

Elder Abuse in New Zealand

France Matthews (GP)

Introduction

Elder abuse is a single, or a 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 elderly person.

(WHO definition, Declaration of Toronto 2002)

Elderly = aged 65 or over.

Agencies involved

- Age Concern NZ has a contract with the Ministry of Social Development to supply elder abuse services.
- Other agencies receiving and acting upon reports of elder abuse include NZ police, District Health Boards, other older person's charities.
- Services patchy, worse in rural areas, better in cities

Statistics

- (from Age Concern 2004-2006)
- 75% of perpetrators are family members
- 25% of perpetrators are the person's primary caregiver
- 41% of perpetrators live with the person
- 10% of victims suffer from dementia

Categories of elder abuse

CATEGORY	Percentage reported cases
Psychological abuse	62%
Financial abuse	42%
Physical abuse	20%
Sexual abuse	2%
Neglect	19%

Elder abuse

- Victims may suffer more than one kind of abuse
- Elder abuse may take place in the community or institutions
- Family members primarily responsible for abuse in both settings

Institutional abuse

- There have been recent, highly publicised incidents of abuse of nursing home patients by staff.
- Institutional abuse largely undocumented.

Auckland 2008



State of California...



Legislation

- No specific legislation dealing with elder abuse (unlike US, esp. California)
- No statutory adult protective powers.
- Section 151 Crimes Act “ duty to provide the necessaries of life”
- Rarely used in relation to adults (usually child abuse)

Incapacitated adults

- Protection of Personal and Property Rights Act 1988
- An Act to protect and promote the personal and property rights of adults who are unable to manage their own affairs.
- Administered by the Family Court.
- Counsel for the person appointed by Court.

Principles underlying the PPPR Act

- Welfare and best interests of the person
- Rebuttable presumption of competence
- Make the least intrusive interventions compatible with safety
- Encourage integration into community
- Encourage the person to make their own decisions as far as possible

Orders available

- The Court may make orders, directions or recommendations.
- Section 10 personal orders: relate to residence, medical care, rehabilitation, education.
- Section 11 property orders: small estates and benefits or income of \$10,000 a year or less

Orders available

- Section 12 orders to appoint welfare guardian
- Usually only one WG
- May have wide-ranging powers, may only be for specified purpose: usually all aspects of personal care and welfare
- Principles apply. Also duty to consult with others who have an interest in the person's welfare including property manager

Orders available

- Section 31 orders to appoint property managers. May be more than one.
- Public Trustee, lawyers, accountants, family members, friends.
- Must submit annual accounts

Orders available

- All orders may be for a specified period and must be renewed if necessary.

Enduring Powers of Attorney

- Part IX of the PPPR Act regulates enduring powers of attorney (EPA)
- Recently amended due to concerns about abuse of EPA
- May be for property or welfare.
- Welfare EPA only activated when person lacks capacity
- Property EPA may be activated at any time

PPPR Act Applications 2005

Application	Number of applications
S.11 administer property	128
S.31 appoint property manager	669
S.10 personal order	94
s.12 appoint welfare guardian	765
s.102 enduring powers of attorney	8
S 105 Revoke enduring powers of attorney	16

PPPR Act applications

- 1,383 applications in 2005
- 42% related persons aged 60 and over
- Most decision making is informal and doesn't involve FC proceedings.
- No Bournemouth gap recognised in NZ
- NZ Bill of rights never been invoked in relation to the detention of a person in a nursing home.

Dealing with elder abuse

- Often unrecognised , unacknowledged and unreported.
- Very difficult to obtain criminal convictions
- “Private” nature of elder abuse
- Hampered by ageism
- Little appreciation of human rights of older people

Suggested solutions

- More education about rights of older people
- More access to elder abuse services for those wishing to report
- Statutory recognition of elder abuse
- Designated adult protective services with statutory powers to investigate and take action.
- Criminal and civil sanctions for perpetrators