

NSW AGEING AND DISABILITY COMMISSION

SUBMISSION TO THE NSW LEGISLATIVE COUNCIL
INQUIRY INTO HOMELESSNESS AMONGST OLDER
PEOPLE AGED OVER 55 IN NEW SOUTH WALES

June 2022

1. Background and context of our submission

The NSW Ageing and Disability Commission (ADC) commenced on 1 July 2019. The ADC is an independent statutory body, which is focused on protecting adults with disability and older people from abuse, neglect and exploitation, and protecting and promoting their rights. Our role includes:

- responding to allegations of abuse, neglect and exploitation of adults with disability (18 years and over) and older people (65 years and over or, if Aboriginal and/or Torres Strait Islander, 50 years and over), including by providing advice, making referrals and conducting investigations
- following an investigation, taking further action that is necessary to protect the adult from abuse, neglect and exploitation
- raising awareness and educating the public about matters relating to the abuse, neglect and exploitation of adults with disability and older adults
- inquiring into and reporting on systemic issues relating to the protection and promotion of the rights, or the abuse, neglect and exploitation, of adults with disability and older people
- overseeing and coordinating the Official Community Visitor (OCV) scheme
- meeting other obligations as outlined in the *Ageing and Disability Commissioner Act 2019* (the ADC Act).

The majority of the reports handled by the ADC about abuse, neglect and exploitation of older people and adults with disability focus on allegations about family members, spouses/partners, informal carers, and members of the community. Given the roles and functions of the ADC, our submission is focused on issues identified through our handling of reports that contribute to an older person's risk of homelessness.

In the last financial year, the ADC received 3,566 reports about older people and adults with disability subject to, or at risk of, abuse, neglect and exploitation – over three-quarters (78%) of these reports related to older people.

Attachment 1 provides an overview of data relating to reports to the ADC about older people in 2020/21. Key points to note are that:

- Most (66%) of the reports about older people relate to women.
- The largest proportion of the reports about older people relate to people aged 80-89 years (32%).
- Over half (55%) of the reports about older people involve allegations of abuse, neglect and exploitation by their adult children.
- The most commonly reported types of alleged abuse of older people are psychological and financial abuse.

Our submission draws primarily on matters affecting older women, given their prevalence in reports received by the ADC.

2. Key points

- There is an increased risk of homelessness among older people, particularly older women, who are subject to, or are at risk of, abuse. The risk of homelessness can be exacerbated when there is, or has been, financial abuse – including as a result of misuse of their Power of Attorney or Enduring Power of Attorney.
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- Older people can be at greater risk of financial vulnerability and homelessness as a result of entering into accommodation and financial arrangements with family members that do not serve their interests or afford them adequate protection, and that have not been informed by clear information and independent advice. This includes older people guaranteeing loans for family members, and granny flat arrangements.
- It can be difficult for older people who are subject to, or at risk of, abuse to access alternative accommodation options due to social housing eligibility barriers; difficulties navigating housing systems; and inaccessible emergency or crisis accommodation – particularly for older people with disability.
- There are factors that can increase the risk of older people being evicted from social housing, including the actions of their adult children that breach the tenancy agreement.
- There is a range of prevention and early intervention options that can assist to reduce the risk of homelessness among older people who are subject to, or at risk of, abuse – including bolstering family mediation and relationship support services, and enhancing access to advocacy and case management services.

3. Factors contributing to homelessness for older people

Abuse

Abuse of older people (also referred to as ‘elder abuse’) is a contributing factor to homelessness, or the risk of homelessness, for this cohort. In matters handled by the ADC, this has included situations where (among other things) the older person:

- has needed to leave their home due to ongoing abuse by a household member(s)
- has entered into unstable accommodation and financial arrangements with family (usually an adult child) that has left them vulnerable and at risk of homelessness when the relationship has become abusive
- has been subject to financial abuse or exploitation (including misuse of a Power of Attorney/ Enduring Power of Attorney) that has left them broke or in debt.

A particular feature of many of the abuse matters involving older people that have been handled by the ADC is the relationship of trust that the older person has had with the subject of allegation. In many cases, they are family members, spouses, or friends. The nature of the relationship means that the older person can be susceptible to homelessness as they:

- may not be aware of the actions taken by the family member until the older person is already in difficulty
- believe that the trusted person will look after them
- do not want to take action against the trusted person, notwithstanding the abuse.

The combined elements can result in the older person being placed in desperate financial and accommodation circumstances with no support, and being unwilling to pursue actions against the trusted person that could help to ameliorate their situation (such as legal or police action).

Misuse of Enduring Power of Attorney and Power of Attorney

Misuse of the Enduring Power of Attorney (EPOA) or Power of Attorney (POA) of an older person by their appointed attorney has been a feature of reports about older people at risk of homelessness. Examples have included the attorney:

- withdrawing and spending money belonging to the older person for the sole benefit of the attorney
- making decisions to sell the older person's home or assets without consultation or against their wishes
- taking out mortgages or other loans in the older person's name without their knowledge or agreement.

Often, by the time concerns are raised with the ADC (or other parties, such as Police), the older person's funds have already been lost or substantially depleted, and their financial situation and/or accommodation arrangements are tenuous.

In a range of cases, we have noted that the misuse of the POA or EPOA has been facilitated by the attorney having a lack of understanding of their responsibilities. In terms of early actions that could be taken to prevent misuse of these decision-making authorities that can lead to a risk of homelessness of older people, we consider that there is a need to ensure the consistent provision of clear information to older people and their prospective attorneys about:

- the differences between a POA, EPOA, and Enduring Guardian
- the responsibilities of attorneys – what they can and can't do
- how to revoke an appointment.

The ADC is currently undertaking work to address the above, and to explore options to make it easier for older people to be compensated for the loss of funds incurred through misuse of their EPOA.

The ADC received a report about an older woman with dementia who had many adult children. A complicated set of legal arrangements was entered into relating to a family trust. During a redistribution of the family trust, a house that was subject to a mortgage was put into the name of the older woman. The older woman did not have capacity to meet the mortgage repayments.

There were concerns about the decisions being made by the adult children she had appointed as her Enduring Power of Attorney, as she did not have access to her money, and her health and day-to-day care was adversely affected by disputes among the attorneys.

It became apparent that the adult children were not acting in accordance with the wishes or interests of the older woman, were putting her financial wellbeing at risk, and increasing her risk of homelessness. A mediation support service assisting the older woman submitted an application to NCAT for financial management and safeguarding of her estate.

Guaranteeing loans

In a range of reports received by the ADC about financial exploitation of older people, the older person has become the guarantor on a loan(s) taken out by their adult child (or other relative). In some cases, the adult child has misused their position as POA/EPOA; in other cases, the older person has not adequately understood their legal obligations prior to becoming the guarantor.

The ADC has noted the need for financial services to ensure that accessible and easy to understand information is provided to older people to assist them to understand their financial obligations and make informed decisions about whether to guarantee the loan.

The ADC received a report about an older woman who was made guarantor on a loan for her son. The older person's son defaulted on the loan, and she was forced to vacate her home as she was unable to pay.

The older woman became homeless and eventually moved in with extended family. The reporter held concerns that the older woman may not have understood the implications of being guarantor for her son, and indicated that the older woman would be reluctant to report the matter herself due to fear of retribution by her son.

More broadly, there is a need to have information in multiple formats and languages available for older people so they are aware of their obligations if entering into any legal or financial agreement (including accommodation arrangements such as granny flat arrangements).

Granny flat housing arrangements

Granny flats can be a viable option to meet the needs of older people and enable them to maintain their independence while living in close proximity to extended family. However, reports to the ADC have highlighted factors associated with granny flat arrangements that can place older people at risk of homelessness, including:

- a lack of legal protections or awareness of the information contained in the property deeds to the granny flat residence
- coercion by the adult child(ren) to sell the older person's house and fund the building of the granny flat, especially if the granny flat adds value to the adult child's residence with no appropriate legal paperwork put in place
- increased risk of abuse, neglect and exploitation as a result of relationship breakdowns due to extraneous pressures with adult children living in close proximity, such as unforeseen caring needs of the older person.

The ADC received a report about an older woman and man who lived in a granny flat on their daughter and son-in-law's property. The couple were in the early stages of dementia, and the older woman had mental health concerns.

The older couple verbally agreed to lend over \$150,000 to their daughter to buy the home and build the granny flat; the loan to buy the house was also put in the older couple's name. The report raised concerns that the older woman was subject to psychological and physical abuse by her son-in-law, and that he was forcefully trying to evict the older woman while retaining the property.

Due to the lack of legal protections in the financial arrangements made with the daughter and son-in-law and limited available alternative housing options, the older couple had no financial security or housing and was at risk of homelessness.

The ADC supported the couple to link to legal assistance, the local Aged Crime Prevention Officer, mental health supports, and accommodation.

Access to accommodation

Social housing

Older people face particular barriers in accessing housing support if they have an income or an asset such as owning a property, or have superannuation, because the eligibility criteria for social housing focuses on assisting:

- clients on low income who need support to help them live independently, and
- clients on low income who have problems finding affordable housing in the private market that meets their needs.

Additionally, older people who have a cognitive disability and/or other disability face additional barriers to navigating social housing supports and services.

The ADC received a report about an older woman who was subject to financial and psychological abuse by her son. She was in hospital undergoing surgery when the hospital social worker became alerted to her housing issue. The older woman had purchased an investment property in her and her son's names. She was unable to maintain the mortgage and needed to sell the property. However, her son was refusing to cooperate or mediate despite the matter being put forward to the courts.

Due to the investment property, the older woman was unable to access social housing and was at risk of homelessness when discharged from hospital after surgery.

In our view, concessions need to be considered for older people, particularly older women, to access social housing when facing situations of financial vulnerability despite not meeting the housing eligibility criteria.

Emergency and crisis accommodation

The need to escape abuse heightens the risks for older people due to a lack of appropriate alternative accommodation options, including emergency or crisis accommodation. The ability of older people to access refuge and other urgent accommodation can be substantially curtailed by the limited accessible options – including for people with mobility or other physical limitations, and people with cognitive disability.

The options that tend to be presented for older people are placements (short or long term) in residential aged care facilities. In the experience of the ADC, for many older people this is not a welcome option. We frequently hear from older people that they would rather be at home – notwithstanding the ongoing abuse – than enter residential aged care, including on a short-term basis. The very limited alternative options means that older people continue to be subject to abuse; and it presents significant challenges for the ADC and other parties in seeking to resolve the situation and improve the safety of the older person.

Unsuitable housing conditions

Older people living in social housing have reported to the ADC that they are living in unsuitable and unsafe environments. While older people have been placed into social housing that is intended for tenants over the age of 55, a range of reports have noted that their living conditions were unsuitable and raised concerns that the older person was subject to abuse by their neighbours, including:

- verbal abuse, harassment and intimidation by neighbours and co-tenants
- damage to the older person's property and belongings
- presence of alcohol and other drug abuse
- anti-social behaviour.

Reports to the ADC have included complaints by older people about the poor condition of properties and the lack of maintenance to essential amenities, such as clean water and telecommunications to contact emergency services. For matters concerning community housing providers, there are limited avenues for seeking to resolve unliveable property conditions via complaints as they do not currently fall under the jurisdiction of the NSW

Ombudsman. In our experience, there is a need to ensure that community housing residents have access to an effective independent external complaint-handling body.

Eviction of older people from social housing properties

Despite being connected to housing services, reports to the ADC have included older people being evicted from social housing properties without adequate consultation. In these matters, the ADC has noted that the older person has tended not to have been provided the opportunity to seek support to understand their housing situation or locate alternative temporary accommodation. Actions by the ADC's Helpline in relation to these matters tends to involve providing support to reporters by making referrals to tenancy advocacy services and connecting the person with emergency accommodation services.

Older people living in social housing with adult children who are unauthorised occupants also increases the older person's risk of eviction and homelessness. The ADC has received reports involving adult children living with the older person and jeopardising their accommodation status due to antisocial behaviour; drug and alcohol abuse; hoarding or squalor; or blocking services in the home. A breach of the tenancy agreement is a common cause of older people being evicted from social housing properties.

However, the ADC has noted that agreements that result in eviction appear to be built on expectations that may require the older person to seek additional support to meet them, such as accepting services into the home. In such reports, there appears to be inadequate action taken by the housing provider to seek to identify the reasons as to why the older person may be refusing services and not upholding the tenancy agreement. In these situations, there is a need for housing providers to further consult with older tenants and connect them with specific services to support them to uphold their agreements and accept supports.

Adult children living at home

The ADC has identified concerns about abuse and risk of homelessness of older people associated with their adult children (or other relatives) moving in with them and not leaving. In a range of reports, the family member moved in 'temporarily' for a certain period, triggered by factors such as the family member's relationship breakdown, loss of job, release from gaol, return from living overseas, or health change. The family member was still living with the older person well beyond that time, sometimes years later.

In an examination of reports relating to these matters, we found that while the relationship between the older person and the family member may have worked for a period of time, this had changed and resulted in abuse of the older person – typically involving psychological and financial abuse. The impact on the older person tended to be significant – including exacerbation of health issues due to stress, worsening mental health, confining themselves to their bedroom, and significant fear of the family member.

In these cases, the older person has typically not been able to get the family member to leave their property – because the family member has refused to leave or the older person has not been willing or able to take adverse action against them to force them out (such as taking legal action or contacting police). In some of the reports to the ADC, the situation at home had become so untenable for the older person that they had opted to leave their property and move around between other family members. To avoid the abuse and improve their safety, they considered that their only legitimate option was to leave their own home in favour of insecure and unstable accommodation with others.

The ADC is supportive of current steps by Legal Aid and the Law Society of NSW to explore potential options that would assist older people to remove abusive family

members from their property, and has provided data and other information to inform this work.

Mental health support

Older people

Mental health concerns in relation to older people have been a factor in a range of reports to the ADC involving the risk of homelessness. In particular, behaviours in relation to hoarding and squalor increase the risk of eviction from both private and social housing, and prevent access to necessary in-home services and supports. In many instances, we have noted that older people with hoarding and squalor tendencies have been unable to uphold their housing agreements because the agreements required them to maintain their home in a certain condition.

The ADC has noted the need for earlier and more reliable access to mental health supports for relevant older people, to improve outcomes, including options to maintain their tenancy. Early intervention and engagement with mental health services could enable the older person to access support and avoid eviction. We have noted the positive role played by Older People's Mental Health Services when engaged with older people. However, it has not always been possible to gain timely or sufficient access to these services.

Family and informal carers

The unmet mental health needs of family/household members and informal carers also tend to increase the risk of homelessness of older people in reports to the ADC.

We have noted an increase in adult children living with their older parent(s) – particularly since the start of the COVID-19 pandemic, with adult children moving in with parents to provide care and support, or because they lost their employment and/or accommodation. The close quarters and interdependent relationships can put the older people at greater risk of being adversely affected by the unmet mental health needs of the additional household members.

The ADC received a report about an older woman with advanced dementia who was living with her son. Both had recently become homeless and were living in a motel. The older woman had been subject to financial abuse by her son, who had spent the majority of the earnings from the sale of the older woman's home.

The older woman and her son were offered assistance with emergency accommodation; however, the son was unreliable with submitting the requested documents. Both were eventually placed into several different short-term accommodation services, but the son began to refuse any further assistance.

The son was admitted to hospital, diagnosed with schizophrenia and linked to mental health and housing support services. The ADC supported an NCAT application for guardianship and financial management of the older woman to be changed to her daughter, and the older woman and her son were separately successfully linked to stable accommodation.

The ADC has tended to improve the safety and outcomes of the older person in these cases by working to improve the supports for the family member/informal carer – including access to mental health support. We have noted significant changes and positive outcomes for both parties – and improved relationships – where adequate and timely

mental health support has been provided. However, access to mental health services tends to be difficult, and the amount and duration of support is typically insufficient.

4. Additional considerations

Risk factors of older people from vulnerable groups

Housing and income support requires the navigation of multiple government interfaces. The ADC has noted the significant challenges faced by older people from migrant and non-English speaking backgrounds in seeking to find and obtain the right support for secure housing.

There are particular gaps for those on certain visas who are unable to access income support through Centrelink and are ineligible for many crisis accommodation services. Additionally, there are extended wait times for specialist legal services to support those on certain visas, placing them at greater risk of homelessness and with limited options to leave abusive situations in the home.

The ADC received a report about an older woman who was at risk of homelessness as she needed to leave her living situation due to ongoing abuse from her adult child who she lived with in exchange for domestic duties. The older woman had no access to her own money, did not speak English, and was completely reliant on her adult child for all support.

The older woman was a permanent resident but, due to being on a Contributory Aged Parent temporary visa, she was ineligible for income support from Centrelink. As a result of her lack of income support, the older woman was ineligible for assistance from local women's refuges or emergency accommodation services.

5. Prevention and early intervention options

The ADC's work with older people who are subject to, or at risk of, abuse, neglect and exploitation, and who are homeless/at risk of homelessness, has highlighted particular areas for action. As identified in the body of our submission, this includes the need for:

- increased community mental health services
- options to assist older people to remove abusive adult children and other family members from their home
- additional safeguards for older people prior to housing providers taking action to evict them – such as links to advocacy or other support services
- providing independent complaint-handling options in relation to community housing providers – such as bringing them under the jurisdiction of the NSW Ombudsman
- mandatory provision of clear information to older people and their prospective attorneys about the obligations and responsibilities of attorneys
- provision of information in multiple formats and languages for older people so they are aware of their obligations if entering into any legal or financial agreement.

In our experience, there is also a need for actions in the following areas:

Relationship support and mediation

The issues raised in this submission reflect the significance of family relationships in the

abuse of older people and their risk of homelessness. A key plank in the public policy framework to better safeguard and support older people from abuse rests on family and relationship support and intervention – including options that seek to address the breakdown of positive norms and behaviours that lead to abuse.

Since April 2020, the ADC has had a Memorandum of Understanding with Relationships Australia NSW (RANSW) to guide our cooperative work in relation to its Let's Talk Elder Mediation and Support Service, to support older people and their families in reducing elder abuse, family violence, conflict and abusive behaviours. The Let's Talk program provides an alternative approach to responding to violence, focused on family counselling and mediation, and a pathway for early intervention to prevent abuse and violence escalating.

We have seen positive outcomes from matters that we have referred to the Let's Talk program. Among other things, the program plays a valuable role in assisting the older person to identify and safely express their views and wishes, and to maximise their ability to make decisions prior to and during mediation.

We understand that the NSW Government funding for this program (through Domestic and Family Violence innovation funding) will cease on 30 June 2022. We note that there are no readily identifiable alternative options to the mediation and dispute resolution assistance provided via the Let's Talk program to older people who are subject to, or at risk of, abuse.

Advocacy and case management support for older people

We see positive outcomes and effective support for older people as a result of being connected to advocacy services. However, advocacy support for older people is typically limited to those who are in receipt, or awaiting receipt, of aged care services. In our experience, there are many older people who are not receiving or waiting to receive aged care services, and who would significantly benefit from advocacy support – including those who are subject to, or at risk of, abuse and/or homelessness.

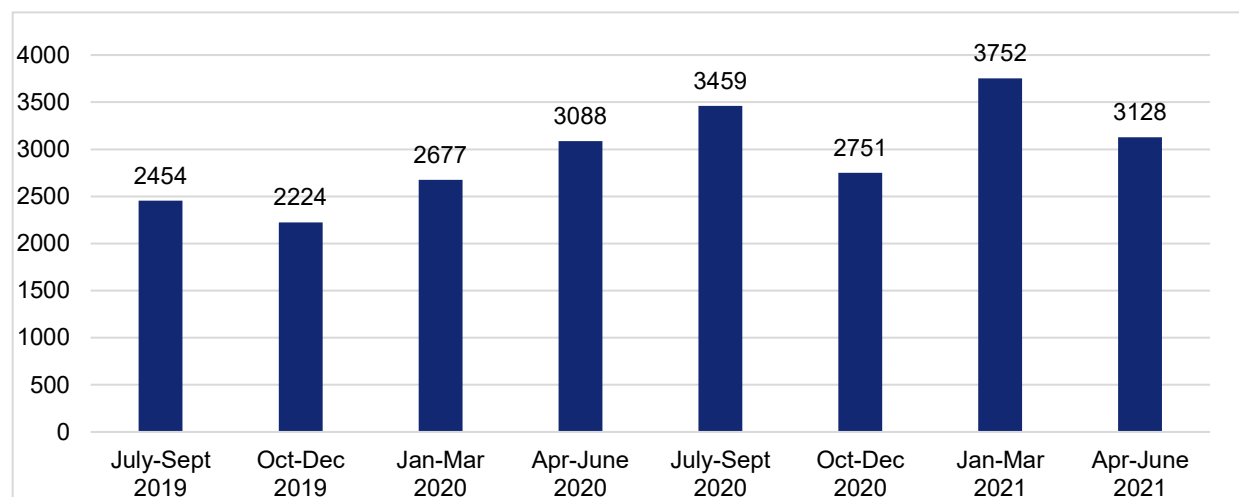
On a separate but related note, our work highlights the gaps that exist in relation to case management support for older people. Many of the challenges identified in this submission – including difficulties for older people in navigating systems to find appropriate and accessible accommodation – would be ameliorated with case management assistance, even on a short-term basis. The substantial gains that we see from the provision of support coordination in the NDIS are not currently replicated in the aged care system.

Attachment 1: Data relating to reports to the ADC about older people in 2020-21

1. Number of calls, enquiries and reports relating to abuse of older people

In 2020/21, the Ageing and Disability Abuse Helpline received **13,090 calls**.

Figure 1: Number of calls received by the Ageing and Disability Abuse Helpline, by quarter, July 2019 – June 2021

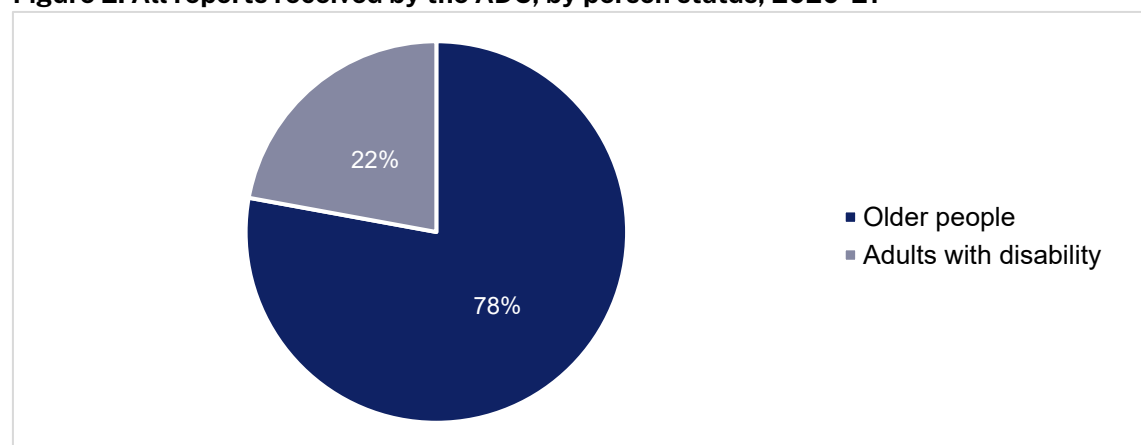


In 2020-21, the ADC received **5,000 matters**, comprising:

- * **3,566 reports** under section 13 of the *Ageing and Disability Commissioner Act 2019*
- * **1,434 enquiries** – involving 782 general enquiries, and 652 abuse-related enquiries.

Of the 3,566 reports received by the ADC in 2020-21, **2,777 reports (77.9%) related to older people¹**, including 1,030 reports about older people with disability.

Figure 2: All reports received by the ADC, by person status, 2020-21

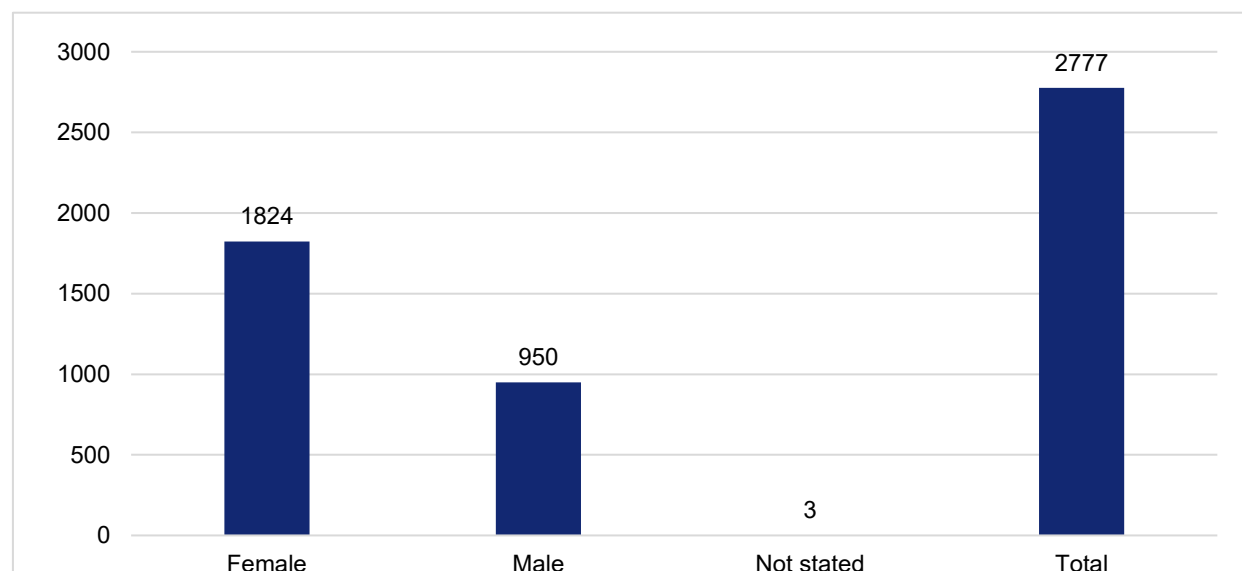


¹ Adults aged 65 years and older, and Aboriginal and/or Torres Strait Islander adults aged 50 years and older.

2. Gender

From the start of the ADC, most reports have been about alleged abuse, neglect and exploitation of women. In 2020-21, the adults in 63.3% of the 3,566 reports to the ADC were female, including 65.7% of reports about older people (1,824).

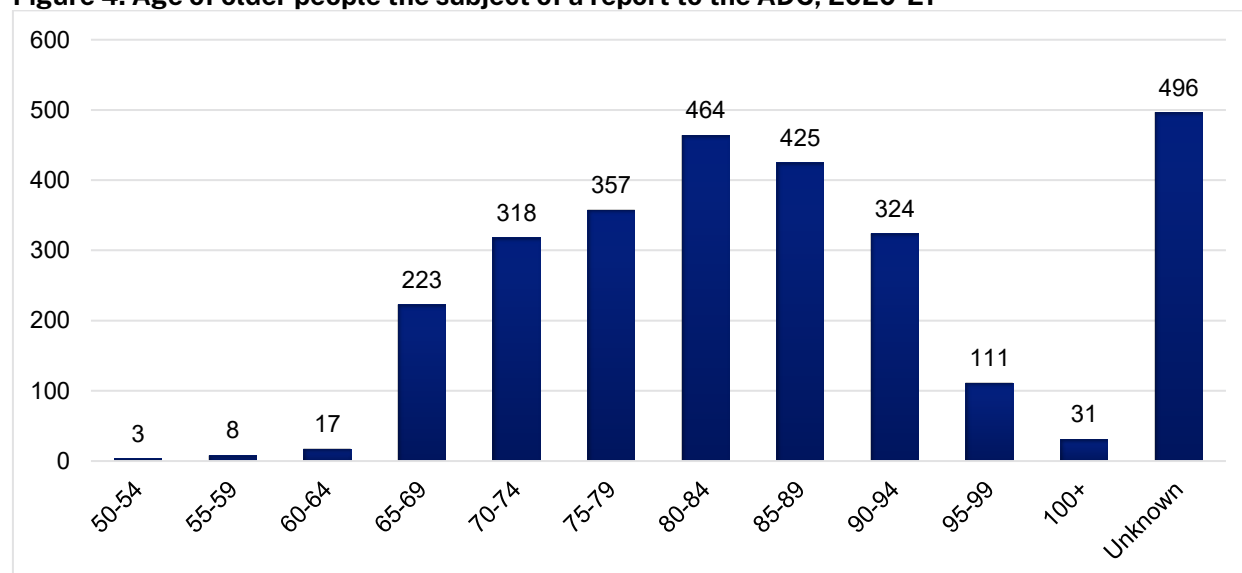
Figure 3: Gender of older people the subject of a report to the ADC, 2020-21



3. Age

The largest proportion of the 2,777 reports about older people in 2020-21 related to people aged 80-89 years (32%).

Figure 4: Age of older people the subject of a report to the ADC, 2020-21

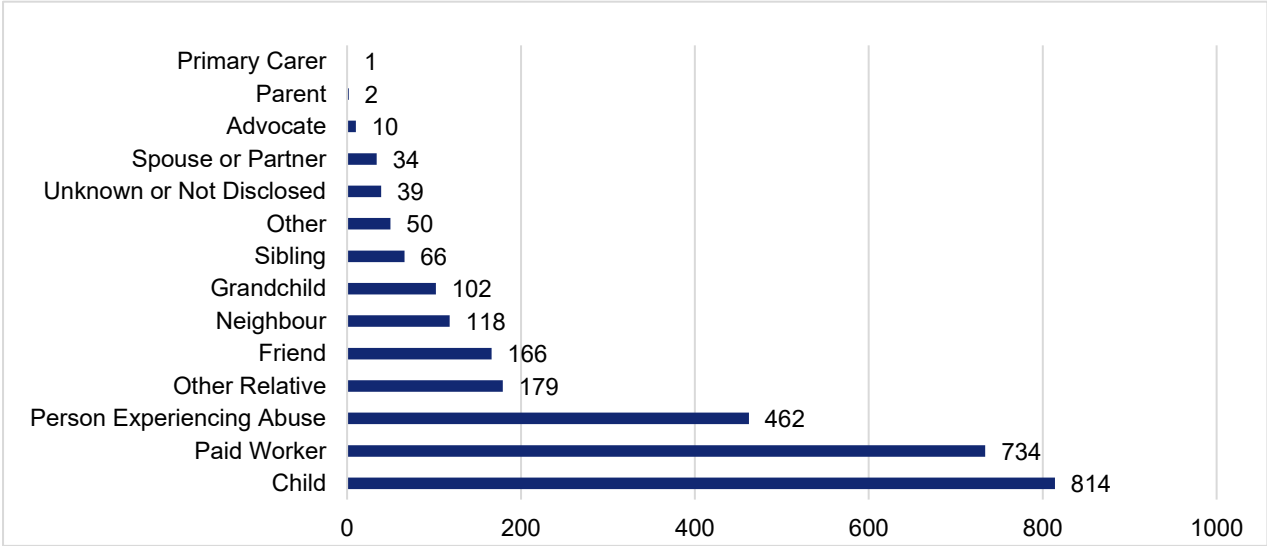


4. Relationship of the reporter to the older person

Adult children were the main source of reports to the ADC about older people in 2020-21, accounting for 29.3% of the 2,777 reports. All up, family members were the reporters in 41.9% of reports about older people.

Paid workers made over a quarter (26.4%) of the reports about older people, and the older person ('person experiencing abuse') was the reporter to the ADC in 16.6% of cases.

Figure 5: Relationship of the reporter to the older person in reports to the ADC, 2020-21

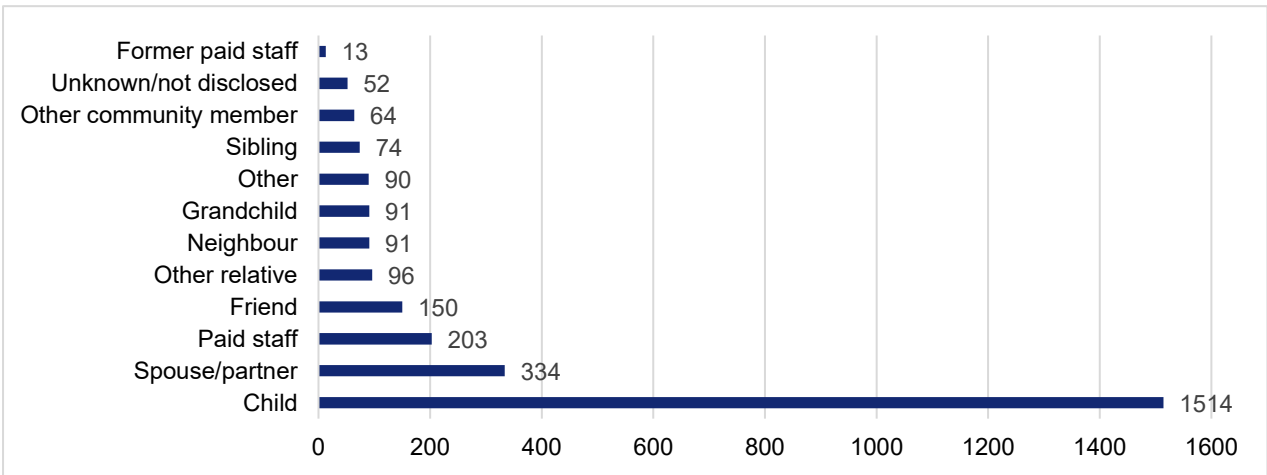


5. Relationship of the subject of allegation to the older person

The subjects of allegation in over half (54.5%) of the 2,777 reports to the ADC about older people in 2020-21 were the person’s adult children. All up, relatives were the subjects of allegation in almost two-thirds (64%) of the reports about older people.

Allegations against a spouse or partner (or ex-spouse/ partner) featured in 12% of the reports about older people.

Figure 6: Relationship of the subject of allegation to the older person in reports to the ADC, 2020-21



6. Type of alleged abuse of older people

The most commonly reported types of alleged abuse in relation to older people in 2020-21 were psychological abuse and financial abuse.

Figure 7: Number of allegations by type of abuse, reports to the ADC about older people, 2020-21

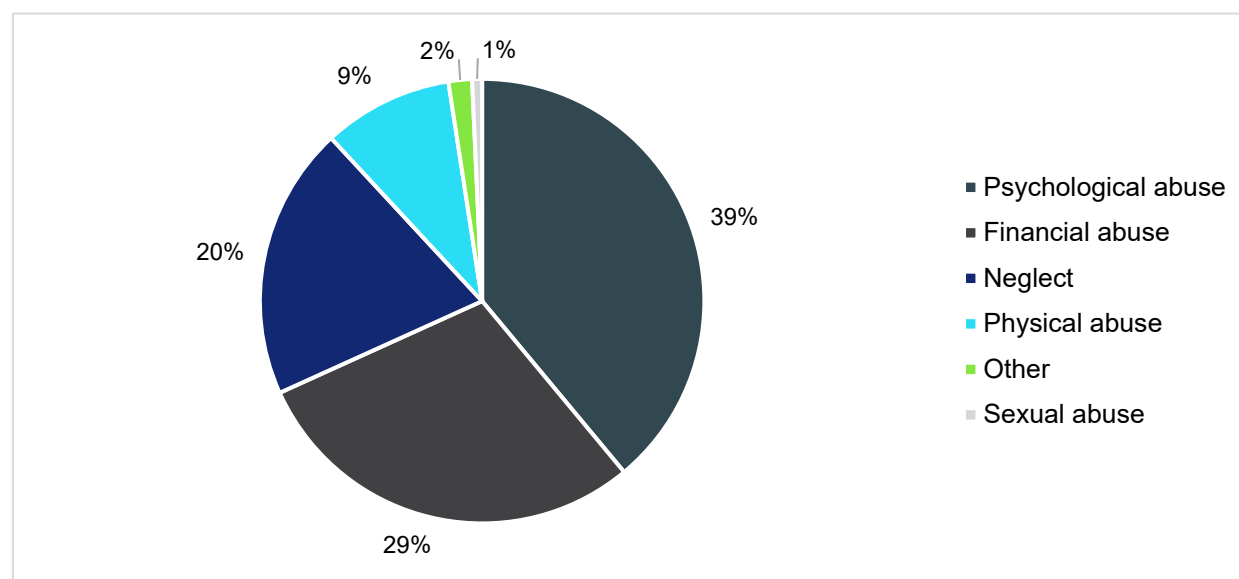


Table 1: Type of alleged abuse of the older person in reports to the ADC, 2020-21²

Type of alleged abuse	Number of allegations	% of all allegations in reports about older people
Psychological abuse (Mainly verbal abuse; preventing or restricting access to family/others; and preventing or restricting access to supports/services)	1,619	39.0
Financial abuse (Mainly financial exploitation; misuse of Power of Attorney/ Enduring POA; and theft)	1,216	29.3
Neglect (Mainly failure to meet the person's support needs; medical neglect; and inadequate clothing or food)	826	19.9
Physical abuse (Mainly hitting/kicking/punching; and pushing/shoving/grabbing/shaking)	393	9.5
Sexual abuse (Mainly sexual assault and indecent assault)	30	0.7
Other	71	1.7
Total allegations in reports about older people	4,155	100

² The data captures all matters in which that type of abuse has been reported; in the majority of matters, more than one type of abuse is reported.

The most common allegations reported in relation to older people related them being verbally abused; not having their support needs met; being financially exploited; and being prevented or restricted from having access to family and others.

Figure 8: Leading reported allegations in relation to older people, 2020-21

	Reported allegation	Number of cases
1.	Psychological abuse – verbal abuse	725
2.	Neglect – failure to meet the adult’s support needs	443
3.	Financial exploitation	357
4.	Psychological abuse – preventing or restricting access to family/others	326
5.	Financial abuse – theft	296
6.	Financial abuse – misuse of Power of Attorney or Enduring POA	243
7.	Psychological abuse – other psychological abuse	234
8.	Psychological abuse – preventing or restricting access to supports/services	168
9.	Financial abuse – other financial abuse	138
10.	Neglect – medical care	126