.[49] It also publishes alerts to notify people of scams they become aware of that may be targeting NDIS participants or service providers.

To help protect people from the growing number of text message scams, on 12 July 2022, the Australian Communications and Media Authority registered new rules requiring mobile service providers to identify, trace and block SMS scams.[50]

In responding to scams, many roundtable participants also noted the challenges of balancing a person's right to make decisions regarding their finances with protecting them from scams. For example, one person described a situation where an adult with dementia was targeted by a scam requesting that they purchase and send gift vouchers to the scammer. Family members and service providers held discussions with the person about this use of their money, and eventually it was seen as appropriate to have a decision-maker appointed, who was able to prevent the purchase of the gift vouchers. However, as they had not wanted to remove all financial decision-making and independence, the adult with dementia was still able to access and make decisions about how to spend a smaller amount of money each week. In this situation, the adult with dementia chose to save the smaller amounts of money that they were receiving and continued to purchase the gift cards to send to the scammer.

Several similar stories about scams were shared across the roundtables, with participants highlighting the complexity associated with determining whether a person was being pressured or coerced to spend their money in a particular way, or whether, despite being a decision that others may not agree with, it was an empowered choice.

Potential consequences for at-risk adults

Like financial abuse, being the target of fraud or scams can have a significant impact on a person's life and wellbeing. Depending on the type of scam, it can often result in distress, financial losses, and the loss of personal information, which can lead to identify theft. Fear of being the target of scams can also impact an individual's wellbeing as well as their confidence and willingness to engage with others and the community.

[48] Australian Banking Association, *Safe & savvy: A guide to help older people avoid abuse, scams and fraud*, prepared by the Commonwealth Bank of Australia, 2019.
[49] National Disability Insurance Agency, *What are scams?* (11 May 2022) <https://www.ndis.gov.au/participants/working-providers/what-are-scams>.
[50] Australian Communications and Media Authority, *New rules to fight SMS scams* (12 July 2022) <https://www.acma.gov.au/articles/2022-07/new-rules-fight-sms-scams>.

Health emergency and disaster preparedness and response

Key issues raised: There is often limited inclusion and consideration of at-risk adults in emergency plans and planning processes, which has led to gaps in emergency preparedness, responses, recovery, and communication with at-risk adults during natural disasters and emergencies.

Background

In recent years, Queensland has been affected by a wide range of natural disasters and emergencies, including bushfires, flooding, severe storms, cyclones, and the COVID-19 pandemic. It is anticipated that the frequency and severity of these events will increase in the future. Australia has an obligation to ensure that the preparation and response to these events is inclusive of people with disability. Article 11 of the UNCRPD, states that:

> States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.[51]

Inclusiveness in development of these processes is also important. In 2015, Australia endorsed the United Nations Sendai Framework for Disaster Risk Reduction 2015-2030, which recommends inclusion of people with disability and relevant organisations in the assessment of disaster risk and development of policies and plans to reduce or address this risk.[52]

Stakeholder feedback

Emergency preparedness and the initial response

Drawing on their experiences of recent emergencies, including the COVID-19 pandemic and the weather event in South-East Queensland in early 2022 that resulted in significant flooding, roundtable participants highlighted a range of issues relating to emergency preparedness and responses for at-risk adults.

For example, participants from the Southport roundtable described situations where at-risk adults experienced interruptions to necessary support and services during the floods. In some cases, this was due to the adult and their accommodation being affected by flood waters, restricting support services from accessing the person's place of residence. For others, service and staff availability was impacted by staff shortages caused by staff being affected by floods and unable to work.

Similar situations were reported during the COVID-19 pandemic, where informal and formal carers and supporters were not able to provide their usual supports due to illness or absence from work.[53] Some people also chose to avoid accessing face-to-face services due to fear of infection.

A key issue raised was a reported lack of planning and responses that considered the specific needs of potentially vulnerable people, such as those with care and support needs, disability, mental health concerns, or older adults. This included a lack of communication with at-risk adults to support them to understand the situation and the planned emergency response.

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[51] United Nations. *Convention on the rights of persons with disabilities*, GA Res 61/106, 76th plen mtg, UN Doc A/RES/61/106 (adopted on 13 December 2006) article 11.
[52] United Nations International Strategy for Disaster Reduction, *Sendai Framework for Disaster Risk Reduction 2015-2030*, UNISDR, Geneva, 2015.
[53] Commonwealth Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Statement of ongoing concern: The impact of and response to the Omicron wave of the COVID-19 pandemic for people with disability*, 2022.

On 26 March 2020, the Disability Royal Commission released a statement of concern about the COVID-19 pandemic response for people with disability.[54] The statement highlighted concerns relating to access to health care, essential support services, food, and accessible information, as well as employment and income security, and issues relating to oversight in closed residential facilities.

In August 2020, the Disability Royal Commission held a public hearing to better understand the experiences of people with disability during the ongoing COVID-19 pandemic. In the report on this public hearing, the Disability Royal Commission found that, during the early stages of the pandemic, there was insufficient effort made to consult with people with disability or relevant organisations, and that the Australian Government failed to develop a plan addressing the specific needs of people with disability.[55] The Disability Royal Commission provided 22 recommendations to improve the pandemic response for people with disability. In its response to this report, the Australian Government indicated support or in-principle support for 21 of these recommendations.[56]

The Royal Commission into Aged Care Quality and Safety (Aged Care Royal Commission) also held a public hearing into the impact of COVID-19 on aged care in August 2020, releasing a special report on its findings.[57] This report outlines key findings and recommendations for better supporting the safety, health and wellbeing of those receiving aged care services.

The Queensland Government has committed to action under the Emergency Management Targeted Action Plan,[58] which aims to support progress in this area for people with disability under Australia's Disability Strategy 2021-2031.[59]

To support preparedness and resilience to emergencies or disasters, members of the community are also encouraged to understand their personal level of risk to various events and create personal emergency plans. However, it has been reported that many people, including at-risk adults, do not have adequate personal emergency plans detailing how they will respond to or cope in an emergency. Notably, a study conducted by researchers from the University of Sydney and QDN found that many people with disability did not have a personal emergency plan, or their plans were not formalised, tested, or communicated to other people.[60]

For NDIS participants, under the NDIS Practice Standards, registered NDIS service providers are required to have emergency plans in place to mitigate risks to the health, safety and wellbeing of participants in the event of an emergency or disaster and ensure continuity of critical supports.[61] It is also a requirement that there are mechanisms in place to test and adjust the plans if needed, and that these plans are communicated to the NDIS participant, their workers and their support network.

There are also a range of resources available that may assist people, including at-risk adults, to develop or participate in the development of personal emergency plans. The Queensland Reconstruction Authority coordinates the Get Ready Queensland program, which aims to educate Queenslanders and provide information to assist with the development of plans and preparation

[54] Commonwealth Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Statement of concern: the response to the COVID-19 pandemic for people with disability*, 2020.
[55] Commonwealth Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing report: Public hearing 5 Experiences of people with disability during the ongoing COVID-19 pandemic*, 2020, p.5.
[56] Australian Government, *Australian Government response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Public Hearing Report – Public hearing 5 - Experiences of people with disability during the ongoing COVID-19 pandemic*, 2021.
[57] Commonwealth Royal Commission into Aged Care Quality and Safety, *Aged care and COVID-19: A special report*, 2020.
[58] Department of Social Services, *Emergency Management Targeted Action Plan,* Department of Social Services, 2021.
[59] Department of Social Services, *Australia's Disability Strategy 2021-2031, Department of Social Services,* 2021.
[60] M. Villeneuve, *'Nobody checked on us': What people with disability told us about their experiences of disasters and emergencies*, The Conversation (2020) <https://theconversation.com/nobody-checked-on-us-what-people-with-disability-told-us-about-their-experiences-of-disasters-and-emergencies-151198>.
[61] NDIS Quality and Safeguards Commission, *NDIS practice standards and quality indicators*, version 4, 2021.

for possible events such as floods, severe storms and bushfires.[62] The Queensland Fire and Emergency Service also provides information on preparation for bushfires,[63] and the Australian Red Cross website includes resources to assist people to prepare for emergencies.[64]

The Disability Inclusive Disaster Risk Reduction Framework and Toolkit, developed by the Centre for Disability Research and Policy in partnership with QDN and the Community Services Industry Alliance, provides guidance on how people with disability, communities, disability support services and government can collaborate to design, implement and evaluate strategies to reduce risk.[65] Conversations about preparing for emergencies and planning may be supported by using tools such as the Person-Centred Emergency Preparedness Framework.[66] This tool was co-designed and tested with people with disability and provides a guide to assist people to evaluate their preparedness, capabilities and support needs and develop a personal emergency plan. A specific guide has also been created to support people to plan for COVID-19, the Person-Centred Emergency Preparedness Planning for COVID-19- for people with disability.[67]

Longer-term recovery

In addition to ensuring at-risk adults are specifically considered and included in the planning and response to natural disasters and emergencies, roundtable participants also described the importance of adequate supports to prevent the development or escalation of issues in the aftermath of any events. In particular, stakeholders discussed the potential mental health impact of both the natural disaster or emergency itself, as well as associated stressors that can later occur.

Natural disasters can result in stressors such as disrupted access to support services, subsequent health issues, disruptions to employment, social relationships, housing and management of insurance claims.[68] The impact of a natural disaster can also reduce resilience to other life stressors, impacting a person's ability to cope with matters not related to the natural disaster, such as the loss of a loved one, changes in employment, or other health concerns.

By way of example, participants from the lived experience discussions noted that these events can be stressful and potentially traumatic for those affected and suggested that, in addition to the initial emergency response, longer term support to prevent the development or escalation of mental health issues would support better resilience and outcomes for at-risk adults.

The National Disaster Mental Health and Wellbeing Pandemic Response Plan,[69] developed under the co-leadership of the Victorian, New South Wales and Australian Governments with consultation from all jurisdictions, acknowledges the longer-term challenges posed by the COVID-19 pandemic. This plan identifies addressing the diverse needs of vulnerable populations as a priority area.

Potential consequences for at-risk adults

At-risk adults can be at greater risk of adverse outcomes during and after health emergencies or natural disasters, particularly if appropriate preparation, communication, and recovery strategies are not implemented. People may experience significant stress, anxiety, and uncertainty, before, during, and after the event. They may also experience confusion about the emergency response,

[62] Queensland Reconstruction Authority, Queensland Government, *Get Ready Queensland* (2019) <https://www.getready.qld.gov.au/>.
[63] Queensland Fire and Emergency Services, Queensland Government, *Bushfires* (9 June 2022) <https://www.qfes.qld.gov.au/bushfires>.
[64] Australian Red Cross, *Preparing for emergencies* (2022) <https://www.redcross.org.au/prepare/>.
[65] M. Villeneuve, B. Dwine, M. Moss, L. Abson, and P. Pertiwi, *Disability Inclusive Disaster Risk Reduction (DIDRR) Framework and Toolkit*. A report produced as part of the Disability Inclusive and Disaster Resilient Queensland Project Series, The Centre for Disability Research and Policy, The University of Sydney, NSW, 2019.
[66] M. Villeneuve, J. Sterman, and G. Llewellyn, *Person-Centred Emergency Preparedness: A process tool and framework for enabling disaster preparedness with people with chronic health conditions and disability*. Centre for Disability, Research and Policy, University of Sydney, NSW, 2018.
[67] M. Villeneuve, M. Moss, L. Abson and R. Buchanan, *Person-Centred Emergency Preparedness Planning for COVID-19*, produced for the Queensland Government Department of Communities, Disability Services and Seniors, Queenslanders with Disability Network and The University of Sydney, 2020.
[68] National Mental Health Commission, *Our stories: Beyond the disaster*, NMHC, Sydney, 2021.
[69] Australian Government, *National Mental Health and Wellbeing Pandemic Response Plan*, 2020.

impacting their ability to follow emergency plans or directions issued by disaster management groups. Their access to necessary supports and services can also be restricted during and after the event, which can significantly affect their health and wellbeing.

First responders and crisis responses

Key issue raised: Emergency responses for at-risk adults are not always appropriate to meet their needs, and can, in some circumstances, serve to escalate rather than de-escalate situations. There is a lack of alternative services for people to contact for assistance in non-emergency situations.

Background

In response to many of the hypothetical scenarios presented at the roundtables, participants indicated that it was likely that the QAS or QPS would be a first point of call for people in the community. In situations where an emergency response is required, the QAS and QPS are an appropriate response service for people to call. However, roundtable participants also described many situations that were not an emergency, where the QAS and QPS would still be called due to a lack of awareness about, or availability of, alternative services.

Across the roundtables, participants described several safeguarding issues relating to the engagement of emergency services, involving at-risk adults in situations that are emergencies, as well as situations that would not typically require an emergency response.

Stakeholder feedback

Emergency situations

In situations where an at-risk adult becomes distressed or is experiencing a crisis, emergency services are often called. Roundtable participants described issues relating to how emergency services may engage with at-risk adults. There were concerns that emergency responses can sometimes serve to escalate rather than de-escalate a situation, resulting in greater distress and poorer outcomes for the at-risk adult. For example, participants across the roundtables and lived experience discussions described that the sound of sirens from emergency vehicles can cause alarm and distress for some adults with disability, and the sight of police arriving can potentially be intimidating or perceived as threatening.

A research report into police responses published by the Disability Royal Commission also highlights the impact of issues such as negative assumptions and discriminatory attitudes towards people with disability, and failure to provide appropriate supports amongst police.[70] The report also notes the compounding disadvantage associated with factors such as gender, race, and sexuality, which can result in further misunderstanding, discrimination, and mistreatment of people with disability when interacting with police.

Roundtable participants suggested that co-responder programs, where mental health professionals partner with QAS and QPS officers, can enhance responses to people with mental health concerns. Evaluation of some of these programs is currently underway, with early evidence supporting their effectiveness. For example, an evaluation of the West Moreton mental health QPS co-responders program found that the program supported a reduction in emergency department presentations and admissions to mental health facilities.[71]

[70] L. Dowse, S. Rowe, E. Baldry and M. Baker, *Police responses to people with disability*, research report for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 2021.
[71] T. Meehan, J. Brack, Y. Mansfield, and T. Stedman, 'Do police-mental health co-responder programmes reduce emergency department presentations or simply delay the inevitable?', *Australasian Psychiatry*, vol. 27, no. 1, 2019, pp. 18-20.

Roundtable participants suggested that more training for first responders and other front-line staff to ensure a strong understanding of disability, mental health, dementia, and issues that can impact decision-making ability, could better support the consistency and appropriateness of responses for at-risk adults.

Roundtable participants also reported that in situations where a person was experiencing a mental health crisis, there are limited services available or places to take adults, except for hospital emergency departments. In particular, there are limited services available after hours. This was identified as a concern, as the emergency department was not considered an ideal environment for at-risk adults. Roundtable participants noted that often noisy, bright and crowded settings can contribute to an increase in stress, fear, agitation, and associated behaviours, rather than de-escalating a situation and supporting a person to relax and feel calm.

The Public Advocate is currently preparing a paper on the acute mental health system, *Better pathways: Improving Queensland's delivery of acute mental health services*, which further explores issues experienced in these settings.

The NDIA will provide funding over the next 2-3 years for the NDIS After Hours Crisis Referral Service, which will 'support NDIS participants who present to emergency services due to a crisis that results from a breakdown of their disability support needs'.[72] Service delivery is due to commence in July 2022.

Participants in the Southport roundtable also discussed challenges with accessing interpreters for people from CALD backgrounds, particularly in crisis situations. They noted that services are available including through Translating and Interpreting Services National, an interpreting service provided by the Department of Home Affairs for people who prefer to communicate in a language other than English and for agencies and businesses that need to communicate with people from CALD backgrounds. However, in emergency or crisis situations, it can be difficult to access the required interpreting services immediately. This can lead to challenges communicating with people to identify their needs and preferences in that moment. Awareness about the availability of interpreting services was also noted as an issue.

Welfare checks

In many of the hypothetical scenarios used at the roundtables where an emergency response was not yet required but there were concerns from someone in the community about the health or wellbeing of an at-risk adult, roundtable participants indicated that it was likely that the QAS or QPS would be called. In these situations, the QAS or QPS can conduct a welfare check, where they visit the person in their home or community to check on their safety and wellbeing.

However, during the lived experience discussions, one participant noted that these welfare checks can feel intimidating and intrusive for people, particularly if they occur regularly. Roundtable participants described the need for an alternative, 'softer' approach that is not yet available.

Non-emergency situations

In challenging or stressful situations, some adults with disability, mental health conditions or cognitive impairments may respond in ways which can be perceived by the people around them as potentially threatening or aggressive. Roundtable participants explained that, due to a lack of other more appropriate services, and a lack of understanding about how to de-escalate situations in the community, the QAS or QPS are often called, even in situations where they would otherwise not be required.

Roundtable participants also described a range of non-emergency situations where the QAS or QPS may be called due to a lack of, or lack of awareness of, other services to assist. They described the need for community education to increase knowledge about how to de-escalate situations

[72] National Disability Insurance Agency, *NDIS After Hours Crisis Referral Service (AHCRS) tender now open*, news article (4 April 2022) <https://www.ndis.gov.au/news/7643-ndis-after-hours-crisis-referral-service-ahcrs-tender-now-open>.

and respond appropriately, and simple referral points to assist in understanding the range of services that are available to be contacted.

Roundtable participants also reported that, in some situations, the QAS or QPS were called by people requiring assistance with simple daily tasks when they were not able to receive support from their service provider. This often occurred when people required assistance outside of their scheduled support hours, or due to isolation and loneliness. For example, a roundtable participant described a situation where an adult with disability had called the QAS to assist with changing a DVD in their DVD player.

In discussing these non-emergency situations, roundtable participants noted the need for a clear referral point for the community to provide an alternative to calling emergency services. They also discussed that in some situations, supporting social and community connectedness (informal safeguarding supports) could help to resolve some of these challenges.

Potential consequences for at-risk adults

Emergency responses that are not underpinned by a strong understanding and respect for the needs of at-risk adults, and knowledge of how to respond appropriately to de-escalate situations, can result in poor outcomes and potentially traumatic experiences for at-risk adults. The absence of clear alternative and known pathways in non-emergency situations places additional pressure on resources for the QAS and QPS, potentially impacting their ability to respond to urgent situations.

The authorisation and use of restrictive practices

Key issue raised: There is an absence of a clear authorisation framework for restrictive practices in community settings where care and support are provided.

Background

Restrictive practices are 'a method of restricting a person's freedom, usually against their will'[73] when their behaviour is considered unsafe and there is a risk that they may hurt themselves or others.

Restrictive practices can include:

- isolating someone from other people by not allowing them to move in or out of certain areas (seclusion);
- using medications to control certain types of behaviour (chemical restraint);
- holding someone so that they cannot move away (physical restraint);
- using objects like suits or straps or other equipment to stop someone moving freely (mechanical restraint);
- locking doors or cupboards so that someone is prevented from moving about freely; or, participating in an activity (environmental restraint).[74]

Restrictive practices are most often used in settings such as residential aged care facilities, disability services, and hospitals. However, service providers may also use restrictive practices within community settings where at-risk adults receive care and support.

[73] The Public Advocate (Qld), *Improving the regulation of restrictive practices in Queensland: A way forward*, reform options paper, 5 October 2021, p.1.
[74] Ibid., p.1.

As described in the Public Advocate's paper, *Improving the regulation of restrictive practices in Queensland: A way forward*:

> The use of any restrictive practice affects the human rights of the person involved. Without proper authorisation, the use of a restrictive practice may be an offence against the person on whom it is used. Under criminal law, restrictive practices may constitute an assault, or an unlawful deprivation of liberty.
>
> Due to the potential legal and human rights impacts associated with the use of restrictive practices, it is vitally important that their use be minimised, and ideally eliminated, and that such practices be regulated in a clear, transparent, and appropriate way.[75]

The restrictive practices authorisation regime operating in Queensland (under the *Disability Services Act 2006* and the *Guardianship and Administration Act 2000*) is complex and can create a degree of uncertainty. It uses a consent-based model, centred in positive behaviour support. Decision-makers can include QCAT, the Public Guardian, private guardians appointed to approve restrictive practices, and the Chief Executive of the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships, depending on the particular restrictive practice and the length of time for which it will be authorised.

In addition to the state framework, as part of the NDIS Quality and Safeguards Framework, there are further national requirements for the use of restrictive practices on NDIS participants.

The requirements include:[76]

- The use of registered behaviour support practitioners to develop behaviour support plans, which outline evidence-based strategies to address the behaviour of concern, ensuring that restrictive practices are used only as a last resort, and with the aim of reducing and eliminating the use of restrictive practices.
- The lodgement of behaviour support plans with the NDIS Quality and Safeguards Commission.
- Monthly reports on the use of restrictive practices to be supplied to the NDIS Quality and Safeguards Commission.

Work is now underway on simplifying and streamlining the frameworks in operation at a State and Territory level, to maintain safeguards and protections as well as increase harmonisation with national regulations.

Stakeholder feedback

During the consultations, restrictive practices were often discussed, with participants detailing their concerns about restrictive practices and the need to reduce, or ideally eliminate, their use.

Restrictive practices were often discussed in relation to settings outside of the scope of the current project, including health care settings and residential aged care. The Public Advocate has recently published an article, 'Stopping the inappropriate use of restrictive practices',[77] which discusses current issues associated with the authorisation of the use of restrictive practices in residential aged care settings.

However, issues relating to the authorisation of the use of restrictive practices in the community, including under the National Injury Insurance Scheme (NIISQ), were also raised by stakeholders.

The NIISQ, which came into effect on 1 July 2016, is a no-fault insurance scheme that provides lifetime treatment and support to eligible people who sustain a catastrophic injury as a result of a motor vehicle accident in Queensland.[78] This state-based scheme, administered by the NIISQ Agency, is distinct from the NDIS, however shares a similar goal of supporting participants to

[75] Ibid.
[76] NDIS Quality and Safeguards Commission, *Behaviour support and restrictive practices*, fact sheet, 2022.
[77] J. Chesterman, 'Stopping the inappropriate use of restrictive practices', *Australian Ageing Agenda*, 2022.
[78] NIISQ Agency, *National Injury Insurance Scheme Queensland, overview and eligibility*, Information sheet, n.d.

maximise independence and participate in the community to achieve their individual goals. Some service providers may choose to provide services to eligible participants under both schemes.

While there was some knowledge among stakeholders about the legislative framework applying to authorisation of the use of restrictive practices by NDIS providers in Queensland, there was confusion about whether this authorisation framework extends to NIISQ service providers. This situation becomes more complex and confusing if an NDIS registered service provider is responsible for the NIISQ client for the purposes of restrictive practices.

The absence of a clear framework creates uncertainty for service providers, increases the risk that appropriate processes may not be followed, and creates challenges for monitoring and reducing or eliminating the use of restrictive practices.

The Public Advocate has previously released a paper that discusses the issues associated with the current restrictive practices authorisation regime in further detail and provides suggestions for reform.[79]

Potential consequences for at-risk adults

The unauthorised and unmonitored use of restrictive practices impacts a person's human rights and can result in physical and psychological harm.

Information sharing

Key safeguarding issues: Information sharing and privacy laws and their interpretation by various agencies can limit the sharing of information critical to protecting the safety and wellbeing of at-risk adults.

Background

At-risk adults often engage with a number of systems and services, each with a responsibility to protect the privacy of individuals and their personal information. However, this must also be balanced with the need for information sharing, which can be critical for safeguarding the rights and wellbeing of at-risk adults.

Roundtable participants noted that the way in which information sharing and privacy laws are viewed and interpreted by particular agencies can prevent the sharing of information critical to an at-risk adult's health and wellbeing.

In discussing issues related to information sharing it is important to note that individuals can consent to agencies sharing this information about them, and in doing so can largely overcome restrictions on the sharing of otherwise confidential information with third parties. In this section, however, we are envisaging scenarios where an at-risk adult may not be able to provide such consent.

Stakeholder feedback

Roundtable participants provided several examples of situations where challenges obtaining information from other agencies and services could impact service responses to at-risk adults.

For example, participants identified that it can be challenging for first responders such as QAS staff to obtain reliable, accurate information about end-of-life care preferences, guardianship, decision-making and EPOAs when responding to emergencies. They described situations where, at the scene of an emergency, relatives would produce informal documents stating that the person's

[79] The Public Advocate (Qld), *Improving the regulation of restrictive practices in Queensland: A way forward*, reform options paper, 5 October 2021.

preferences had been updated. They also explained that in these situations, responses from staff may vary, as there exists a lack of clear guidelines for how to respond. Access to accurate, reliable information was thought to be further complicated by the need to access information in emergency situations that require an immediate action and often occur outside of business hours. Therefore, ensuring timely access to accurate information outside of typical business hours, is crucial to ensuring an appropriate, timely response.

Discussion with a stakeholder outside of the roundtables also highlighted issues relating to information sharing between safeguarding agencies. For example, while many NIISQ service providers are also NDIS service providers, if an NDIS service provider is being investigated or has been banned by the NDIS Quality and Safeguards Commission, NIISQ do not receive this information directly, but rather must review a list of banned NDIS service providers to identify those also providing services under the NIISQ. During this discussion it was suggested that, ideally, the situation could be addressed by having a data sharing agreement between the NIISQ and the NDIS to enable timely sharing of this critical information, although it was noted that any solution would need to ensure that it did not add an undue administrative burden.

Roundtable participants also described situations where adults who were engaged with multiple services could have benefited from improved information sharing. The case study of Ivan presented below provides an example of one such situation.

Clinical handover, which involves the 'transfer of responsibility and accountability for some or all aspects of care for a patient',[80] including the transfer of critical information, was also identified as an opportunity for improving communication between services. For example, communication about important information between services was sometimes described as poor, particularly when handovers were conducted verbally. Some participants noted that the QAS is often able to identify signs of abuse or potential abuse and can provide this information to hospital staff during a handover, however it was reported that this information is not always reliably recorded or acted upon.

In discussing the freedom with which agencies feel able to share information about at-risk adults, the main concern of roundtable participants was not about providing relevant information to safeguarding agencies (which in some instances is mandatory). Rather, the concerns were about relevant information coming to service providers from safeguarding agencies, and the ability of agencies to share relevant information between each other. Relevant legislation and considerations for information sharing are discussed further below.

Providing information to safeguarding agencies

Existing legislative arrangements enable the provision of confidential information to adult safeguarding agencies.

For example, under the *Public Guardian Act 2014* (Qld), the Public Guardian currently has broad power to require and receive information in relation to people whose circumstances are being investigated.[81] This Act also provides protections for people providing information to the Public Guardian.[82]

[80] Australian Commission on Safety and Quality in Healthcare, *Implementation toolkit for clinical handover improvement,* ACSQHC, Sydney, 2011, p.1.
[81] *Public Guardian Act 2014* (Qld) s 22.
[82] *Public Guardian Act 2014* (Qld) s 24.

Case study: Ivan

Ivan is a 79-year-old man from a culturally and linguistically diverse background, who moved to a metropolitan area in Queensland to live with his daughter and granddaughter. Ivan has limited mobility and uses a wheelchair. His family had offered to let him live with them so they could help to provide him with some care and support.

Ivan's case was initially referred to Aged and Disability Advocacy Australia (ADA) by the Queensland Police Service (QPS). Ivan's family had called the police and reported that he was violent and had threatened them with a knife. His family wanted to move him out of the house and into a residential aged care facility. During their visit, the police officers noted that Ivan appeared quite frail and believed that it was unlikely that he presented a threat to the family. Instead, they identified a potential need for support for Ivan, and referred the case to ADA, asking if ADA to visit Ivan at his house.

The ADA intake team considered the request, however given the significant risks noted in the police referral, a number of safety issues were identified, preventing a face-to-face visit. No contact details except a home address were provided to ADA, which did not enable contact via an alternative method. ADA asked QPS if they were able to find out further information to support them in taking on the case.

The QPS asked the Queensland Ambulance Service (QAS) to conduct a health check on Ivan given their concerns about his health. Following this assessment, Ivan was admitted to hospital.

During Ivan's hospital stay, a social worker become involved in his case. It was identified that large sums of money were being taken from his bank account by his family.

During this time, ADA continued to try and contact Ivan. However, as ADA had been provided with limited contact details and the information about Ivan that they had received was de-identified, it was very challenging to locate and identify him.

Once they were able to locate Ivan, ADA experienced further challenges trying to meet with him and obtain his consent for them to assist him. Given the potential abuse identified, hospital staff had become quite protective of Ivan, and were restricting visitors. Ivan also required a translator to understand and participate in any discussions.

Additionally, while several agencies had been involved in Ivan's case, each collecting different and critical information about his complex situation, information sharing between the agencies involved was limited. This prevented any of the agencies involved from having a complete understanding of the issues that Ivan was experiencing and impacted the ability of everyone involved to support Ivan in working towards the best possible outcome.

When Ivan was finally discharged from the hospital, he required a new housing arrangement and additional support with everyday tasks. Ivan did not want to move into a residential aged care facility, so Ivan's grandson, who lived with his wife and several children, agreed that Ivan could live with them.

While this situation was an improvement from Ivan's previous living arrangement, it was not without its challenges. Ivan's grandson and his family lived in a three-bedroom house, and struggled to find larger, affordable housing to enable them to have the additional space they now required. Ivan's grandson also found it difficult to navigate the aged care system, however ADA was able to provide some support, trying to link him in with local services. However, Ivan did not want to accept assistance from these services, he preferred his family members to care for him.

While ADA's involvement with Ivan and his family has concluded, they also noted that information sharing amongst agencies may continue to be an issue for Ivan, as limited information collected by the agencies initially involved with Ivan would have been shared with agencies now supporting Ivan in his new location.

At a Commonwealth level, the NDIS Quality and Safeguards Commission's functions and powers are set out in the *National Disability Insurance Scheme Act 2013* (Cth), which include receiving complaints about service providers, receiving notifications from NDIS service providers of reportable incidents, and undertaking a range of compliance duties.[83] The Aged Care Quality and Safety Commission's functions and powers are set out in the *Aged Care Quality and Safety Commission Act 2018* (Cth). This Commission's functions also include receiving complaints about service providers, receiving notifications of reportable incidents, and performing a range of compliance duties. Both of these federal Acts permit the provision of information relevant to the two Commissions' functions.[84]

It will be important in any new safeguarding arrangements in Queensland for adequate provision to be made to ensure that individuals and agencies are able to provide confidential information to relevant safeguarding agencies.

Receiving information from safeguarding agencies

While existing adult safeguarding agencies in Queensland have the broad ability to obtain information, the ability of safeguarding agencies to communicate information is more constrained. This includes the ability to provide information to agencies whose staff members may know of a particular at-risk adult, and who may be able to be engaged in assessing the current situation of that adult.

The *Public Guardian Act 2014* contains a provision concerning the sharing of outcomes of investigations, but otherwise contains no express provision enabling the Public Guardian to share information with relevant agencies.[85] While this could, arguably, be undertaken by the Public Guardian while performing other statutory functions, reform here may be warranted.

At a Commonwealth level, the *Aged Care Act 1997* restricts the sharing of 'protected information' unless it is 'authorised under this or any other Act'.[86] The *Aged Care Quality and Safety Commission Act 2018* (Cth), meanwhile, permits the disclosure of 'protected information … if the Commissioner believes, on reasonable grounds, that the disclosure is necessary to prevent or lessen a serious risk to the safety, health or well-being of an aged care consumer'.[87]

Similarly, the *NDIS Act 2013* includes strong prohibitions on the use of 'protected information', although the sharing of information held by the NDIA and by the NDIS Quality and Safeguards Commission is permitted when a person has 'reasonable grounds' to believe that this is necessary to prevent or lessen a current or past 'threat … to an individual's life, health or safety'.[88]

The information above suggests that the general position of the Commonwealth is that confidential information can only be shared by a safeguarding agency where there is a 'serious risk' to a person's wellbeing or where there are reasonable grounds for believing that there is a 'threat' to a person's welfare. This is arguably too high a threshold. Such criteria would not be met, for instance, where the NDIS Quality and Safeguards Commission simply suspected that a person was suffering and would benefit from improved service provision.

An example of the way this high threshold inhibits the safeguarding of at-risk adults can be seen in the difficulty that even confronts the provision of information from Commonwealth to State safeguarding agencies.

For instance, the Community Visitors program (operated by the OPG) can provide information about people visited by the program to the NDIS Quality and Safeguards Commission. The

[83] *National Disability Insurance Scheme Act 2013* (Cth) ch 6A.
[84] *National Disability Insurance Scheme Act 2013* (Cth) ch 4 pt 2.; *Aged Care Quality and Safety Commission Act 2018* (Cth) pt 7.
[85] *Public Guardian Act 2014* (Qld) s 31.
[86] *Aged Care Act 1997*(Cth) s 86-2(2)(e)
[87] *Aged Care Quality and Safety Commission Act 2018* (Cth) s 61(1)(e)
[88] *NDIS Act 2013* (Cth) ss 60(2)(e)-(f); 67A(1)(e)-(f)

Community Visitors can also ask the NDIS and the Commissioner for further information if they consider it necessary to perform their functions.[89] Despite the existence of an information sharing protocol, the provision of information back to the Community Visitors program – such as the outcomes of any investigation or action by the Commission that might then be able to be monitored by Community Visitors – is heavily restricted because of the high threshold that needs to be met before such transferal of information can occur.

This particular problem – the sharing of information from the NDIS Quality and Safeguards Commission back to a State-based Community Visitors program – was identified by the Victorian Public Advocate in evidence to the NDIS Joint Standing Committee, as follows:

> In the handful of referrals put forth by OPA [Office of the Public Advocate, Victoria], the privacy requirements established in NDIS Act and Rules have at times prevented the effective sharing of information by the NDIS Commission. In some instances, the NDIS Commission has been unable to update OPA on the progress of its work in relation to a referral, thereby diminishing OPA's ability to undertake a more targeted advocacy response. The information sharing schedules cannot overcome legislative restrictions on the NDIS Commission when it comes to sharing information. Ultimately, it is participants who are disadvantaged.[90]

Commonwealth legislative reform is required if current constraints on the provision of information by the NDIS Quality and Safeguards Commission, or the Aged Care Quality and Safety Commission, are to be addressed.

Sharing information between service agencies

In addition, there is a need to enhance the protection of good faith sharing of information between service and support agencies, where concerns exist about the welfare of an at-risk adult.

There will often be more than one agency providing services to an at-risk adult, and there is enormous benefit in enabling the relatively free flow of information between them. Making it clear that such information exchange is permitted will help to establish an expectation, and even a duty, for agencies with concerns about individuals to share those concerns with other relevant agencies, without those concerns needing to meet the currently high threshold that must be met to permit the communication of confidential information.

Currently, Information Privacy Principle 11 of the *Information Privacy Act 2009* (Qld) enables disclosure of personal information 'to lessen or prevent a serious threat to the life, health, safety or welfare of an individual' or where 'the disclosure is authorised or required under a law'.[91]

Principle 11 envisages that other legislation can permit the exchange of confidential information between agencies. But where authorisation for the exchange of information is not provided by another law, the 'serious threat' threshold is a high one to meet before information about an at-risk adult can be shared between service agencies. Agencies with concerns about an at-risk adult may not consider that the 'serious threat' threshold is satisfied by what they currently know about the adult, even though they may have genuine concerns about the adult's wellbeing. This would particularly apply to a situation where an agency holds concerns about, but little detailed information about, an apparently at-risk adult, and where the agency might ideally contact one or more service providers to find out more. Enabling and encouraging that flow of information would be an important adult safeguarding improvement.

Potential consequences for at-risk adults

Inadequate information sharing between agencies can contribute to agencies and services having incomplete information and a fragmented understanding of an individual's situation. This can impact the appropriateness and timeliness of any intervention or support that a person

[89] *Public Guardian Act 2014* (Qld) s 44.
[90] Victorian Public Advocate, Submission No. 11 to the Joint Standing Committee on the National Disability Insurance Scheme, *Inquiry into the NDIS Quality and Safeguards Commission*, July 2020, p.10.
[91] *Information Privacy Act 2009* (Qld) sch 3.

receives, potentially impacting their health and wellbeing. It also prevents a truly person-centred approach and can result in an individual having to repeat their story multiple times, which can result in re-traumatisation.

NDIS service provision

Key issue raised: Thin markets, workforce shortages, and limited oversight of unregistered service providers can adversely affect eligible participants' access to high quality supports and services under the NDIS.

Background

The phased introduction of the NDIS in Queensland, which began in 2016, represented significant social reform. Prior to the NDIS, the government provided block funding to disability service providers. In contrast, the NDIS aims to place people with disability at the centre of the system by funding eligible individuals to receive services and supports based on an assessment of their individual needs. This approach is also designed to enable NDIS participants to exercise greater choice and control over their services, and encourage responsive, innovative service design and delivery.

The introduction of the NDIS has improved access to services for many Queenslanders with disability. In Queensland, as of December 2021, there were 2,671 service providers[92] and 102,458 active NDIS participants with an average annual support budget of $71,000.[93] It is estimated that around half of Queenslanders now accessing the NDIS did not previously receive disability supports from the State.[94] However, roundtable participants highlighted current challenges impacting choice and access to quality services for some people with disability.

It should be noted that many of the issues discussed below also exist within other services and systems, however these issues were most often raised in the context of the NDIS.

Stakeholder feedback

Thin markets and workforce issues

NDIS thin markets, which occur when there is a gap between NDIS participants' needs and the services available, were identified as a critical concern across all of the roundtables. Thin markets were of more significant concern in rural and remote areas, where population dispersion or density and geographical isolation can increase travel times and operating costs for service providers. Unmet demand for services was also identified for particular cohorts, such as people with complex needs, Aboriginal and Torres Strait Islander people, and people from CALD backgrounds.

Issues with maintaining a skilled workforce also contribute to thin markets. Roundtable participants described current challenges with recruiting and retaining skilled staff, reporting that casualisation of the workforce and issues related to COVID-19 (e.g., staff contracting COVID-19 or needing to isolate due to being a close contact) had contributed to these challenges. The workforce shortage has led to challenges meeting the demand for services and enabling NDIS participants to exercise choice and control over the workers who support them (e.g., where NDIS participants wish to be supported by workers of a particular gender, with knowledge or experience of a particular culture, or who can speak a particular language).

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[92] Active providers who had received a payment from the National Disability insurance Agency in the last quarter; National Disability Insurance Agency, *NDIS active provider data as at 31 December 2021*, <https://data.ndis.gov.au/data-downloads#provider>.
[93] National Disability Insurance Agency, *NDIS participant numbers and plan budgets data December 2021*, <https://data.ndis.gov.au/data-downloads#participant>.
[94] Queensland Productivity Commission, *The NDIS market in Queensland: Final report,* Queensland Productivity Commission, 2021.

Participants in one of the lived experience discussions also noted that frequent changes in workers can also be challenging for the person receiving support. They described the frustration experienced by people receiving services who had to explain their needs and preferences to new staff. They also noted that trust was essential for good service provision and that it takes time to build positive relationships with services providers and workers, a process which is even more difficult if workers change frequently.

There was also considered to be a shortage of workers with particular skills, for example, people who can provide appropriate support to people with complex care needs. Several participants also noted the importance of developing improved cultural competence in the workforce.

One service provider also described challenges with police checks and screenings which, while important to safeguarding, can sometimes prevent employment of people with valuable skills and knowledge on the basis of old and irrelevant criminal histories.

Issues accessing necessary care and supports due to thin markets and workforce shortages can have significant consequences for NDIS participants. If they are not able to access the care and supports they require in their local area, participants may have to relocate to an area where they are able to access services, in some cases moving away from their home and informal support networks. Many others, who are unable, or choose not to relocate, will simply not receive the services required, impacting their health, wellbeing, and ability to live independently in the community.

The issue of thin markets has also been identified and discussed in previous reports on the NDIS including the Joint Standing Committee on the National Disability Insurance Scheme's reports on *Market readiness for provision of services under the NDIS*[95] and *General issues*[96] and the Productivity Commission's report on *National Disability Insurance Scheme (NDIS) Costs.*[97] However, this issue has not yet been addressed comprehensively to ensure timely access to quality high services across all NDIS participants.

The NDIS National Workforce Plan: 2021-2025 describes the Australian Government's commitment to strengthening the NDIS workforce, including 16 initiatives that address three priority areas:

- Improv[ing] community understanding of the benefits of working in the care and support sector and strengthen[ing] entry pathways for suitable workers to enter the sector
- Train[ing] and support[ing] the NDIS workforce
- Reduc[ing] red tape, facilitate[ing] new service models and innovation, and provid[ing] more market information about business opportunities in the care and support sector.[98]

The *National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Act 2022* may also support the NDIA to respond to service gaps, clarifying that the NDIA may provide funding to a person or entity to assist one or more participants to receive supports, enabling direct market intervention.[99] This change came into effect on 1 July 2022.

Provider of last resort

Related to the issue of thin markets, in situations where a suitable service provider is not able to be identified or a service provider withdraws services to a participant, there is no provider of last resort to ensure that the participant is able to access necessary supports and services.

[95] Joint Standing Committee on the National Disability Insurance Scheme, Parliament of Australia, *Market readiness for provision of services under the NDIS* (2018).
[96] Joint Standing Committee on the National Disability Insurance Scheme, Parliament of Australia, *General issues* (2020).
[97] Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs*, study report, Australian Government, Canberra, 2017.
[98] Department of Social Services, *NDIS National Workforce Plan: 2021- 2025*, Australian Government, 2021, p.6.
[99] National Disability Insurance Agency, 2022 *NDIS legislation amendments- July update* (30 June 2022) <https://www.ndis.gov.au/news/7700-ndis-legislation-amendments-2022>.

There have been numerous calls for the NDIA to develop and release a policy on provider of last resort arrangements, including from the Joint Standing Committee on the National Disability Insurance Scheme,[100] and the Productivity Commission.[101] However, this has yet to be addressed.

Roundtable participants noted that, when appropriate support services were not received, and a person's condition deteriorated, they would often be taken to the emergency department and admitted to hospital. Hospitals can support a person's immediate healthcare needs and can discharge the person once their condition has stabilised or improved. However, without appropriate supports in place, their situation is unlikely to improve, and people may experience repeated, potentially avoidable hospital admissions. Ensuring access to appropriate services and supports, and continuity of supports, is therefore critical to the health and wellbeing of at-risk adults.

Silos vs a person-centred approach

Across the roundtables participants agreed that a person-centred approach was central to effective service delivery for at-risk adults. However, they noted that while this approach is the aim, it is not always achieved as service providers can tend to operate in 'silos', with limited communication and collaboration across services.

Roundtable participants suggested that the business models used by service providers can prevent the level of cross-service collaboration and cooperation that would support a truly person-centred approach for those receiving services. They reported that service providers can take a very narrow view of their responsibilities, which can create challenges when problems arise, and it is not clear which service provider should take responsibility for particular issues. Roundtable participants also described situations where each service provider assumed that the other would address the situation, and, due to a lack of clear communication, the problem was not resolved and the person receiving care suffered as a result.

This was considered particularly critical for at-risk adults, who may have difficulty coordinating their supports across multiple services. While some NDIS participants may be funded to receive support coordination, roundtable participants noted that the quality of the coordination services received could vary greatly across services. Participants from the Mount Isa roundtable explained that support coordinators located outside of the local area, such as those located in major cities, often lacked an understanding of the local context, which could make the coordination of services challenging and impact the quality and appropriateness of services received.

Oversight and accountability

Stakeholders across the consultations identified the need for improved monitoring, oversight, and accountability for service providers, particularly those involved in the care and support of at-risk adults. Roundtable participants often referred to the case of Ann-Marie Smith, an NDIS participant in South Australia who died as a result of neglect by her carer in 2020. Ms Smith lived alone in her own home and was supported by a sole carer employed by a registered NDIS provider. Following Ms Smith's death, a number of investigations and reviews were conducted, including the *Independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020.*[102] As a result of this report, several changes were made, including amendments to the *National Disability Insurance Scheme Act 2013* to lower the threshold for NDIS Quality and Safety Commission activity[103] and strengthening of banning orders.[104]

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[100] Joint Standing Committee on the National Disability Insurance Scheme, Parliament of Australia, *Transitional Arrangements for the NDIS*, 2018; Joint Standing Committee on the National Disability Insurance Scheme, Parliament of Australia, *Provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition*, 2017.
[101] Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs*, study report, Australian Government, Canberra, 2017.
[102] A. Robertson, *Independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020*, report to the Commissioner of the NDIS Quality and Safeguards Commission, 2020.
[103] *National Disability Insurance Scheme Amendment (Improving Supports for At Risk Participants) Act 2021* (Cth).
[104] *National Disability Insurance Scheme Amendment (Strengthening Banning Orders) Act 2020* (Cth).

Additionally, roundtable participants frequently raised issues relating to the oversight of unregistered NDIS service providers. NDIS participants can, in many circumstances, choose to use unregistered service providers, except for when receiving:

- specialist disability accommodation,
- supports or services during which there is or is likely to be a need to use a regulated restrictive practice
- specialist behaviour supports that involve undertaking behaviour support assessment of the participant or developing a behaviour support plan for the participant.[105]

Unregistered service providers and their workers are required to comply with the NDIS Code of Conduct and must be able to 'effectively manage complaints that may concern the quality and safety of supports and services being provided'.[106] However, they do not have to adhere to other requirements of the NDIS Quality and Safeguards Commission, for example conducting audits and notifying the NDIS Quality and Safeguards Commission of reportable incidents. Therefore, while unregistered providers may provide high quality services to NDIS participants, these service providers are not subject to the same level of oversight and monitoring as registered service providers.

Roundtable participants reported that this limited oversight and monitoring may result in some NDIS participants receiving lower-quality services with fewer safeguards in place to identify when this is occurring. This is of particular concern for NDIS participants who may not understand or be fully aware of the difference between unregistered and registered service providers when they select a provider, or in instances where NDIS participants have limited provider choice due to thin markets and may need to use unregistered providers to access necessary care and supports.

Potential consequences for at-risk adults

Issues related to thin markets and the oversight of service providers impacts access to high quality services for NDIS participants. If someone is unable to access the care and supports they require to enable them to remain independent and participate in the community, they can be at risk of increased dependence on others, poorer health, wellbeing, and quality of life. This can also place additional pressure on informal support and carers, which can lead to caregiver stress and impact on their relationships.

Navigating complex systems and system interfaces

Key issue raised: Challenges accessing services, navigating complex systems, and a lack of integration and communication between different systems can prevent at-risk adults from obtaining essential care and support when they need it.

Background

At-risk adults often have complex needs and engage with multiple systems such as disability, aged care, health, guardianship, justice, and housing throughout their lives. However, as noted by participants across several roundtables and discussions, these systems can be complex, confusing, and difficult to navigate. A range of challenges that at-risk adults and the people supporting them may face when attempting to navigate systems to access necessary care and support were described. Importantly, roundtable participants noted that difficulties navigating systems were not only experienced by people trying to access these systems and services, but also by service providers and professionals operating within these systems.

[105] NDIS Quality and Safeguards Commission, *Unregistered provider obligations* (07 July 2022) <https://www.ndiscommission.gov.au/providers/registered-ndis-providers/provider-obligations-and-requirements/unregistered-provider>.
[106] Ibid.

Stakeholder feedback

Knowledge about available services and referral points

An initial barrier to obtaining care and support identified by roundtable participants was a lack of knowledge about the types of services and supports available and, for some people, uncertainty about how to begin engaging with these services and systems. Roundtable participants explained that when people require assistance or support, outside of an emergency situation in which people would typically call emergency services, it may not always be clear who they should contact for non-urgent assistance. This uncertainty can lead to delays in seeking help or prevent someone from seeking assistance entirely. For example, a participant at the second Brisbane roundtable noted that it was unclear where older adults experiencing lower levels of cognitive decline (as opposed to impaired decision-making ability) should go for help and information about home care.

Across the roundtables, participants also discussed the importance of awareness about available services among service providers. They reported that having good referral pathways was essential to ensuring appropriate, timely care and support for at-risk adults. They also noted that in some situations, service providers may not be aware of alternative services available, which can lead to delays in referrals to specialist services and ultimately impacts on outcomes for the at-risk adult.

In some situations, accessing information about available services was also considered challenging. For example, a participant at a lived experience discussion described a situation where their parent, an older adult with complex needs, was told to 'jump online and look at the My Aged Care website', which they found challenging to access and navigate.

Recently, the Australian Government has announced that it will invest $272.5 million to support access to aged care services and navigation of the aged care system.[107] Navigator programs and their importance for support people to access necessary care and support are discussed further below.

Eligibility, applications and assessment

Roundtable participants described the NDIS application process as complex, reporting that it was often confusing, time consuming and exhausting for adults with disability, as well as their family and friends who may be supporting them. It was reported that the burden associated with this application process can prevent people from trying to access necessary care and supports, or can deter people from completing the process, again leaving them without the services required.

For some people with disability, the application process can also have a significant financial cost. Several roundtable participants described situations where people had been required to pay several thousand dollars to see specialists and obtain reports to provide sufficient evidence of their disability to apply for the NDIS.

Timeliness of eligibility and assessment processes were also described as a concern by roundtable participants. Many people reported that there can be long wait times to have supports confirmed and to start receiving services. This can be a particular challenge, because during this time, a person's situation and condition can change or deteriorate further, resulting in inadequate or inappropriate supports once these commence.

Concerns relating to waiting times for decision-making for the NDIS have been previously reported, including in the 2019 'Review of the National Disability Insurance Scheme Act 2013'.[108] In response to these concerns, recent amendments to NDIS legislation have been made, placing the Participant Service Guarantee within the legislation itself, which sets out timeframes for NDIS processes and decision-making.

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[107] Department of Health, *Home Care (Pillar 1 of the Royal Commission response)- Connecting senior Australians to aged care services*, fact sheet, Australian Government, 2021.
[108] D Tune, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, Department of Social Services, Canberra, 2019.

A participant also raised the issue of cultural appropriateness of the assessments used. They noted that a lack of culturally appropriate and validated screening measures and assessment processes can result in people being deemed ineligible for the NDIS or particular supports and services. It can also result in the inclusion of supports in a person's NDIS plan that are not culturally appropriate or do not match their needs or preferences.

The planning process itself was also described as a potential barrier to receiving appropriate supports and services through the NDIS. Roundtable participants noted that the suitability of the plans developed are highly dependent on the skills and knowledge of individual planners. This was a particular concern for people with complex or less well-known disabilities, where an assessor may not be familiar with the presentation or features of a particular condition and the types of support necessary.

It was noted that, while there are roles that can support people to navigate the NDIS, such as Support Coordinators and Local Area Coordinators, these supports are often only available to those who already have NDIS plans and funding in place. Roundtable participants and people who participated in the lived experience discussions explained that there is limited support to assist those who need support to access the NDIS for the first time.

The recent operation of the Assessment and Referral Team (ART) was identified as an example of a service that has supported access to the NDIS. The ART was established through temporary funding from the Commonwealth Government and delivered in various locations across Queensland by the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships. The ART supported people to access the NDIS, including assisting with the collection and preparation of documents, arranging specialised assessments and lodging completed forms.[109] The ART program was supported by the Targeted Outreach program, led by QDN in partnership with the Queensland Council of Social Service and ADA, which provided valuable on the ground networking and identification of people who required additional support to access the NDIS.

However, funding for both the ART program and Targeted Outreach Program has now ceased. An announcement, made as a component of the Queensland Government's 2022-23 State Budget, will see the ART program continue across this financial year, however access to it will be limited to children and young people aged between 7 and 25 years.[110]

Advocates and navigators can also play an important role in supporting people to access necessary supports and services, including through the NDIS. Information and feedback provided by roundtable participants in relation to these roles is discussed further below.

Several roundtable participants also described challenges relating to the review of NDIS plans.[111] Some reported difficulty having reviews initiated where an NDIS participant's needs had changed. Other roundtable participants described reluctance amongst NDIS participants to have their plans reviewed due to fears that their NDIS budget and supports received would be reduced.

Access to independent advocacy

Across the roundtables, participants highlighted the importance of independent advocacy in supporting at-risk adults to navigate complex systems and ensure their rights and wellbeing are protected. Participants described many situations where advocates were pivotal in assisting people to understand their situation and options, express their preferences, participate more fully in

[109] C. Crawford (Minister for Seniors and Disability Services and Minister for Aboriginal and Torres Strait Islander Partnerships), *Palaszczuk Government's ART-ful boost to NDIS access in Queensland,* media release, The State of Queensland, 19 March 2021.
[110] C. Crawford (Minister for Seniors and Disability Services and Minister for Aboriginal and Torres Strait Islander Partnerships), *Funding to boost NDIS access in Queensland,* media release, The State of Queensland, 30 June 2022.
[111] The term 'review' was used by stakeholders to refer to the reassessment of NDIS plans. Under recent changes to the languages used for the NDIS, the term 'review' will be used to refer to formal reviews by the NDIS and external reviews by the Administrative Appeals Tribunal only. Significant changes to plans will be referred to as plan 'reassessments' and minor changes will be referred to as plan 'variations'. National Disability Insurance Agency, *Changing your plan* (1 July 2022) <https://www.ndis.gov.au/participants/changing-your-plan>

decision-making, navigate complex systems, and lodge complaints. The case study of Paul in the box below provides one example of the many stories shared during roundtables and discussions across this project about the valuable work of advocates.

Case study: Paul

Paul, a 72-year-old man who identifies as Aboriginal and Torres Strait Islander, lives in rural Queensland. Paul has few family members who live nearby or other positive supports. He has multiple mental health diagnoses and receives treatment under a community-based treatment authority in accordance with the *Mental Health Act 2016 (Qld)*. Paul's treating mental health team reports that his decision-making ability fluctuates, reducing when he becomes unwell.

At one time, Paul was admitted as an inpatient under the care of his treating team in accordance with his treatment authority. During his hospital admission, Paul asked his cousin, with whom he had a good relationship, to help with financial matters while he was an inpatient, including the payment of his rent. To assist with this, Paul provided his bank card to his cousin.

Concerns were initially raised by Paul's rental property manager about delays in the payment of rent. As a result, Paul's treating team became concerned about potential financial abuse by Paul's cousin and made both interim and substantive applications to the Queensland Civil and Administrative Tribunal (QCAT) seeking the appointment of an administrator. Paul's treating team did not attempt to liaise with Paul's cousin about these concerns or work with Paul and his cousin to discuss how these concerns could be managed for the duration of Paul's admission.

Consequently, Paul was subject to two consecutive interim orders appointing the Public Trustee as his financial administrator.

For Paul's substantive hearing, the medical material before QCAT related to Paul's decision-making ability at the time of his hospital admission, during which time Paul was significantly affected by his mental health conditions. Paul had difficulty obtaining more recent medical evidence from his treating team to use at the substantive hearing.

Paul found contact information for Queensland Advocacy for Inclusion (QAI) online and called to speak with one of their solicitors. Through discussion with QAI, Paul began to more fully understand the material that was before QCAT and what he may need to do to be best placed for his upcoming QCAT hearing.

Due to limited resources within his town, Paul struggled to obtain current medical evidence from other health professionals locally. However, with the support of QAI, Paul was able to obtain an up-to-date health professional report from his treating psychiatrist just days before the substantive QCAT hearing. On the basis of this report, the substantive applications were dismissed as there was no evidence of impaired decision-making ability at the time of the hearing.

Without the support of advocacy services to guide Paul through the process and assist with preparation for the hearing, it is likely that QCAT would have only considered the dated mental health reports provided by his treating team, which did not adequately describe Paul's current decision-making capacity, and the Public Trustee may have been appointed as his administrator.

Despite the importance of advocacy, roundtable participants also described several issues that may impact access to, and the effectiveness of, advocacy services.

It was noted that some people may not be aware of the advocacy services available or how to find an advocate, preventing them from seeking out services. For those who do contact an advocacy service, it was reported that waiting times of up to several weeks can be experienced, as there is currently unmet demand. Issues relating to NDIS access and decision-making are

thought to have contributed to an increased demand for advocacy services across Queensland. The Public Advocate has also heard anecdotally that if people choose to appeal a decision of the NDIA in relation to their NDIS plan and take a case to the Administrative Appeals Tribunal that it can be difficult to access an advocate or legal representative to support them with this process.

Roundtable participants also reported that, in many cases, advocates were involved too late in the process after a problem had occurred. Earlier engagement with advocates was considered important for improving outcomes for at-risk adults and helping to prevent further escalation of issues.

Several roundtable participants also described situations where people were not able to access advocacy as their appointed guardian would not provide consent for the advocate to work with them. This was a particular concern in situations of abuse or neglect, where the appointed guardian may be the perpetrator and the adult requires assistance from an advocate to seek help to address the situation.

System navigator roles

Across the roundtables, many participants described the importance of navigator or coordinator roles in supporting people to understand and access appropriate services. This includes nurse or allied health navigators in the health system, and aged care navigators, who support people to access necessary care, services and supports. Roundtable participants reported that there were limited navigation services or supports for the disability system, particularly for those who were not eligible for the NDIS or were seeking access to the NDIS for the first time.

Navigators may also be important for maintaining access to services and supports over time and as a person's needs change. An evaluation of the Aged Care Navigator Program found that it was not only people seeking to engage with the system for the first time who required assistance, but existing service users who require ongoing support with arranging or following up on reassessments, referrals, and issues with care quality.[112]

While these roles were seen as beneficial for people needing support to navigate systems, it was also noted that these roles tend to focus on navigation within a particular system, when at-risk adults often need to engage with multiple systems. Roundtable participants reported that there is a lack of support for those who are having to navigate multiple systems and need support to manage and coordinate services across different sectors.

Challenges with the interface between systems

Navigating multiple systems and the interface between these systems was also identified across the roundtables as a key challenge for at-risk adults. It was reported that the interface between systems to allow for wraparound services for clients is either non-operational or non-existent.

Instead, government agencies at a State and Commonwealth level tend to operate as 'silos' with very limited cross agency communication or initiatives. In some circumstances different terminology and language are used, making navigation more challenging and time consuming.

A lack of integration and communication between systems and organisations may, in part, be due to issues noted in the information sharing and privacy section of this report. Limited information sharing can mean that a person must repeat their story numerous times to different agencies and services, which can be a stressful and traumatic experience. It can also result in information critical to timely, quality service provision not being shared, or in some cases can result in incidents not being reported, which can have tragic consequences.

The issue of system interface is particularly prominent in the health system, where there are multiple services involved and services are funded by different levels of government. Challenges with the

[112] Department of Health, *Evaluation of the Aged Care Navigator Measure: Final report*, produced by Australian Healthcare Associates, 2021.

interface between these systems and services can result in several issues, including increased waiting times in inappropriate accommodation like hospitals, delays in assessment for critical services and supports, and a lack of choice and control.

Potential consequences for at-risk adults

Navigation of systems and services can be complex, and some at-risk adults may require support from formal or informal carers, navigators or advocates. If people are unable to successfully navigate systems either with or without support, they may not be able to access necessary care and support to maintain their health, wellbeing, and quality of life. It can also limit opportunities for choice and control.

Appropriate, accessible, and affordable housing

Key safeguarding issues: A shortage of appropriate, accessible, and affordable housing stock prevents many at-risk adults from living in accommodation that meets their needs and preferences.

Background

Over the last few decades, there has been a shift away from caring for people with disability or older adults in large institutions, to providing supports for people to remain in their own homes and communities. The de-institutionalisation movement saw many people with disability move from large institutions to living in the community. More recently, the Australian government has committed to targets to significantly reduce the number of young people with disability living in residential aged care facilities.[113] There is also growing recognition that many Australians would prefer to 'age in place', receiving in-home care and support rather than living in residential care settings. It is therefore critical to ensure that there is sufficient, appropriate housing to meet a broad range of preferences and needs, and support people to live well in the community.

In the community, there are a range of housing and accommodation options that at-risk adults may access, such as living in their own home or the family home (with or without support), living in private rental accommodation, or living in social housing provided either by the Queensland government (public housing) or community managed housing. Some people with complex disability or high-level support needs may also be eligible for specialist disability accommodation (SDA) under the NDIS, which is housing designed to meet their complex needs and enable access to necessary supports. In certain circumstances, people may also access short-term accommodation such as emergency or crisis accommodation, or transitional housing.

Recently, there has been significant concern about the current 'housing crisis' in Australia, with increasing recognition that the rising cost of housing in the private market is placing significant pressure on people across the country. However, at-risk adults, including people with disability, mental health concerns and older adults, may be at greatest risk of poor housing outcomes due to their often limited fixed incomes and need for supports.

Stakeholder feedback

Lack of appropriate and affordable housing

Housing was an issue discussed frequently across the roundtables and other consultations. Most often, participants described a lack of affordable, appropriate housing, particularly for people with complex needs who may require housing with particular features, or the ability to make modifications to meet their requirements. This issue was described as a critical concern across all of

[113] Department of Social Services, *Younger people in residential aged care: Strategy 2020-25*, Department of Social Services, 2020.

Queensland and identified as one of the most significant concerns for people with disability during the lived experience discussions. Issues were identified across all types of housing, including the private housing market, social housing, and SDA.

Over the past two decades, the cost of housing has increased significantly across Australia. For many at-risk adults, particularly those who receive the disability support pension, the cost of home ownership and private rental is now considered to be unaffordable. Roundtable participants also noted that there are limited safeguards for vulnerable and at-risk adults living in private rental accommodation to assist them to maintain their housing arrangements.

Those unable to access housing through the private market may seek to apply for social housing, however there is also a significant unmet demand for this type of accommodation. A report by the UNSW City Futures Research Centre estimated the current unmet housing need to be 437,600 homes across Australia.[114] Further, to meet the predicted demand, it was estimated that 728,600 new social housing properties would need to be built by 2036.

In the *Queensland Housing Strategy 2017-2027*, the Queensland Government has committed to investing $1.8 billion over ten years to improve the delivery of housing services and increase availability of social and affordable housing, including providing 4,522 new social homes and 1,034 new affordable homes.[115]

However, a recent report by the Queensland Audit Office notes that, of social housing managed by the government, 15 per cent is under-occupied, and that current social housing, and planned new builds due to commence in the coming years, will be insufficient to meet the growing demand.[116]

Due to limited social housing being available, roundtable participants described long waiting periods, with several participants from the lived experience discussions explaining that they had been on the waiting list for several years.

The Queensland Audit Office report found that processes to manage the social housing register (of applicants) are not effective and that the policies, procedures, and information systems of the Department of Communities, Housing, and Digital Economy must be improved to better manage this register.[117]

Long waiting periods aside, the concept of social housing is still viewed as important by many roundtable participants due to the additional safeguards provided related to sustaining a person's tenancy. For example, a roundtable participant described a situation where a tenant with disability damaged their social housing, however appropriate supports were provided to assist them to maintain their tenancy. They suggested that if this person had been in private rental accommodation there are no safeguards in place to help them to avoid being evicted and at risk of homelessness.

Participants from the lived experience discussions also described challenges with completing the forms necessary to receive social housing.

Roundtable participants also reported unmet demand for SDA. While this shortage of SDA is likely influenced by several factors, roundtable participants described that it could be exacerbated by current NDIS funding requirements. For example, some SDA builders require confirmation of an NDIS package before commencing a build, however NDIS funding may not be available for eligible individuals until after the SDA is confirmed and built. This creates a barrier to both the development of SDA and access for eligible NDIS participants.

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[114] L. Troy, R. van den Nouwelant and B. Randolph, *Estimating need and costs of social and affordable housing delivery*, City Futures Research Centre, University of New South Wales, Sydney, 2019.
[115] Department of Housing and Public Works, Queensland Housing Strategy 2017-2027, Queensland Government, 2017.
[116] Queensland Audit Office, *Delivering social housing services*, Report 1: 2022-23, Queensland Government, Brisbane, 2022.
[117] Ibid.

The issue of unmet demand for SDA in Queensland was also noted in the report on the 'Inquiry into the provision of primary, allied and private health care, aged care and NDIS care services and its impact on the Queensland public health system'.[118] One of the recommendations from this report was that:

> the Australian Government increases investment in building specialist disability accommodation, particularly in rural and remote areas, to ensure that National Disability Insurance Scheme participants with complex needs have an appropriate place to live, where their needs can be met.[119]

The Queensland Productivity Commission's report on 'the NDIS market in Queensland' also made recommendations to improve the efficiency and capacity of the NDIS market, including that:

> The Queensland Government should propose that the NDIA streamline and align specialist disability accommodation (SDA), home modification and supported independent living (SIL) access processes, in order to provide faster access for participants and clearer signals to providers. Participants' eligibility should be determined regardless of their access to a support or the presence of a provider.
>
> Discussions with participants about housing should be elevated in importance and occur early in planning meetings. Application of the 'reasonable and necessary' criterion and reasons for housing support decisions on access should be more clearly explained to promote greater consistency and accountability. Participants with SDA in their plans should be funded at a level that allows a reasonable degree of choice. The NDIA should also report regularly on the timeliness of applications and decisions in relation to housing supports and SIL.[120]

A recent report on NDIA decision-making regarding SDA funding also highlighted issues relating to waiting times, decisions that do not align with participants' preferences, and errors in administering processes.[121]

Accessible housing

In addition to issues associated with the availability and affordability of housing, roundtable participants also discussed a lack of accessible housing, or housing that is suitable to meet the needs of adults with complex conditions. Much of the existing housing stock lacks sufficient accessibility features, making it challenging for people to find a suitable home. Furthermore, making modifications to housing to ensure that it meets people's requirements can be costly, and a difficult, lengthy process, particularly for those in social housing or rental accommodation.

On 30 April 2021, a majority of Commonwealth, state and territory Building Ministers agreed to the inclusion of minimum accessibility standards for all new housing in the National Construction Code 2022.[122] This Code details the minimum requirements for new buildings and new building work in buildings across Australia. As a result of these changes, new houses will include accessibility features based on the Livable Housing Design Guidelines Silver Standard, including:

- at least one step-free entrance door;
- wider internal doors and corridors, [and];
- toilet on ground level (or entry level).[123]

This change will help to increase the availability of accessible housing stock for people with disability, and support people to age in place, remaining in their own homes in the community.

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[118] Health and Environment Committee, Queensland Parliament, *Inquiry into the provision of primary, allied and private health care, aged care and NDIS care services and its impact on the Queensland public health system*, report no. 18, 2022.
[119] Ibid., p.196.
[120] Queensland Productivity Commission, *The NDIS market in Queensland: Final report,* Queensland Productivity Commission, 2021, pp. 303.
[121] M. Skipsey, D. Winkler, M. Cohen, P. Mulherin, A. Rathbone, and M. Efstathiou, *Housing delayed and denied: NDIA decision-making on specialist disability accommodation,* Public Interest Advocacy and Housing Hub, 2022.
[122] Department of Energy and Public Works, *About the new accessible housing guidelines*, Queensland Government (2022) <https://www.epw.qld.gov.au/about/initiatives/accessible-housing-guidelines/consultation>.
[123] Ibid.

While the physical layout and accessibility of housing proposed in the Livable Housing Design Guidelines are critical to supporting positive housing outcomes for people with disability, there are also other aspects of housing that must be considered to ensure people are able to exercise choice and optimise independence and participation. Extending beyond safety and physical accessibility, consideration should also be given to psychosocial elements including location, neighbourhood quality and overall design.[124]

Supported accommodation

Residential services, including boarding houses, hostels, and supported accommodation, were also discussed at several of the roundtables. Roundtable participants described issues relating to a lack of funding and the quality of some services. The Public Advocate is aware of issues relating to the operation of supported accommodation and will be scoping a project related to this topic during 2022-23.

Retirement villages

The Public Advocate has been informed that when people move into retirement villages, contracts often include conditions requiring people to see a particular doctor for a capacity assessment if this is deemed necessary by the manager of the retirement village. This requirement limits opportunities for choice and control, as the person may not be able to see a doctor of their choice. The outcome of the assessment can also lead to the person being asked to leave their home within the retirement village, which, for those who are unable to identify suitable alternative accommodation, has the potential to result in homelessness.

Housing and support services

Roundtable participants also described a lack of interconnectedness of housing and support services as a critical issue. Access to appropriate support services, which is discussed further in another section of this report, can impact the success and sustainability of housing solutions. For example, a person who chooses to live on their own and can find appropriate housing may also require other supports to live independently, such as a support worker. They may also require assistance with activities necessary to maintain their tenancy and upkeep of the property. The case study of Vincent below provides an example of a real situation where appropriate support was needed to maintain social housing.

Similarly, inadequate housing can also impact access to appropriate care and support. Many service providers are unable to provide services unless a person has accommodation (i.e., is not homeless). Furthermore, in many cases, people in need of services are unable to be properly assessed to determine their needs and eligibility to receive services without stable accommodation. As such, a lack of appropriate housing can impact a person's ability to access necessary care and support, which is a particular concern for at-risk adults who may require these supports to maintain their health, independence, and wellbeing.

Appropriate housing and necessary care and support are required to enable at-risk adults to maintain their preferred housing arrangements and support optimal health, wellbeing and independence.

[124] C. Wright, H. Zeeman, E. Kendall, and J. Whitty, 'What housing features should inform the development of housing solutions for adults with neurological disability?: A systematic review of the literature', *Health & Place*, 46, 2017, pp. 234-248.

Case study: Vincent

Vincent is 42 years old and has lived for many years in social housing in a regional area of Queensland. Vincent was born with a brain injury, which has impacted his behaviour and self-management skills.

Issues with hoarding and squalor in Vincent's home were identified by social housing officers. As a result, Vincent was issued with a notice to leave the house.

The Public Guardian is appointed as a decision-maker for Vincent, so housing officers contacted the Public Guardian to advise them of the situation. The Public Guardian then contacted a tenancy support program with the aim of having the unit cleaned to help Vincent sustain his tenancy.

Upon receiving the referral, the tenancy support worker realised that the case was complex due to Vincent's hoarding behaviours. While cleaning the unit was important, they noted that simply entering and cleaning the unit without the inclusion of other supportive interventions could cause significant distress and potentially further escalate behavioural and mental health concerns for Vincent. It was also likely to provide a short-term solution only and would not ensure Vincent had the support necessary to maintain his tenancy over the longer term. The tenancy support worker then referred Vincent to a care coordination program.

Vincent's care coordinator arranged a care panel meeting with key organisations and stakeholders involved in Vincent's support, and also invited Vincent's guardian to attend. Most people at the meeting agreed that due to the complex nature of hoarding behaviours and Vincent's brain injury, cleaning the unit alone was not the most appropriate course of action. It was suggested that Vincent should also apply to participate in the National Disability Insurance Scheme (NDIS) to ensure access to care and support, which would also help him to sustain his tenancy. Vincent does not currently receive any care or support and would potentially be eligible for the NDIS. The Public Guardian requested medical records from Vincent's general practitioner to support the NDIS application, however the general practitioner did not respond to these requests. As a result, they were not able to obtain the information necessary to support Vincent's NDIS application.

The care coordinator reached out to Queenslanders with Disability Network (QDN) to see if Vincent could receive assistance through the Targeted Outreach Program. The Targeted Outreach Program provides people with individual support to access the NDIS through the Disability Connect and Outreach Program Assessment and Referral Teams. This has enabled Vincent to be linked in with additional health services, including a general practitioner, who was able to provide relevant documentation to demonstrate diagnosis of Vincent's disability. This documentation was collated and sent through to the Queensland Government's Assessment and Referral Team to assist in the development of Vincent's Access Request Form, which was then submitted to the NDIS National Access Team.

QDN has recently been notified that Vincent has gained access to the NDIS. Although Vincent's situation has not yet been fully resolved, QDN and the case coordination team have played a pivotal role in accessing appropriate supports for Vincent where traditional systems have failed.

The importance of housing for adult safeguarding

Roundtable participants often emphasised the importance of appropriate housing for at-risk adults and described a range of negative consequences for those living in inappropriate housing. In situations where limited housing stock and issues with affordability prevent people from accessing appropriate housing or accommodation, at-risk adults may be forced to live in housing that does not meet their needs. For example, roundtable participants described situations where people were living in accommodation that did not meet their functional or accessibility requirements, where they felt unsafe, or where people were going without food to ensure that they were able to

pay their rent. There is also a significant risk of homelessness for people who are unable to secure appropriate accommodation.

A lack of appropriate housing also impacts timely transition to living in the community, including after a stay in hospital or following release from prison. For example, participants from the first Brisbane roundtable explained that for some people such as those who were participating in rehabilitation following an acquired brain injury, a lack of available, appropriate housing could lead to long stays in hospital and delayed discharge until suitable housing could be located. This issue is discussed further in the section on supports for community reintegration.

A lack of suitable housing options also limits opportunities for people to exercise choice and control over their lives. In addition to impacting choices relating to the type and location of housing, it can also limit opportunities for people to choose who they live with.

Potential consequences for at-risk adults

At-risk adults require timely access to appropriate, affordable housing that meets their individual needs and preferences. Inappropriate housing arrangements can contribute to a range of concerns, including issues accessing adequate care and the support needed to maintain wellbeing and quality of life, reduced participation in the community and everyday activities, reduced independence, and poorer health and wellbeing. It can also increase the risk that a person will experience violence, abuse, neglect, or exploitation. A lack of suitable options also means that people may have limited choice and control over the type and location of their accommodation and who they live with. Those who are unable to secure appropriate housing may be at risk of homelessness.

Separation of housing and support services

Key issue raised: There is a need for greater separation of tenancy and other support services provided under the NDIS to prevent conflicts of interest for service providers and ensure greater choice and control for NDIS participants.

Background

Under the NDIS, eligible participants can receive funding for SDA, which is housing designed to meet the needs of people with extreme functional impairments or high-level needs. SDA funding covers the property only ('bricks and mortar') and does not include rent or other day-to-day expenses, for which participants are required to pay. SDA is paid directly to SDA providers for building and maintenance costs.

Separate to SDA funding, NDIS participants may also receive funding for Supported Independent Living (SIL), which enables people to access necessary assistance and supports to assist them to live day to day. Many people who require SDA may also require SIL, however not all people who require SIL will need SDA.

Currently, if an NDIS participant is eligible to receive both SDA and SIL, funding will be provided separately within their plan. If a single service provider is providing both SDA and SIL for an individual, they are required to have a separate service agreement for each. While the NDIA encourages separation of housing and disability services because of the conflict of interests that can create for service providers, it is not currently a strict requirement under the Scheme.

The NDIS Practice Standards and Quality Indicators state that:

> The participant's housing rights, including security of tenure, are upheld, irrespective of any decision/s the participant makes about the provision of other NDIS supports within the specialist disability accommodation dwelling (notwithstanding any matters covered by the specialist disability accommodation service agreement).[125]

In areas where markets are thin or where there is legacy housing stock managed by service providers there appears to be a high incidence of service providers acting as both landlords and service providers.

Stakeholder feedback

Roundtable participants described the importance of the separation of housing and support services under the NDIS to provide greater protections for NDIS participants and ensure they are able to exercise choice and control.

Across the consultations, several participants described situations where NDIS participants had felt unable to freely choose their SDA and support service providers due to a lack of separation of these services. For example, roundtable discussions included situations where people who were receiving supports and SDA from the same provider had been asked to leave their accommodation when they indicated their preference to choose an alternative SIL service provider. Participants at one of the lived experience discussions also described situations where people had felt pressured by service providers to agree to allow the SDA service provider to deliver other NDIS supports. Some arrangements may also see SDA providers select a preferred support service provider, with NDIS participants only able to choose that SDA if they also agree to the selected service provider.

A key concern that has prevented separation of housing and support services is the potential impact on the SDA market. There is currently an unmet need for SDA, and there are concerns that greater separation of housing and support services may discourage investment in housing, further exacerbating this issue.

Instead, to address this potential conflict of interests, providers have been required to establish conflict resolution processes to manage any issues that may arise.

However, roundtable participants suggested that further separation of housing and support services should be required to avoid conflicts of interests and to support greater choice and control by participants. The Summer Foundation notes that separation of housing and support services also promotes great clarity for NDIS participants about the roles and boundaries of their service providers and greater accountability for service providers.[126]

Recent changes to the NDIS may help to address potential conflicts of interests, however reforms will be explored in more detail in Volume Two of this report.

Potential consequences for at-risk adults

The absence of enforceable requirements for the separation of housing and support services enables situations where at-risk adults approved to receive SDA under the NDIS can be at greater risk of reduced choice and control over their service providers and accommodation. This may result in fewer safeguards being in place to ensure the provision of timely, responsive, and high-quality services. NDIS participants in accommodation where a single service provider delivers accommodation and support services are also potentially at risk of homelessness and termination of their supports should they wish to choose alternative service providers.

[125] NDIS Quality and Safeguards Commission, *NDIS Practice Standards and Quality Indicators*, Version 4, 2021, p.38.
[126] A. Crabb, *Separating Housing and Support Services - A Toolkit for Providers*, Summer Foundation, Melbourne, 2017.

Supporting the transition to the community

Key issue raised: A person's transition to the community from settings such as hospitals and prisons can be negatively impacted by challenges with interfaces between systems, access to timely supports, and the availability of stable, appropriate housing.

Background

While the focus of this project is at-risk adults living within the general community, there was significant discussion among roundtable participants about the safeguarding risks associated with a person's transition to the community from settings such as hospitals and prisons. Many of the issues raised in relation to community reintegration have been discussed elsewhere in this report (e.g., access to necessary supports, housing, and interfaces between systems). However, this point of transition was described by numerous roundtable participants as a critical stage in a person's life and one which could significantly influence their health, wellbeing, and ability to remain in the community.

Stakeholder feedback

Timely access to supports and services

Roundtable participants noted that a key risk for people returning to the community was the waiting periods for supports to commence or be re-instated. For example, they described situations where people had needed to wait for their Disability Support Pension to be re-instated, for NDIS assessments to take place, and for support services to commence. As a result, during this time, people may have limited money and access to necessary supports for day-to-day living.

During the discussions it was noted that early planning for transitions, coordination of support and timely commencement of supports are critical to supporting a successful transition back to the community. Programs such as the Community Re-Entry Service Team, Throughcare, and the MARA program have been implemented in various locations across Queensland to provide people with support pre and post release from prison to help them to successfully transition back to the community and address risk factors that can contribute to reoffending.

Issues with interfaces between systems were also identified as a contributor to challenges during transitions to the community. For example, several participants noted a lack of services to assess eligibility for NDIS in prisons. Others described challenges with a lack of communication and coordination between the systems, noting that corrective services can sometimes move people or change their release date (making it either earlier or later) without notifying the NDIS, impacting the person's ability to access required services as planned.

Accommodation

Access to appropriate, affordable housing was also reported as a critical issue for enabling timely, successful transition to the community.

Housing was considered a particular concern for people leaving prison as it is a condition of release on parole. Participants from the second Brisbane roundtable noted that challenges associated with finding suitable, stable accommodation, when experienced in combination with other issues such as limited money and lack of positive support networks, can contribute to reoffending.

Similar challenges were identified in a research project conducted in New South Wales, Victoria and Tasmania, which also reported that finding appropriate accommodation can be challenging

for people who have been released from prison.[127] Additionally, the study highlighted the importance of suitable housing, finding that access to public housing was associated with improved outcomes, with those who were allocated public housing reporting an 8.9 per cent reduction in police incidents and a 7.6 per cent reduction in court appearances per year, leading to reduced justice costs of $4,996 per person initially, followed by a further $2,040 per year.

Availability of appropriate housing was also noted as a concern for people seeking to return home following a stay in hospital. For example, people with a recently acquired disability such as a brain injury often spend time receiving acute care in a hospital setting, and depending on their needs, may also undergo sub-acute inpatient rehabilitation. Following this period of treatment and rehabilitation, the individual would ideally be discharged and return to living in the community, receiving outpatient and outreach services to support their transition and continued long-term community rehabilitation services if required. However, as noted by roundtable participants, a lack of appropriate and affordable housing options can result in delayed discharge or discharge to inappropriate accommodation.

Several roundtable participants suggested that transitional housing may, in some circumstances, assist timely hospital discharge. Transitional housing could potentially operate to alleviate pressure on hospital beds and provide housing, rehabilitation and reablement services where people are waiting for an NDIS plan to be finalised, waiting to enter residential aged care, or waiting to potentially be assessed for an aged care home care package.

For example, under the NDIS, Medium Term Accommodation (MTA) can be funded for up to 90 days for people who are waiting for disability-related supports to enable them to move into their long-term housing solution.[128] This could include waiting for housing modifications to be completed, assistive technology to arrive, or confirmed SDA to become available.

A recent report from the University of South Australia examined MTA supports and found that while the purpose and operation of the program were not always clear, it was still valued by the disability sector.[129] The factors found to have the most impact on the ability to access MTA funding for eligible participants were the NDIS processes (e.g., a lack of understanding about the support and difficulty getting MTA funding in participants' plans) and a lack of suitable MTA options across Australia.

The Summer Foundation notes that the limited eligibility criteria for MTA, which restricts funding to people who have confirmed long-term housing only, means that people can have prolonged stays in hospitals, residential aged care or other settings waiting for long-term arrangements to be confirmed, prior to accessing funding for MTA.[130] They also note the need for long-term housing to be secured early, and timely SDA determinations to prevent people from becoming 'stuck' in unsuitable environments.

Some roundtable participants also reported that a challenge with transitional housing is that, unless suitable long-term housing options are also available, people can become 'stuck' in these transitional arrangements. This creates a similar situation to that experienced in hospitals and limits access to transitional housing for the next group of people who require these services.

Consequently, transitional housing and funding for transitional housing does not resolve the issue of availability of affordable, appropriate housing to support community reintegration over the longer term. However, it may support some adults who are waiting for long-term housing to become

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[127] C. Martin, R. Reeve, R. McCausland, E. Baldry, P. Burton, R. White, and S. Thomas, *Exiting prison with complex support needs: the role of housing assistance*, AHURI Final Report No. 361, Australian Housing and Urban Research Institute Limited, Melbourne, 2021.

[128] National Disability Insurance Agency, *Medium term accommodation* (2022) <https://ourguidelines.ndis.gov.au/supports-you-can-access-menu/home-and-living-supports/medium-term-accommodation>.

[129] D. Faulkner, K McKinley, L. Lester, A. Beer, I. Goodwin-Smith, C. Ellison, D. Price, *Medium Term Accommodation for NDIS participants: Final Report*. The Australia Alliance for Social Enterprise, University of South Australia, Adelaide, South Australia, 2021.

[130] Summer Foundations, *Medium Term Accommodation Eligibility, Funding and Quality to meet the needs of NDIS participants,* position statement, Summer Foundation, 2021.

available, or waiting for housing modifications to be completed, to experience a timely discharge from hospital and not be at risk of re-admission to hospital or homelessness.

Potential consequences for at-risk adults

Access to necessary services, supports and housing is critical to timely, successful transition from settings such as hospitals and prisons to the community. A lack of support during this time can contribute to an increased length of stay in hospitals, discharge to accommodation that does not meet a person's needs or preferences, or recidivism.

Decision-making

Key issue raised: A lack of understanding about decision-making ability, the role of appointed decision-makers and assessment of decision-making ability can lead to decisions being made for, instead of with, adults with impaired decision-making ability. Navigation of guardianship systems can also be challenging and stressful for those involved.

Background

There are a range of conditions that may affect a person's decision-making ability. These include intellectual disability, acquired brain injury, mental illness, neurological disorders (e.g., dementia), and substance use disorders. While not all people with these conditions will experience impaired decision-making ability, it is likely that many may do so. For some adults, impaired decision-making might be episodic or temporary. Some adults may require intensive decision-making supports at specific times, while others may require lifelong support with decision-making and communicating their choices and decisions. A person may also require decision-making support for some types of decisions, but not for other types.

Many people with impaired decision-making ability are subject to guardianship or administration orders or have an activated enduring power of attorney (EPOA). A guardian, administrator, or attorney acts as a person's substitute decision maker, being legally able to make decisions for a person with impaired decision-making ability.

There is increasing recognition that the focus of decision-making must shift from substitute decision-making by a third party (administrator, guardian, attorney) to the supports that should be provided to enable people to make decisions for themselves and exercise their legal capacity.

This shift in contemporary thinking is clearly articulated in Article 12 of the UNCRPD:

> Article 12- Equal recognition before the law
>
> 1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
>
> 2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
>
> 3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
>
> 4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or

judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.[131]

Amendments to Queensland's *Guardianship and Administration Act 2000* came into effect on 30 November 2020.[132] The amendments included an update to the general and health care principles in the Act to improve alignment with human rights and the UNCRPD. They also place a stronger emphasis on participation in decision-making for adults with impaired decision-making ability.

The current project focuses on safeguarding of 'at-risk' adults, some of whom may experience impaired decision-making ability at some point in their lives. However, it should be noted that not all 'at-risk' adults will have impaired decision-making ability, and not all adults with impaired decision-making ability will come within the definition of 'at-risk' used within this project. The focus of this section of the report is adults who could be considered 'at-risk' with impaired decision-making ability.

Stakeholder feedback

Supporting and enabling decision-making

Across the roundtables and lived experience discussions, participants highlighted the importance of understanding a person's decision-making ability and how to best support them to make decisions, including involving them in decision making regardless of whether they have a guardian, attorney or administrator. They also described the importance of safeguarding responses that enable supported decision-making wherever possible, rather than substitute decision-making.

The case study of Nicholas (below) provides an example of how supported decision-making, rather than substitute decision-making, can enable a person to participate in the process and ensure decisions are made that reflect their wishes and preferences.

In response to the hypothetical scenarios presented, participants at the first Brisbane roundtable noted that the initial response to these challenging situations can be to remove decision-making authority from the at-risk adult to protect them. They emphasised that the least restrictive options should be considered first, and supported decision-making should be encouraged wherever possible.

Participants in the lived experience discussions described the importance of 'dignity of risk', that is, allowing people to make decisions that others may consider 'poor decisions' or not agree with. One advocate described a situation they had experienced where an adult made a decision with which their family and general practitioner (GP) did not agree. However, instead of discussing this decision with the individual, their GP proceeded to complete tests concerning their decision-making capacity and did not tell the adult about the purpose of these tests. In this situation, the advocate felt that if their family or GP had discussed the issue with the adult first, instead of assuming issues with capacity, that they would have been able to explain the reasoning behind their choices.

Participants in the lived experience discussions suggested that more support was needed to assist people to develop their skills in making decisions and communicating their wishes and preferences.

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[131] United Nations, *Convention on the rights of persons with disabilities,* GA Res 61/106, 76th plen mtg, UN Doc A/RES/61/106 (adopted on 13 December 2006) article 12.

[132] Queensland Government, *Changes to guardianship laws and forms* (30 November 2020) <https://www.qld.gov.au/law/legal-mediation-and-justice-of-the-peace/power-of-attorney-and-making-decisions-for-others/guardianship-changes>.

Case study: Nicholas

Nicholas had recently moved to Queensland from Melbourne, where he was a well-respected leader of a church with many friends and family. He was a very generous person and a businessman who enjoyed making deals with people and managing his finances.

Nicholas had a terminal illness, which, according to his doctor, had resulted in cognitive impairment, however he did not accept that his cognitive skills had been affected. The Public Guardian and the Public Trustee had been appointed as his guardian and administrator.

English was a second language for Nicholas, and while he made his views and goals clear, it was not always clear how to go about achieving these aims.

Nicholas's wish was to remain in his own home and receive care, including end-of-life care. He was paying a significant amount of money for this care, which had used up most of his cash reserves. To help pay for the ongoing cost of his care, Nicholas wanted to sell a block of land that he owned.

Aged and Disability Advocacy Australia was appointed as Nicholas's tribunal representative for a QCAT hearing to determine if he was able to sell the land to pay for his care.

The Public Trustee were trying to have the land valued. However, as the government had reclaimed part of the land for a path, the block of land was not worth as much as Nicholas had thought. Nicholas was trying to fight the decision and tried to put the land up for auction himself.

Both the Public Guardian and Nicholas's health care team were advocating for a supported decision-making model to resolve this issue. Fortunately, this is what occurred.

QCAT agreed that, in line with his expressed wishes, Nicholas could sell the land. Nicholas's service providers agreed to continue providing services until the land was sold, at which point Nicholas was able to pay them for services provided during that period.

Documenting wishes and preferences

Roundtable participants described the importance of completing EPOAs and Advance Healthcare Directives early so that, if a person loses the ability to make decisions, the decisions made on their behalf are guided by their wishes and preferences. They noted that there is a lack of awareness and understanding of these documents amongst the community and that more education is needed to encourage people to document their preferences early, as these documents must be completed while a person has decision-making capacity.

Participants also noted that it was unclear who should be having conversations with people about these documents. Some suggested that general practitioners could be having early conversations with people, as they may be familiar with individuals and their situation. However, it was noted that this is not funded by Medicare, and that conversations about wishes and preferences often require longer discussions, which may be difficult to fit within typical healthcare appointments (10-15 minutes in length).

In relation to other issues associated with enduring documents, participants suggested that to help prevent misuse of EPOAs, further education is required to support people to understand the role of an attorney, what powers they hold, and what obligations they have, including involving the individual to the greatest extent possible in any decisions being made on their behalf.

Understanding and assessing decision-making ability

Several roundtable participants reported that there is a general lack of understanding about decision-making ability and how this should be assessed in the community, including amongst

services and agencies which may interact with people in this cohort. For example, a lived experience advocate recounted an experience in which they were told by a lawyer that people with a diagnosis of dementia do not have decision-making capacity. Participants noted that it was important that people were made aware that decision-making ability can change and fluctuate, and that capacity to make decisions can also be dependent on the decision being made.

Participants at the Townsville roundtable also noted that clinicians and other people working in the community can often identify people whose decision-making ability may begin to decline, however there is no pathway to address these concerns until the person concerned has lost decision-making capacity or other problems arise.

Appointment of decision-makers

For adults who require assistance from an appointed decision-maker but do not have an EPOA, applications can be made to QCAT for the appointment of a guardian (e.g., a private guardian or the Public Guardian) or administrator (e.g., a private administrator or the Public Trustee). Roundtable participants noted that this process can be challenging to understand and navigate for people, and that support may be required; for example, assistance from an advocate. The case study of Hailey (below) provides an example of a real situation where the guardianship process was challenging and stressful for those involved.

Participants also discussed the increased case load of the Public Guardian, suggesting that pressure on the system had resulted in delays in decision-making for those under its guardianship. Participants noted that this increased pressure may be, at least in part, due to the NDIS requirements that an eligible individual can only be provided with an NDIS package if they are able to make decisions or have a person who can do this on their behalf. Participants reported that as a result, people had been seeking to appoint the Public Guardian for NDIS-related decisions.

The Disability Royal Commission has heard a range of issues relating to guardianship and supported decision making and held two policy roundtables to hear feedback on proposed reforms.[133] Public hearings will be held on these topics in November 2022, with the Commission expected to make recommendations on reform directions in these areas.

Sharing information about decision-makers and preferences

Roundtable participants also noted that, due to challenges with information sharing, it can be difficult to find out whether a person has an appointed guardian or administrator, or what their preferences are for healthcare. For example, situations were described where the QAS responds to an emergency call and may be told different information about a person's preferences or guardianship arrangements by different family members. In this situation, it is difficult for the QAS to confirm the person's decision-making arrangements and preferences, as there is no reliable way to access this information, particularly after hours.

Potential consequences for at-risk adults

If adults with impaired decision-making ability are not included in decision-making wherever possible, the decisions made may not align with their wishes and preferences. In situations where a formal substitute decision-maker needs to be appointed, appropriate support may be required to assist the person to understand and navigate the process, which can be a stressful and confusing experience.

[133] Commonwealth Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Roundtable-Supported decision-making and guardianship: Proposals for reform* (2022).

Case study: Hailey

Hailey is a 24-year-old woman who has an intellectual disability. Hailey also has a substantial National Disability Insurance Scheme (NDIS) package enabling her to access necessary care and support.

For most of her life Hailey was in the care of child protective services. When she turned 18 years old, Hailey was subject to a guardianship and administration order appointing the statutory entities as her guardian and administrator. Not long after this appointment, Hailey's brother sought to be appointed as Hailey's guardian and administrator in place of the statutory entities. Hailey's brother was her only living relative and they had a close relationship.

Due to tension between Hailey's brother and the NDIS service provider at that time, the NDIS service provider made interim and substantive applications to the Queensland Civil and Administrative Tribunal (QCAT) seeking to have him removed as her substitute decision-maker. To support this application, Hailey's service provider used material that had been obtained for the purpose of her NDIS funding.

QCAT made the interim order, however the substantive application was rejected, with the tribunal finding that Hailey's brother was the most appropriate person for the appointment.

However, almost every year after that, Hailey's service provider made further applications seeking to remove her brother as substitute decision-maker. Each of these applications appear to have been made in instances where there was tension between Hailey's brother and the service provider, or when Hailey's brother was going to change services. In some instances, the applications would be dismissed, but on other occasions, they would be approved, and the statutory entities would be appointed as Hailey's substitute decision-maker for short periods of time.

The disruption and continual QCAT proceedings were a significant source of stress and anxiety for Hailey. Sometimes Hailey's service provider and guardian would limit her contact with her brother. These experiences also contributed to a fracturing of her relationship with her brother at times.

Queensland Advocacy for Inclusion (QAI) was appointed as Hailey's separate representative at her most recent hearing. However, due to the short amount of time available, QAI found that it was challenging to engage with Hailey in a meaningful way to fulfill the role of a separate representative. Hailey also received 24 hour supports, creating further challenges for engaging in independent, private discussions.

At the most recent hearing where QAI assisted Hailey, her brother was again removed as her substitute decision-maker and the statutory entities were reappointed.

Developing, strengthening, and maintaining informal safeguards

Key issue raised: Informal safeguards such as supporting an individual to build their skills, develop and maintain their personal relationships and connections to the community, supporting informal carers, and ensuring more inclusive communities, are critical to empowering at-risk adults and strengthening formal safeguards.

Background

Many of the safeguarding responses discussed in this report focus on formal safeguards, however a strong safeguarding response must also consider informal safeguarding.

In the Safeguards and Quality Issues Paper, the Disability Royal Commission distinguishes between these two types of safeguards:

> Informal safeguards include self-advocacy and building a network of trusted relationships. Formal safeguards include legislative and administrative requirements, policies and practices, organisational culture, complaint processes (including within organisations and to external bodies like the police) and regulatory oversight of service providers' staff.[134]

Importantly, the Commission notes that it is a combination of both informal and formal supports that may provide the strongest safeguards for at-risk adults.

Stakeholder feedback

Across the roundtables, participants described the importance of supporting at-risk adults to implement and maintain a range of informal safeguards to complement formal safeguarding responses. There are several ways this can be achieved, including supporting individuals to develop their skills, build and maintain their interpersonal relationships, support networks, and connection to the community, and working towards a more inclusive community.

Building an individual's skills

Participants highlighted the importance of empowering at-risk adults by supporting them to build their skills and independence. Specific suggestions, some of which have also been noted in previous sections of this report, include access to education on identifying and reporting issues such as abuse, finances and budgeting, cyber security, and documentation of preferences through advance care planning. Education and training, and opportunities to practice these skills, can assist at-risk adults to be supported to make choices, exercise greater autonomy and independence, participate in the community, and advocate for themselves to ensure their needs are met.

As a participant at one of the lived experience discussions explained:

> If you support people who are vulnerable or live with disability, or safeguard them, in the areas of employment, housing and independence, then they will safeguard themselves, I believe. They will have the resources and the tools to find ways to safeguard themselves and protect themselves and to have a better life.

[134] Commonwealth Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Issues paper: Safeguards and Quality* (2020) p.2.

Supporting informal carers

Roundtable participants also described the important role of informal carers, that is, family, friends, or neighbours who provide unpaid care and assistance. In Queensland, it is estimated that almost 11 per cent of the population were carers in 2018.[135] Informal carers can act as an important informal safeguard, providing critical care and support, helping to identify potential safeguarding issues, and assisting people to advocate to ensure their needs are met.

Caring for or supporting a person with disability, a health condition, mental health issues, or who is elderly can be challenging, and can affect many aspects of a person's life including their employment, education, finances, social networks and health and wellbeing. Roundtable participants noted that support for informal carers and family is critical to enabling people to maintain these important roles, however there is often only limited support available for carers.

Developing and maintaining interpersonal relationships, support networks and community connection

In addition to building the skills of the adult, roundtable participants also described the importance of supporting people to develop, strengthen and maintain their relationships and social connections, to promote wellbeing and participation in the community, and help prevent loneliness and social isolation.

While there is no single accepted definition, social isolation can be understood as an objective measure of inadequate contact with others, whereas loneliness refers to the subjective feeling related to having less social connection than desired.[136]

A study on loneliness in Australia conducted by the Australia Psychological Society in collaboration with Swinburne University, found that one in four Australian adults report being lonely, and those who are lonely report significantly worse physical and mental health compared to Australians who felt more connected.[137]

The Aged Care Royal Commission noted that loneliness was a concern for many older adults:

> We heard that for many people, the experience of growing old is a lonely one. It can be isolating to be reliant on others for essential physical and social support. Declining cognition and mobility and increasing frailty can make it harder for those receiving care at home to maintain contact with family and friends. Loneliness and social isolation are often exacerbated by mobility issues and difficulties in accessing transport to leave the house.[138]

Similarly, the Australian Institute of Health and Welfare's report on *People with Disability in Australia 2020*[139] reported that in the last year, around one in three people aged 15 years or over with disability avoided social situations such as visiting friends or family.

Loneliness and social isolation were exacerbated by the COVID-19 pandemic, when restrictions were placed on social gatherings and visits, requirements to isolate for those who had contracted COVID-19, and some people choosing to isolate to prevent infection.

The Queensland Parliament's Community Support and Services Committee conducted an inquiry into social isolation and loneliness to explore this issue in Queensland, noting that a lack of consistent definitions and measures prevents a clear understanding of the prevalence of social

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[135] Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of findings 2018* (24 October 2019) <https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release>
[136] Australian Institute of Health and Welfare, *People with disability in Australia 2020*, AIHW, 2020.
[137] M. Lim, *Australian loneliness report: a survey exploring the loneliness levels of Australians and the impact on their health and wellbeing,* Australian Psychological Society and Swinburne University of Technology, 2018.
[138] Commonwealth Royal Commission into Aged Care Quality and Safety, *Final Report: Care Dignity and Respect – Volume 3A: The New System* (2021) p.93.
[139] Australian Institute of Health and Welfare, *People with disability in Australia 2020*, AIHW, 2020.

isolation and loneliness.[140] The committee made 14 recommendations to improve the understanding of, and services to address, these issues in Queensland, all of which have been supported, or supported in-principle, by the Queensland Government.[141]

To support the maintenance of connections for people at risk, roundtable participants described the importance of considering the impact of any safeguarding response on an adult's personal relationships. They described several situations where safeguarding responses, while aimed at protecting the rights and safety of the at-risk adult, can serve to fracture their relationship with family or friends. In some circumstances, this may be difficult to avoid, for example, where there is elder abuse, and the perpetrator of the abuse is a close family member. However, roundtable participants noted that a positive safeguarding response should be based on a good understanding of the person, their situation, and their preferences, allowing for a nuanced service reaction to ensure the best possible outcome for the adult at the centre of the issue.

Developing more inclusive communities

The right to inclusion in the community for people with disability is included in the UNCRPD, Article 19:

> (b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community.
> (c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.[142]

Participants at the roundtables and lived experience discussions highlighted the importance of creating more inclusive communities that enable at-risk adults to enjoy full participation.

They noted that issues relating to stigma and discrimination, barriers to employment and training, the accessibility of public transport and public spaces, and access to necessary support and services can impact on the participation of the at-risk adults in the community.

The 'Queensland: an age-friendly community - strategic direction statement' and related action plan developed by the Queensland Government outlined actions to reduce the barriers faced by older adults. This includes improvements to transport, public spaces, housing, and employment opportunities.[143] This plan concluded in 2021 however the Public Advocate has been informed by the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships that a Seniors Direction Statement will be released by the Queensland Government shortly, to be followed by a revised plan later in the 2022-23 financial year.

Australia's Disability Strategy 2021-2031 also outlines the commitment by State, Territory and Commonwealth governments to work towards a more inclusive community for people with disability.[144]

Potential consequences for at-risk adults

Informal safeguards, including the development of skills, developing and maintaining personal relationships, and a more inclusive community, can support formal safeguarding arrangements for at-risk adults. A lack of informal safeguards can potentially heighten the risk of vulnerable adults experiencing abuse, neglect and other safeguarding issues identified throughout this report.

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[140] Community Support and Service Committee, Queensland Parliament, *Inquiry into social isolation and loneliness in Queensland*, report no. 14, 2021.
[141] Queensland Government, Report No. 14, 57th Parliament, Inquiry into social isolation and loneliness in Queensland: Queensland Government response, 2021.
[142] United Nations, *Convention on the rights of persons with disabilities,* GA Res 61/106, 76th plen mtg, UN Doc A/RES/61/106 (adopted on 13 December 2006) article 19.
[143] Queensland Government, *Queensland: An age-friendly community- Strategic direction statement,* 2016; Queensland Government, *Queensland: An age-friendly community- Action plan,* 2016.
[144] Department of Social Services, *Australia's Disability Strategy 2021-2031*, Department of Social Services, 2021.

Feelings of loneliness and isolation may also increase susceptibility to mental health issues and exploitation by people who seek to take advantage of those at-risk.

Investigation of adult safeguarding issues

Key issue raised: Gaps in the power and willingness of key agencies to investigate safeguarding concerns can result in harms going unaddressed and situations of abuse, neglect or exploitation continuing.

Background

A critical issue in adult safeguarding relates to the investigation of potential safeguarding issues, including those issues described in previous sections of this report.

The ALRC's elder abuse report identified gaps in adult safeguarding laws and, in particular, gaps in the investigative powers among the various agencies involved, which impacts on the support and protection available to those experiencing elder abuse.[145]

Similarly, across the roundtables and other discussions, participants identified gaps in the investigative powers of agencies in Queensland, impacting on responses to the abuse, neglect or exploitation of at-risk adults.

Stakeholder feedback

Agencies that can investigate safeguarding issues

Roundtable participants noted that there are several agencies that may be involved in investigating adult safeguarding issues, depending on the matter and the adult involved.

The QPS and QAS

As described in previous sections of this report, the QPS and QAS are considered the first point of call for many people in emergency (and in some cases non-emergency) situations, and the QPS has powers to investigate criminal offences.

However, in some situations, for example if someone suspects that a person needs assistance, but there is no clear crime or health emergency, it is less clear which agency (if any) should be called. At several of the roundtables, the hypothetical situation of 'Lee' (see below) was discussed, in which Lee's neighbour has concerns about Lee's safety and suspects he may require care and support to live independently in his home. Roundtable participants who discussed this case noted that, in this situation, as an emergency response is not required, it is not clear who the neighbour should call. In the absence of a clear agency to contact, action may not be taken. This limits opportunities for timely identification of issues and actions to prevent situations from escalating to the point where an emergency response is required.

At the roundtables where the hypothetical scenario of 'Lee' was discussed, participants noted that this was an issue that many people had seen before in the community. At the roundtables where other scenarios were discussed, participants also described similar situations unprompted, where the absence of a clear agency to contact, or lack of knowledge about potential agencies to contact impacts the safeguarding response and related outcomes for at-risk adults.

Stakeholders have also suggested to the Public Advocate that it can be challenging for the QPS to investigate issues such as elder abuse as it can be difficult to obtain the evidence required to prove a criminal offence has occurred. A further challenge is that some at-risk adults, such as those with

[145] Australian Law Reform Commission, *Elder Abuse – A National Legal Response*, ALRC report 131, 2017.

impaired decision-making ability, are sometimes assumed to be an unreliable witness which can prevent an investigation from continuing or charges being laid. This assumption can be based on prejudice rather than evidence.

Hypothetical scenario used at the roundtables: 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.

OPG

The OPG has the power to investigate allegations of abuse, exploitation, neglect and inadequate or inappropriate decision-making arrangements related to adults with impaired decision-making ability.[146]

The Public Guardian's interpretation of its investigative powers under the *Public Guardian Act 2014* includes (but are not limited to, as noted in its 2020-21 Annual Report):

- requiring people to produce financial records and accounts;
- gaining access to any relevant information, such as medical files;
- cross examining witnesses;
- issuing a written notice ordering a person who is non-cooperative to attend OPG offices at a stated time and place, give information, answer questions and produce documents;
- applying for an entry and removal warrant to remove an adult at immediate risk of harm; and
- suspending all or part of an attorney's power.[147]

The Public Guardian will not investigate a matter where the adult has passed away and will cease the investigation upon the death of the individual, except in circumstances where there is an overriding public interest to commence or continue the investigation (e.g., risk to another living adult with impaired capacity, or where the investigation may obtain information to establish whether a referral should be made to the QPS or the Office of the State Coroner).[148]

After an investigation has concluded, The Public Guardian may use their protective powers to assist an adult. This can include:

- suspending an attorney's power under the adult's Enduring Power of Attorney. If the attorney for personal matters is suspended, the Public Guardian is automatically appointed under the legislation as attorney for personal matters for up to three months. If the Public Guardian suspects the attorney for financial matters is not competent or protecting the adult, the attorney's financial powers can be suspended and the Public Trustee acts as financial attorney for the suspension period. The Public Guardian may lift the suspension during the three-month period or apply to QCAT for the tribunal to make a formal decision about whether the enduring power of attorney will continue or whether there is a need for appointing a guardian and/or administrator to replace the enduring document.
- applying to QCAT for a warrant to enter a place to remove the adult who is suspected to be at immediate risk of harm because of abuse, neglect or exploitation.

[146] Office of the Public Guardian, *Annual Report 2020-21*, Office of the Public Guardian, Brisbane, 2021.
[147] Ibid., p.33.
[148] Office of the Public Guardian*, Operationalisation of the investigation power after the death of an adult with impaired capacity,* Policy statement, n.d.

- applying to QCAT seeking the appointment of a guardian and/or administrator for an adult if there is no Enduring Power of Attorney and the current arrangements are not protecting the adult. [149]

Roundtable participants noted that there are some limitations in OPG's investigations function. Firstly, investigations are limited to adults with impaired decision-making capacity. Many at-risk adults do not have limited decision-making ability, meaning that OPG can investigate issues only for a targeted cohort.

Participants also noted that the number of cases OPG can investigate is limited due to the resources available for this service, and that many of the cases investigated focus on misuse of EPOAs. In 2020-21, OPG opened 316 investigations into abuse, neglect or exploitation of adults with impaired decision-making capacity, with a total of 373 active investigations as of 30 June 2021.[150] In almost half of the cases (47%), the decision-maker being investigated was appointed via an EPOA.

NDIS Quality and Safeguards Commission

For people who are NDIS participants, the NDIS Quality and Safeguards Commission can investigate complaints against providers delivering services to NDIS participants and reported non-compliance with NDIS Practice Standards, the NDIS Code of Conduct and other quality and safeguarding requirements.[151]

This can include:

- whether a registered NDIS provider is complying with the conditions of their registration
- whether an NDIS provider, or a person employed or otherwise engaged by them ('a worker'), is complying with the NDIS Code of Conduct
- whether a registered NDIS provider is complying with the NDIS Practice Standards
- where a person is subject to a banning order, whether the person is providing supports or services in contravention of that order.[152]

The NDIS Quality and Safeguards Commission has powers to obtain information to assist with investigations, including:

- requests for voluntary production of documents or information
- requesting the production of, and taking extracts from or copies of, documents when entering premises under consent under the *Regulatory Powers (Standard Provisions) Act 2014 (Regulatory Powers Act)*
- executing monitoring or investigation warrants under the Regulatory Powers Act
- using statutory powers under the *NDIS Act 2013*. [153]

During the lived experience discussions, participants noted that a principal method for raising safeguarding issues was via making a complaint, however NDIS participants and their supporters may be deterred from making a complaint due to fear about services or support being impacted, or because of the fear of there being a reprisal. This may prevent some people from raising issues for further investigation by the NDIS Quality and Safeguards Commission. In addition, some people may have limited ability themselves to articulate and lodge a complain

[149] Office of the Public Guardian, *What powers of investigation do we have?* <https://www.publicguardian.qld.gov.au/investigations/our-investigations-process/what-powers-of-investigation-do-we-have>.
[150] Office of the Public Guardian, *Annual Report 2020-21*, Office of the Public Guardian, Brisbane, 2021.
[151] NDIS Quality and Safeguards Commission, *Our powers to investigate*, Fact sheet, 2019.
[152] Ibid., p.2
[153] Ibid., p.2.

All NDIS service providers and workers, both registered and unregistered, must deliver services in line with the NDIS Code of Conduct, which requires them to:

1. act with respect for individual rights to freedom of expression, self-determination, and decision-making in accordance with relevant laws and conventions;
2. respect the privacy of people with disability;
3. provide supports and services in a safe and competent manner with care and skill;
4. act with integrity, honesty, and transparency;
5. promptly take steps to raise and act on concerns about matters that might have an impact on the quality and safety of supports provided to people with disability;
6. take all reasonable steps to prevent and respond to all forms of violence, exploitation, neglect, and abuse of people with disability; and,
7. take all reasonable steps to prevent and respond to sexual misconduct. [154]

The Australian Government undertook consultation in late 2021 on the alignment of regulation across the care and support sectors, including the disability, aged care and veterans' care sectors. This included seeking feedback on the development of a care and support sector Code of Conduct. The findings from this consultation are yet to be released at the time of writing this report.

Registered service providers are also required to have an incident management system and to notify the NDIS Quality and Safeguards Commission of all reportable incidents connected with services or supports received under the NDIS, including:

- the death of a person with disability
- serious injury of a person with disability
- abuse or neglect of a person with disability
- unlawful sexual or physical contact with, or assault of, a person with disability
- sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person
- the use of restrictive practices in relation to a person with disability that is unauthorised use or not in accordance with a behaviour support plan.[155]

As described in the NDIS service provision section of this report, roundtable participants noted that there is significantly less oversight and accountability for unregistered service providers compared to registered service providers.

Additionally, they noted that the NDIS Quality and Safeguards Commission investigations can often take a long time to complete, during which a person may experience further issues and their situation may further deteriorate.

Aged Care Quality and Safety Commission

For adults receiving home care services through the aged care system, the Aged Care Quality and Safety Commission has power to:

> independently accredit, assess and monitor aged care services subsidised by the Australian Government, conduct home care investigations and determine provider compliance including whether any requirements or sanctions need to be imposed.[156]

The Serious Incident Response Scheme operated by the Aged Care Quality and Safety Commission will soon be expanded to include home care, in addition to residential aged care providers. This scheme will require home care providers to report particular incidents. While further information is yet to be released, it is anticipated that this will require the reporting of incidents like those required

[154] NDIS Quality and Safeguards Commission, *The NDIS Code of Conduct: Guidance for NDIS service providers*, 2019, p.5.
[155] NDIS Quality and Safeguards Commission, *Reportable incidents: Detailed guidance for registered NDIS providers*, 2019, p.5.
[156] Aged Care Quality and Safety Commission, *About us* (26 November 2021) <https://www.agedcarequality.gov.au/about-us>.

to be reported within residential aged care facilities, including neglect, abuse, and the inappropriate use of restrictive practices.

Investigation of complaints about health practitioners

In Queensland, the Health Ombudsman conducts investigations into individual health practitioner misconduct, or where a health practitioner is alleged to pose 'a serious risk to persons'.[157] The Health Ombudsman can also investigate health services or facilities to determine if there are systemic issues affecting health service provision or quality.

For issues involving the misconduct of health practitioners, complaints can also be made to the Australian Health Practitioner Regulation Agency, which works with the National Boards to regulate registered health practitioners in Australia and can investigate complaints about registered health practitioners.[158]

Gaps in the investigation of safeguarding issues

As noted above, there are several agencies that have powers to investigate safeguarding issues faced by at-risk adults. However, roundtable participants noted that, as each agency will only investigate in certain circumstances, it can be difficult for people to know where to report their concerns. Additionally, roundtable participants described agencies taking a narrow approach to interpreting the issues that can be investigated. This can create further gaps and frustration for at-risk adults trying to navigate these processes, where they may have to repeat their story several times to different agencies as they try to find the correct agency to address their concerns.

In particular, it is not clear which agency should address concerns that are not emergencies but where an investigation is required to determine if the at-risk adult requires assistance, and the type of assistance required.

Potential consequences for at-risk adults

It is critical that there are clear pathways for the reporting and investigation of safeguarding issues for at-risk adults. Gaps in investigation powers and the focus of key agencies can lead to issues such as abuse, neglect (including self-neglect) and exploitation not being addressed.

[157] Office of the Health Ombudsman, *Investigations* < https://www.oho.qld.gov.au/investigations>.
[158] Ahpra & National Boards, *Regulatory guide*, 2022.

Conclusion

This report has identified a range of safeguarding concerns for at-risk adults raised by stakeholders who participated in consultations conducted by the Public Advocate for this project.

Issues identified have included growing concerns about the prevalence of elder abuse, financial abuse and scams, access to necessary supports and services, challenges navigating complex systems, limited availability of appropriate housing, gaps in responses to at-risk adults in crisis and during natural disasters or emergencies, and gaps in the investigation powers of various safeguarding agencies.

Based on the findings from this consultation, the second volume of this report will detail recommendations to strengthen the safeguarding system for at-risk adults across Queensland.

Appendix A – Roundtable attendees and consultation participants

Aboriginal and Torres Strait Islander Legal Service
Acquired Brain Injury Outreach Service
Aged and Disability Advocacy Australia
Aged Care Quality and Safety Commission
AMPARO Advocacy
Anglicare Southern Queensland
Australasian Society for Intellectual Disability
Australian Red Cross
Bidgerdii Community Health Service
Capricorn Citizen Advocacy
Carers Queensland
Caxton Legal Centre
CentacareCQ
Centacare North Queensland
Central Queensland Community Legal Centre
Central Queensland Hospital and Health Service
Churches of Christ Seniors and Aged Care Service
Community Living Association
Community Resource Unit
COTA Queensland
Darling Downs Health
Dementia Australia
Dementia Australia Advocates (lived experience)
Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships
Diversicare
Elder Abuse Prevention Unit
Gold Coast Community Legal Centre
Gold Coast Health
Gold Coast Seniors Roundtable Committee
Independent Advocacy NQ
Jimaylya Topsy Harris Centre
Leading Age Services Australia
Legal Aid Queensland
Metro North Health and Hospital Service
Metro South Health
Mount Isa Community Development Association
Mount Isa Housing Service Centre
National Disability Insurance Agency
National Disability Services
National Injury Insurance Agency Queensland
NDIS Quality and Safeguards Commission
North West Remote Health
Northern Queensland Primary Health Network
Office of the Public Guardian
Older Person's Mental Health Service, Townsville Hospital and Health Service
Palm Beach Neighbourhood Centre
People with Disability Australia
Professional Disability Development Supports and Services
Queensland Advocacy for Inclusion
Queensland Ambulance Service
Queensland Human Rights Commission
Queensland Mental Health Commission
Queensland Police Service
Queenslanders with Disability Network
Queenslanders with Disability Network Consultants (lived experience)
Recovery Coach Tree
Relationships Australia
Respectability
Royal Flying Doctors Service
Speaking Up For You
Sunshine Coast Citizen Advocacy
Sunshine Coast Council
Sunshine Coast Hospital and Health Service
Supported Accommodation Providers Association
Strategic Policy and Legal Services, Department of Justice and Attorney-General
Synapse
TASC
Tenants Queensland
The Public Trustee
Townsville City Council
Yellow Bridge

Appendix B – Hypothetical scenarios used for the roundtables

Please note: These are hypothetical cases drawn from real situations identified in published papers and reports, and through discussions with key stakeholders. Some images have been used multiple times with different pseudonyms used.

Janet

Janet, an older woman in her 80s, is accompanied at the bank by her son. They withdraw a large amount of money from Janet's account. This is not the first time that Janet and her son have withdrawn a significant amount of money at once, and the bank manager is concerned about potential financial abuse but has no evidence of this.

Mike

Mike has an intellectual disability and used to live with his mother, who did the cooking and cleaning and supported Mike to play tennis at the local tennis club. Since Mike's mother passed away around a year ago, Mike refuses to leave the house. He orders fast food to be delivered for each meal and has been eating french fries for most meals. Mike has not been cleaning the house and take-away containers with half-eaten food have been left all over the house, leading to cockroaches and other bugs being in the house. Mike is eligible to receive support for everyday activities but has refused these services on several occasions.

Troy

Troy sustained a severe traumatic brain injury as a result of a motorcycle accident three years ago and, following inpatient rehabilitation, returned home to live with his parents. Troy has high care needs that his parents are unable to meet on their own, so he also receives several hours of formal support each week for activities such as showering, meal preparation, and taking his medication. Recently, Troy's support workers have reported that Troy becomes frustrated and agitated when they enter the room and has been yelling and hitting people when they get close to him. His support workers report that this has been happening more frequently and they have become concerned about their safety when working with Troy. One Friday afternoon, Troy's service provider informs his parents that due to Troy's challenging behaviours and the risk to staff, they will no longer be providing services. Troy's parents are worried about finding a new service provider and are not sure how Troy's care needs will be met in the meantime.

Leon

Leon lives in his own home with one of his adult children, Sam. Recently, when Leon's support workers arrive to help him with daily activities like showering and preparing meals, Sam has been sending them home and telling them that he has already supported his father with those activities. When Leon's son, Alex, came to visit, Leon told him that he sometimes goes several days without showering and that he doesn't want Sam to live with him anymore.

Jackson

Jackson and his wife Heather are walking through a busy shopping centre when Jackson becomes distressed and starts grabbing Heather's arm. When Heather pushes his hands away, he starts to grab her arm harder. Heather asks Jackson to stop, but Jackson continues to grab her arm. Heather becomes visibly upset and is loudly telling him to let go of her arm. A staff member in a nearby store calls the police. The police arrive and try to talk to Jackson, who becomes more distressed. Heather explains to the police that her husband has dementia, and they take him to the closest hospital.

Lana

Lana has recently been released from prison and has struggled to find appropriate, stable accommodation. Her family will not allow her to stay with them because, in the past, she has displayed violent behaviours when frustrated or upset and they do not feel safe having her live with them. Lana receives a disability pension, but her current supported accommodation costs take up a significant portion of this and she sometimes must choose between paying her rent or paying for other essentials such as food or bills.[159]

[159] *The Public Advocate acknowledges that the accuracy of this hypothetical scenario in terms of material details was challenged at the roundtables, however the issue of a lack of funds to pay for necessities other than bills and food is an issue for many people and can place them at significant risk.*

Alexander

Alexander has support workers who visit his home each day to assist him with day-to-day tasks including showering, personal hygiene, and eating. Alexander prefers to have a male support worker, however, recently, his service provider has been sending female support workers as they have fewer male support workers available. As a result, Alexander has begun refusing services and has now gone several days without receiving assistance.

Kim

Kim has recently reconnected with an old friend online and they have been sending messages back and forth via social media. Initially, Kim and her friend shared stories about their lives and pictures of their children and grandchildren, but recently Kim's friend has been asking her to send money to help pay for her daughter's medical expenses. Kim has sent money twice so far, and her friend has asked Kim to send more money. Kim's support worker found out about the request for money and is worried that this person is taking advantage of Kim.

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.

Roger

Roger lives in Far North Queensland with his family, who have been providing him with support for the past few years. However, following some recent medical issues, Roger now requires a higher level of care than his family can provide. It has been suggested that Roger move into a residential aged care facility, but there are no residential aged care facilities close by and Roger does not want to move away from his family and his home.

Adam

Adam has recently been approved for an NDIS plan, including services to support him in getting up in the morning, showering, and preparing food. For the past three months, Adam's support coordinator, James, has been looking for a service to support Adam, but has not been able to find a suitable service. James is worried that if he is unable to find a suitable support service, Adam will lose his independence.

Nadine

Nadine noticed that her friend Maya had some bruises on her arm and scratches on her face and body. Nadine asked Maya about her injuries and Maya told her that her adult daughter had assaulted her. Maya was worried that her daughter would hurt her again but had not reported the incident to the police because she did not want her daughter to get into trouble and she was worried that she would no longer be able to see her grandchildren.

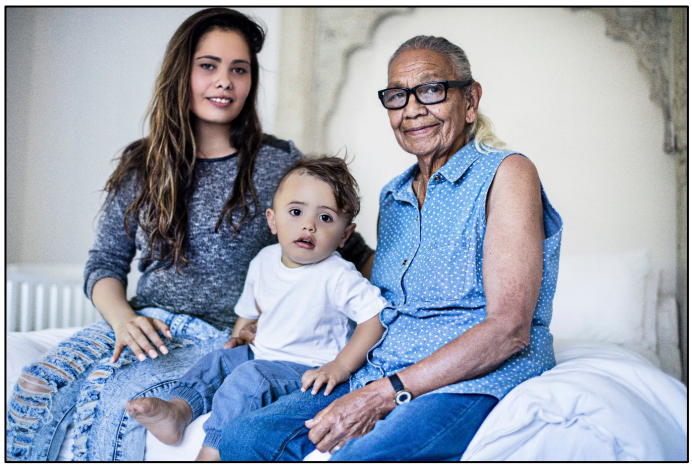
Samara

Samara is participating in inpatient rehabilitation following a severe brain injury and is often visited by her husband and three young children. Samara has made positive progress during her rehabilitation but will need ongoing rehabilitation and supports when she returns to the community. Prior to her injury, Samara lived in a remote area, and she is concerned that she may not be able to access the supports required when she returns home. Samara is worried that her family may need to move away from their home to access the supports she needs. She is also worried about receiving the support she needs to care for her family, as she is the main caregiver for her children and used to received assistance from extended family who lived nearby.

Sally

Sally has a psychosocial disability and receives some care and support through the NDIS. On several occasions, Sally has damaged the unit she is renting, so the property owners have provided her with notice that they are ending her tenancy. Sally has no family or friends she can stay with and is not sure where she will be able to afford to live.

Maureen



Maureen is an older Aboriginal woman who lives at home with her family and helps to care for her grandchildren. Maureen pays most of the bills, and each time Maureen receives her pension, several of her family members will ask for money and become threatening if she refuses.

Appendix C – Hypothetical scenarios and prompts used for the lived experience discussions

Jackson

Jackson and his wife Heather are walking through a busy shopping centre when Jackson becomes distressed and starts grabbing Heather's arm. When Heather pushes his hands away, he starts to grab her arm harder. Heather asks Jackson to stop, but Jackson continues to grab her arm. Heather becomes visibly upset and is loudly telling him to let go of her arm. A staff member in a nearby store calls the police. The police arrive and try to talk to Jackson, who becomes more distressed. Heather explains to the police that her husband has dementia, and they take him to the closest hospital.

- Is this the best response in this situation? If yes, what was effective? If not, what should have happened?
- What other issues might people with dementia and their carers or family members face in the community?
- How can services, organisations and the community better respond to the needs of people with dementia and their carers and family members?

Anne

Anne is 40 years old and lives on her own. She used to live with her mother, but sadly her mother passed away six months ago. Anne is not doing well. She is not eating well, and her house is full of rubbish. Anne also has a sore leg that has an infection that could be fixed, but she doesn't want to see a doctor. Whenever anyone knocks on her door she tells them to go away.

- Is this type of situation common?
- Have you seen this happen to anyone you know?
- If you have, what has happened?
- What do you think needs to happen in this situation?

Max

Max lives in supported accommodation with three other people, and they all receive disability support services to help them live independently. Max had a negative experience with a support worker named Aaron and asked his service provider for a new support worker. Max now has a new support worker, but Aaron still provides support to one of Max's housemates. Max feels unsafe and uncomfortable when Aaron is in the house.

- Is this type of situation common?
- Have you seen this happen to anyone you know?
- If you have, what has happened?
- What do you think needs to happen in this situation?