THE PREVALENCE OF ELDER ABUSE AMONG ADULT GUARDIANSHIP CLIENTS

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In this article, a picture of elder abuse among Victorian guardianship clients is presented using data from two time periods (2013-14 and 2016-17). The first data set is drawn from a case file review of clients of the Office of the Public Advocate undertaken by a researcher, and the second data set is from data entered into mandatory abuse fields by victims’ guardians. The second data set finds elder abuse at higher rates overall, which is likely explained by the additional knowledge guardians would have about the persons that the researcher would not. Research found elder abuse prevalence rates among guardianship clients of 13 per cent in 2013-14 and 21 per cent in 2016-17. It also found that women experienced elder abuse at higher rates than men and that clients with dementia or intellectual disability were more likely to have experienced elder abuse than those with other disability types. This new research relates to people with cognitive impairment who are usually left out of national elder abuse prevalence studies, and provides evidence about the characteristics of elder abuse in this cohort that is otherwise absent. The high rates of elder abuse found in the research presented here attest to the significant, and perhaps over-utilised, role that adult guardianship plays in present-day elder abuse response strategies.

INTRODUCTION

Elder abuse is now widely recognised as a social problem in Australia, and, unless effective preventative measures are put in place, one that is anticipated to grow with our aging population. With this in mind, the question of how to prevent and how to respond to situations of elder abuse has been seriously engaged at both state and national levels. For example, the Victorian Royal Commission into Family Violence in 2016 reported on the needs and experiences of older people.1 Furthermore, in February 2016, the (now former) Attorney-General of Australia, Senator the Hon George Brandis QC, asked the Australian Law Reform Commission (ALRC) to conduct an inquiry into protecting the rights of older Australians from abuse.2 The ALRC released its final report in June 2017.3

Through this engagement, it has become widely accepted that there is a lack of information on the prevalence of elder abuse in Australia. The Australian Institute of Family Studies’ (AIFS) report Elder Abuse: Understanding Issues, Frameworks and Responses ‘established[d] that there is very limited evidence in Australia that would support an understanding of the prevalence of elder abuse’.4 Recognising this lack of evidence as a serious challenge to the development of evidence-based policy and program responses, one of the ALRC’s 43

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3 Ibid.
recommendations was that ‘[t]here should be a national prevalence study of elder abuse to build the evidence base.’

Following the release of the ALRC report, the Australian Government committed to funding a national prevalence study. In late 2017, work on establishing the parameters of the study commenced, and Phase One of the research program is currently underway. It is designed to prepare the ground for the national prevalence study by developing a definition of elder abuse to apply in future research and instruments needed to assess prevalence.

While a national prevalence study will provide a crucial baseline for those seeking to prevent and respond to elder abuse, it is anticipated that the results of this study (like the vast majority of national prevalence studies that came before it) will exclude the experiences of people with cognitive impairment. Most national prevalence studies look at elder abuse among community dwelling elders with the capacity to respond to telephone interviews, missing the experiences of older people living in aged care or with significant dementia or other forms of cognitive impairment. It is likely that this research method dominates the field because it is cheaper to implement. To date, only one national elder abuse prevalence study has included older people with cognitive impairment.

The proportion of older people who suffer from cognitive impairment – almost one in ten – combined with the positive correlation between cognitive impairment and risk of elder abuse suggests that almost all national prevalence studies undertaken to date underrepresent the rate of elder abuse in many countries. As the Office of the Public Advocate (OPA) submitted in their report for the Australian Guardianship and Administration Council, only by being inclusive of the experiences of people with cognitive impairment will it be possible to measure the full extent of elder abuse in the Australian community. The OPA shared this report with the Australian Institute of Family Studies to help inform their work in developing the parameters for the Australian national prevalence study. The study we present here, based on research into the experiences of elder abuse among the OPA’s guardianship clients, seeks to share information about this ‘hard to reach’ cohort to help fill this research gap.

The high rates of elder abuse found in this Victorian cohort are attributable, at least in part, to the fact that guardianship is a protective jurisdiction. As such, concerns about abuse, neglect and exploitation are common reasons for a guardianship application to be made. These fulfil Victoria’s legislative requirements that a ‘need for a guardian’ (in these cases the need for guardian decisions that provide protection from abuse) be demonstrated in concert with the other two key requirements: that the person has a ‘disability’ and ‘is unable by reason of the disability to make reasonable judgments in respect of all or any of the matters relating to her or his person or circumstances’.

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5 Elder Abuse Report, above n 2, 9.
8 Isabel Iborra Marmolejo, ‘Elder Abuse in the Family in Spain’ (Research Report, Queen Sofia Centre for Studies on Violence, 2008).
9 It is estimated that 8.8 per cent of Australians over 65 years old suffer from dementia (Australian Institute of Health and Welfare, Australia’s Health 2016 (2016) 107); Kaspiew, Carson and Rhoades, above n 4, 8
11 Guardianship and Administration Act 1986 (Vic) s 22(1).
However, a concern exists that the high rates of elder abuse in this cohort may be partially attributable to overuse of guardianship as a health and community service sector response to elder abuse. Two developments – law reform in the guardianship realm away from ‘best interests’ decision-making towards substituted judgement (which prioritises the will and preferences of the person under guardianship) and the proposed development of ‘at-risk adult’ protection agencies across Australia – would work together to address these concerns.\textsuperscript{12}

\section*{II LANGUAGE}

In this paper, for brevity, the term ‘guardianship clients’ will be used to refer to people who have been made subject to a guardianship order by the Victorian Civil and Administrative Tribunal (or the relevant court or tribunal in other states and territories). The Public Advocate, Victoria’s guardian of last resort, was appointed as guardian to each of the ‘guardianship clients’ referred to in the research data presented below. The Public Advocate then delegated the appointments to guardians employed by the Office of the Public Advocate.

For shorthand, this paper will also use the term ‘elder abuse victim’ to refer to people identified by the researcher as experiencing elder abuse. This does not imply that the persons themselves identify with this term. It also uses the term ‘elder abuse’ to encompass both abusive actions and neglectful inaction, irrespective of the intentions of the perpetrator.

\section*{III GUARDIANSHIP AND ELDER ABUSE}

\section*{A The Present Relationship}

In Australia, the appointment of an administrator or adult guardian is a well-known, and commonly employed, response to elder abuse in situations where the victim has significant cognitive impairment. This involves ‘the removal of decision-making authority from the victim and the appointment of a substitute decision maker’\textsuperscript{13} for financial or lifestyle decisions. These processes occur in line with state and territory legal frameworks that govern guardianship and administration.\textsuperscript{14} Guardianship is a protective jurisdiction so that, when elder abuse is suspected, the appointment of a substitute decision maker is often intended to protect the person from further financial exploitation and physical, psychological or other violence.

As the research data presented below demonstrates, there is a strong relationship between experiences of elder abuse and guardianship. Australia’s intellectual and practical engagement with the United Nations Convention on the Rights of Persons with Disabilities (‘\textit{CRPD}’) has raised questions about the place of substitute decision-making regimes, such as guardianship, in our legislation. These questions involve asking: ‘is guardianship overused?’ and ‘should it even be used at all, even in circumstances involving elder abuse?’

\textsuperscript{12} \textit{Elder Abuse Report}, above n 2, 15–16.


\textsuperscript{14} See, eg, \textit{Guardianship and Administration Act 1986} (Vic); \textit{Guardianship Act 1987} (NSW); \textit{Guardianship and Administration Act 2000} (Qld); Subject to the laws and terminology in the different states and territories, ‘administration’ usually refers to substitute decision-making in relation to estate and financial matters and ‘guardianship’ covers lifestyle matters including accommodation, services and health-related decisions.
B  Is Guardianship Overused?

While responses that effectively prevent further harm and abuse are certainly required, Chesterman highlights the important concern that guardianship is being used as an almost ‘default’ response to elder abuse.\(^\text{15}\) The most important of his concerns is that invoking the protections of guardianship impinges on the rights of an older person’s ability to make their own decisions and, potentially, their ability to drive the responses to abuse that they would most appreciate. Chesterman argues that Australia’s state and territory ‘response strategies could be improved by prioritising what service responses, if any, the person wants, even when the person has significant cognitive impairment’,\(^\text{16}\) instead of deferring so readily to guardianship and administration as solutions. This thinking aligns with the CRPD’s aim to overcome systemic barriers to access to justice for people with disability,\(^\text{17}\) and improving their equal recognition before the law by providing necessary supports for them to enact decisions based on their will and preferences.\(^\text{18}\)

Solving the problems Chesterman identifies would require a two-pronged approach to guardianship law reform. Firstly, to bring laws into alignment with the CRPD. Secondly, to develop services to reduce the need for the health and community sector to rely on guardianship proceedings to respond to suspected elder abuse.

C  Should Guardianship Even be Used at All?

The place of guardianship in Australia’s future has been a much-debated topic since the release of the CRPD, with some suggesting art 12 necessitates the abolition of all substitute decision-making arrangements.\(^\text{19}\) However, the ALRC has convincingly argued that this is not the case,\(^\text{20}\) confirming the ongoing relevance of the ‘crucial [protective] role’ played by the guardian of last resort as a necessary human rights backstop, albeit in a more limited set of circumstances.\(^\text{21}\)

The ALRC argued that bringing Australia’s decision-making frameworks into alignment with art 12, which has happened to varying extents in different jurisdictions, requires a focus on ‘the limits surrounding the appointment of another to act in a person’s stead and also upon the standard by which the person is to act.’\(^\text{22}\) This includes consideration of the extent to which they promote the will and preferences of the person and enable them to be supported.

D  The Current Context: Moving towards Compliance with the CRPD

Australia ratified the CRPD in July 2008. The CRPD ‘has the potential to profoundly change how law conceptualises and responds to disability’\(^\text{23}\) as it clearly shifts away from a medical model of disability towards a social model, seeking reasonable accommodations by state parties to overcome systemic barriers to equality. Indeed

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\(^\text{15}\) Chesterman, above n 13, 117–18.

\(^\text{16}\) Ibid 118.


\(^\text{18}\) Ibid art 12.


\(^\text{20}\) Ibid 52–6 [2.73]–[2.90].

\(^\text{21}\) Elder Abuse Report, above n 2, 382 [14.32].


The decade since the CRPD entered into force has witnessed a variety of law and policy reform activity ... in response to a growing awareness of barriers to equal justice and other legal issues confronting people with disability ... Since ratification of the CRPD ... a number of jurisdictions have completed ... reviews of their guardianship laws. [In the realm of guardianship,] the resulting inquiries, proposals and measures have ... been intended to give effect to the CRPD's principles.  

Law reform bodies in Queensland, Victoria, the Australian Capital Territory, New South Wales and Tasmania reviewed their guardianship laws, and produced recommendations (draft proposals in NSW and Tasmania) for change in 2010, 2012, 2016, November 2017 and December 2017 respectively. All of the reviews recommended the removal of ‘best interests’ style principles from their laws in order to promote the person’s human rights (including the importance of supporting and considering their will and preferences) and better align with the CRPD.  

Victoria is currently the closest of these jurisdictions to achieving this shift. The Guardianship and Administration Bill 2018 was introduced to the Victorian Parliament in March 2018. The Bill does not contain any reference to ‘best interests’ style decision making. Rather, the primary object of the Bill is to protect and promote the human rights and dignity of persons with a disability by having regard to the Convention on the Rights of Persons with Disabilities, recognising the need to support persons with a disability to make, participate in and implement decisions that affect their lives. The Bill states that ‘the will and preferences of a person with a disability should direct, as far as practicable, decisions made for that person.’  

By moving away from ‘best interests’ style considerations in the appointment of a guardian by the relevant court or tribunal and the practice of guardianship, Chesterman’s concerns about the potential for overuse of guardianship will be at least partly addressed – as guardianship appointment and practice will be less weighted towards what society might think of as a ‘good outcome’ for the person and more considerate of the person’s own rights, will and preferences.

Another way in which Australia could provide better support to people with a disability, in the context of elder abuse, is by enacting the adult safeguarding legislation and funding adult safeguarding agencies as was proposed in the ALRC’s elder abuse inquiry. The ALRC's report

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25 Guardianship and Administration Act 2000 (Qld); Guardianship and Administration Act 1987 (Vic); Guardianship and Management of Property Act 1991 (ACT); Guardianship Act 1987 (NSW); Guardianship and Administration Act 1995 (Tas).
27 For example, Queensland recommended that the “‘best interests’ approach reflected in the current General Principle 7(5)” be replaced with promotion of the ‘adult’s rights, interests and opportunities’ to give the General Principles a strong human rights focus and reflect more closely the relevant articles of the CRPD (Queensland Law Reform Commission, A Review of Queensland’s Guardianship Laws, Report No 67 (2010) xii); Victoria recommended that ‘the phrase “best interests of the person” should be replaced with the “promotion of the personal and social wellbeing of the person”’ as a guiding principle for substitute decision making’ (Victorian Law Reform Commission, Guardianship, Final Report No 24 (2012) 92); NSW recommended that ‘new decision-making principles should require representatives to give effect to a person’s will and preferences wherever possible rather than a person’s “best interests”’ (New South Wales Law Reform Commission, Review of the Guardianship Act 1987, Draft proposals (2017) 2).
28 Guardianship and Administration Bill 2018 (Vic).
29 Ibid s 7(1).
30 Ibid s 8(1)(b).
31 All reviews have also recommended that guardianship appointments must only be made where they are the least restrictive response possible to resolving the matter, for example, in Victoria’s new Bill VCAT is directed to consider whether other less restrictive options such as mediation might be able to resolve the matter (Guardianship and Administration Bill 2018 (Vic) cl 31(b)).
identified that ‘[n]o government agency ... has the clear statutory role of safeguarding and supporting adults who, despite having full decision-making ability, are nevertheless at risk of abuse.’

To address this gap, they recommended that ‘[a]dult safeguarding laws be enacted in each state and territory ... [which] give adult safeguarding agencies the role of safeguarding and supporting “at-risk adults”.’ These laws would safeguard and support a larger cohort than those covered by state and territory guardianship legislation, by including people across the spectrum of decision-making abilities who find themselves at risk of abuse or neglect. In discussing who should hold these new responsibilities, the ALRC stated that ‘[e]xisting public advocates and public guardians have expertise in responding to abuse, and may be appropriate for this broader safeguarding function ... [h]owever, some states or territories may prefer to give this role to another existing body or to create a new statutory body.’

Therefore, the future may see an expansion of public guardians’ responsibilities in some states and territories, as well as continuing to offer protection and support to older people with limited decision-making ability who are experiencing or are at immediate risk of abuse, in alignment with the CRPD. The ALRC’s proposed adult safeguarding agencies would give services an alternative response pathway to guardianship in suspected elder abuse cases involving people with cognitive impairment. These changes, alongside the type of service response improvements proposed by Chesterman (which will be supported by funding to statutory adult safeguarding agencies), would reduce the likelihood of guardianship being overused, or taking away more rights than it enhances.

The research presented below could valuably be repeated, following these changes, to assess the impact of these policies on the prevalence rates of elder abuse among guardianship clients. For example, how effective have the alternate service pathways been on reducing the use of guardianship as an elder abuse response strategy?

IV  RESEARCH ON ELDER ABUSE PREVALENCE IN AUSTRALIA

A  General Community

As discussed above, Australian research to date has provided very limited evidence about the prevalence and incidence of elder abuse. Two population-based studies looked at women’s health outcomes and women’s personal safety (with a focus on sexual assault and intimate partner violence), but were limited in the extent to which they aligned with definitions of elder abuse. Another set of studies involved the analysis of data from calls to elder abuse helplines. These studies shed light on the set of circumstances when ‘elder abuse is known or suspected and a person concerned has decided to seek advice.’ In two of these three studies, the reporter of the abuse was either the victim or an interested party. One study looked solely at case file data based on direct reports from victims of elder abuse.

While direct reports provide more reliable data than reports from interested parties (as they do not involve subjective judgements about another person’s experience), studies that limit themselves to direct reports by victims provide a narrower view of the scope of elder abuse in Australia than they could otherwise. This is because they do not capture information about abuse experienced by people with significant cognitive impairment.

32  Elder Abuse Report, above n 2, 384 [14.40].
33  Ibid 377.
34  Ibid 25 [1.48].
35  Kaspiew, Carson and Rhoades, above n 4, 6.
36  Ibid.
In 2017, State Trustees Limited funded a market research company to undertake a small study involving telephone interviews with 820 people over 60 years old. The study collected information on whether or not the people had experienced financial elder abuse themselves (seven per cent of women and one per cent of men) and whether or not they knew of someone who had been mistreated.\(^{37}\)

### B People with Cognitive Impairment

Without the benefit of results from a population-based prevalence study that includes the experiences of people with cognitive impairment,\(^{38}\) one set of data that could provide insight into elder abuse among this cohort are the case files of people subject to adult guardianship or administration orders. Of course, people under guardianship or administration orders are a much narrower group than people with cognitive impairment (which includes an estimated 8.8 per cent of all Australians over 65 years old who suffer from dementia),\(^{39}\) as not everyone with cognitive impairment requires a substitute decision-maker or meets the legal requirements for guardianship.\(^{40}\) However, as mentioned above, this intervention is a relatively common systemic response to situations where elder abuse is suspected or known, and the person lacks decision-making abilities in the relevant area (for example, to make a decision about where and with whom they should live). As such, examination of this data is potentially fruitful.

State Trustees Limited funded Monash University to undertake the ‘Protecting Elders Assets Study’ from 2009–2011. This study included the 2010 report *Prevalence of Financial Elder Abuse in Victoria*,\(^{41}\) and looked at de-identified case file data from sources which included the Office of the Public Advocate, Victoria’s guardian of last resort and State Trustees Limited, Victoria’s administrator of last resort. Referring to its analysis of data from the Office of the Public Advocate, the report found:

> This data gives ... insight into the [demographic characteristics] ... that underlie the vulnerability to financial abuse for these clients. A majority of clients were women, the mean age was 80 years, and 12 per cent were in their nineties. Clients were most likely to be vulnerable to financial ‘exploitation’ because of a diagnosis of dementia, with three quarters of women and nearly 60 per cent of men having this diagnosis. Men were more likely than women to be vulnerable because of physical disability or acquired brain injury.\(^{42}\)

Because this study concerned population-wide prevalence of financial abuse, it did not report on prevalence or incidence rates of elder abuse among people under administration or guardianship.

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\(^{38}\) See also Bedson, above n 10, for a discussion of the requirements of such a study.


\(^{40}\) The legal requirements are set out in the *Guardianship and Administration Act 1986* (Vic) s 22. To provide some context, an estimated 81,771 Victorians over 65 years old suffered from dementia in 2016 (8.8 per cent of 929,214 older Victorians), while only 349 Victorians over 65 with dementia were subject to a guardianship order in 2016–17. Hence, an estimated 0.4 per cent of Victorians with dementia were OPA guardianship clients in 2016 (Australian Bureau of Statistics, *3253.0 Population Estimates by Age and Sex, Regions of Victoria, 2016* (2017) Data cube sheet 6; Australian Institute of Health and Welfare, above n 39, 108).


\(^{42}\) Ibid 18.
V New Research on Elder Abuse Prevalence Among Victoria’s Public Guardianship Clients

The research findings presented here draw from two separate data sets that both consider the question of elder abuse prevalence among guardianship clients of Victoria’s Office of the Public Advocate. The first data set is drawn from the first study to consider the prevalence of elder abuse among guardianship clients. This research examined Victorian guardianship case files for clients received by the OPA in the 2013-14 financial year, for evidence that the person had experienced elder abuse. The second data set, which was also derived from OPA guardianship matters over a one year period (2016-17), used a different data collection method to identify which matters involved elder abuse.

The original research project, which generated the first data set, was commenced by OPA in 2015. The central questions it sought to answer were:

- What was the incidence of elder abuse among our guardianship clients?
- What were their circumstances?
- How did OPA help protect them from the abuse?

In late 2015, in response to this initial project, mandatory fields were added to OPA’s information management system to capture information about violence, abuse and neglect in all open cases. Information inputted into those fields was used to create the second data set referred to in this paper. This provides a point of comparison to the first data set, as well as providing additional information about the prevalence of elder abuse among guardianship clients.

Alongside the organisational benefit to OPA of gaining a greater understanding of guardianship clients’ experiences of elder abuse, the broader purpose of the research presented here is to:

- contribute quantitative evidence that sheds light on the prevalence of elder abuse among people under guardianship; and
- highlight the importance of capturing the experiences of people with cognitive impairment in future national elder abuse prevalence studies.

A Research Methods

1 Definition of Elder Abuse

For the purposes of this study, elder abuse was defined 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’. For this research, an ‘older person’ was defined as a person that was aged 65 or over at the time their matter was received by OPA.

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43 Monash University used OPA data, along with other sources, to explore the characteristics of people experiencing financial elder abuse, but did not comment on the prevalence of elder abuse in this cohort. (Wainer, Darzins and Owada, above n 41, 13–18.)

44 The mandatory fields, which collect information about the types of abuse the person has experienced, and whether or not the abuse was substantiated, must be completed before the file can be closed.

2  First Data Set

The first study considered all guardianship matters that were received by OPA in 2013-14, with the goal of identifying people that came under OPA guardianship, and had experienced elder abuse. The researchers identified 388 guardianship clients that were 65 years or older at the time their matter was received. Key information about these 388 guardianship clients, such as demographics, information about their guardianship order, and a free text summary of the matter with relevant presenting issues for consideration (written by the guardian), was extracted from OPA’s case management system. The free text summary was searched for references to elder abuse (any reference to violence, abuse or neglect or suspicions of same). This method returned 59 potential guardianship clients that may have experienced elder abuse. The full paper files and electronic records of the matters identified using this method were then closely reviewed by the researcher.

Evidence or suspicions of abuse were documented in the files in various ways. For example, guardians recording information provided in conversation by community service providers or accusations by family members, paperwork from guardianship application processes, and letters from clinicians or community service providers (often provided as evidence in guardianship hearings). By searching the files for references to different types of abuse (including neglect), the researcher determined that there were 51 people who had, on the balance of probability, experienced elder abuse.

Most of those excluded for the final stage were identified as people at the centre of a family conflict situation that involved multiple accusations of abuse levelled by different parties at each other. In these situations, and other situations where accusations of abuse made by family lacked independent support, the deciding factor in whether they were included in the sample was whether the appointed guardian believed the accusations to be plausible.

There was one clear exception to this pattern of abuse accusations that lacked corroboration. One of the 59 people identified in the initial filtering process was excluded from the sample on the grounds that, while they had experienced abuse, the abuse had not occurred in a relationship of trust and did not satisfy the definition of ‘elder abuse’.

For the 51 elder abuse victims identified of the 388 people in the sample, additional information was collected about the type or types of abuse experienced and the characteristics of the perpetrator. Basic quantitative analysis was also undertaken on the full range of variables available. The small sample size meant most relationships between variables lacked statistical significance, but nevertheless indicate elder abuse prevalence and the demographic profile of this cohort.

3  Second Data Set

The second data set comprises individuals who were subject to guardianship orders and who had at least one of these matters closed (including instances where an OPA guardian is reappointed under a new order) in the 2016-17 financial year. The study used closed, rather than open, cases to guarantee the mandatory abuse fields had been completed. This ensured that the most complete and accurate estimates of elder abuse were obtained. To be included in this data set, the individuals also needed to meet the age selection criterion, which was to

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46 Some people were subject to multiple guardianship or temporary guardianship orders in the one year, and so the research consistently refers to people or ‘guardianship clients’, as opposed to new matters, so the prevalence rates of the population are not skewed by multiple entries relating to the one person.

47 The person’s human right to freedom of movement was violated by procedures put in place to manage wandering behaviours of other residents.
be 65 years or older on the day the matter was received. This resulted in a data set of 487 people.\(^{48}\)

To identify which of those people had likely experienced violence, abuse or neglect, information from the new mandatory abuse fields was used. These fields are completed by the person’s guardian, either during the course of the matter, or at the point of closing the file. The two fields collect information about the type or types of abuse identified and about whether the guardian believes the abuse identified has been substantiated.

The design of the fields reflects the difficulties of collecting information about violence and abuse being perpetrated against people with cognitive impairment, particularly with the additional challenge of elder abuse victims not wanting to disclose abuse perpetrated by their loved ones. Hence, the abuse and neglect fields are designed to capture violence, abuse and neglect that the person’s guardian, either ‘reasonably suspects’ has occurred, or believes ‘on balance of probability’ has occurred.\(^{49}\)

In this paper, abuse of guardianship clients that is ‘reasonably suspected’ will be referred to as ‘abuse not substantiated’ and the abuse for which there is strong evidence will be referred to ‘abuse substantiated’. When the two abuse cohorts are combined in the findings they will be referred to as ‘abuse victims’. While it is possible that a guardian’s ‘reasonable suspicion’ might be incorrect, and individuals may have been incorrectly identified in this sample as ‘abuse victims’, it is contended that the ‘reasonable suspicion of abuse’ of a guardian, with access to the professional expertise of the person’s health and community service workers, is an appropriate method of measuring abuse prevalence.

Demographic data and information entered into the mandatory abuse and neglect fields were extracted from OPA’s case management system in accordance with the selection criteria described above. Note that the case management data fields do not clearly identify the perpetrators of the abuse. Hence, there is no straightforward way of ensuring these abuse instances occurred in ‘a relationship where there is an expectation of trust’ in accordance with the definition of ‘elder abuse’. For the purposes of this paper, we rely on evidence from the first data set, in which 51 out of 52 older guardianship clients identified as experiencing abuse were determined to be experiencing ‘elder abuse’. Therefore, it is reasonable to assert that most, if not all, of the 102 abuse victims identified in the second data set are also ‘elder abuse’ victims. This paper proceeds on the assumption that identifying this cohort as ‘elder abuse victims’ will not significantly skew the analysis that follows.

4 Abuse Time-Frame

For the purposes of this study, no selection criteria were placed on the time-frame for the identified elder abuse. This is because of the difficulty in establishing exactly when and where the abuse occurred when it is not directly observed or involves victims with cognitive impairment. Hence, the elder abuse reported here includes victims that experienced abuse at some point in the past, as well as victims of ongoing abuse.

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\(^{48}\) Individuals may have multiple orders across the period reviewed. The 487 people identified were involved in a total of 520 matters recorded in OPA’s case management system.

\(^{49}\) The level of evidence used to make this determination would not necessarily guarantee a conviction in court.
Findings and Discussion

1 Prevalence Rates

In 2013-14 (the first data set), 13 per cent of OPA’s older guardianship clients had experienced elder abuse.50 Looking at prevalence rates by gender shows that 17 per cent of women in this cohort had experienced elder abuse, compared with eight per cent of men.

Data from 2016-17 (the second data set) showed that elder abuse was substantiated for 13 per cent of guardianship clients. It also revealed that a further eight per cent of this cohort experienced elder abuse that was not substantiated. In total, the data suggested that elder abuse had impacted the lives of 21 per cent of guardianship clients (see Table 1 below).

Table 1. Prevalence of elder abuse among guardianship clients (2016-17)

<table>
<thead>
<tr>
<th></th>
<th>Women n=271</th>
<th>Men n=216</th>
<th>Persons n=487</th>
</tr>
</thead>
<tbody>
<tr>
<td>Substantiated</td>
<td>14% (37)</td>
<td>11% (24)</td>
<td>13% (61)</td>
</tr>
<tr>
<td>Not substantiated</td>
<td>10% (28)</td>
<td>6% (13)</td>
<td>8% (41)</td>
</tr>
<tr>
<td>Total identified</td>
<td>24% (65)</td>
<td>17% (37)</td>
<td>21% (102)</td>
</tr>
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The recent data also suggested that gender played a role in how likely people were to have experienced violence, abuse or neglect. Women were more likely than men to have experienced elder abuse (24 per cent compared to 17 per cent).

2 Forms of Elder Abuse

Based loosely on the types of violence and abuse referred to in the Family Violence Protection Act 2008 (Vic),51 and tailored to OPA’s client group, the categories used in this paper are: physical abuse, psychological or emotional abuse (including social isolation), financial abuse, sexual abuse, impairment related abuse, other violence and abuse, and neglect and acts of omission.52

(a) Individuals Experience Multiple Forms of Elder Abuse

In 2013-14, information gleaned from the case files suggested that 71 per cent of elder abuse victims had experienced more than one form of abuse. Again, this rate was higher for women (76 per cent). The second data set showed comparatively low rates of multiple forms of abuse recorded against victims (33 per cent). This discrepancy is likely attributable to the differences in the way the information was collected, and not representative of a real shift. In creating the first data set, the researcher combed the case files, searching for references to elder abuse, and documented all that came up. For the second data set, guardians completed two mandatory fields relating to abuse, and could not close the file without doing so. As a hurdle on the way to closing a matter, perhaps guardians were less likely to record every form of abuse that had

50 That 13 per cent is 51 of 388 guardianship clients for whom OPA received guardianship orders in 2013-14.
51 Family Violence Protection Act 2008 (Vic) s 5.
52 Some of the less commonly used categories here are: ‘Impairment related abuse’ includes deliberately restricting a person’s access to their hearing aids, mobility aids or medication; ‘other violence and abuse’ includes everything that does not fit in to the other categories and may include legal or civil abuse and systemic abuse; and ‘acts of omission’ is defined as ‘the failure to act upon a legal duty or responsibility’ and includes doctors who fail to offer medical treatment because they base the decision not to offer treatment on judgements about the value of the person’s life, due to their disability, rather than on the clinical value of the treatment (Office of the Public Advocate, ‘Guide to Completing Violence, Abuse and Neglect Fields on Resolve’ (Practice Guide, Office of the Public Advocate, September 2015) 3 [3.2.5]).
affected that person, especially if the abuse was not continuing or central to the reason that the guardianship order was required.

It is plausible that the overall elder abuse prevalence rates derived from the second data collection method are more accurate (given the guardian’s in-depth knowledge of the person’s circumstances) but provide less nuanced reporting on abuse types. Whether the results from the first or second data set are more representative of the population, or the truth lies somewhere in the middle, this data suggests that at least one third of elder abuse victims under guardianship have experienced multiple forms of abuse that would likely have involved multiple instances of abusive acts or neglectful inactions.

(b) Prevalence of Different Forms of Abuse

The two data collection periods and methods generated somewhat different prevalence rates across the different types of elder abuse (see Table 2 below). The fact that the second data set contained, on average, fewer forms of abuse per elder abuse victim would have influenced the proportions reported below, and this could partly explain the lower rates seen in the second period. However, it cannot explain the higher prevalence rates apparent in the areas of financial abuse, neglect and impairment related abuse in the second period.

Table 2. Prevalence of each abuse type among older guardianship clients

<table>
<thead>
<tr>
<th>Abuse Type</th>
<th>2013-14 (n=388)</th>
<th>2016-17 (n=487)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial abuse</td>
<td>7% (29)</td>
<td>10% (47)</td>
</tr>
<tr>
<td>Psychological and emotional abuse</td>
<td>6% (24)</td>
<td>5% (23)</td>
</tr>
<tr>
<td>Physical abuse</td>
<td>6% (24)</td>
<td>4% (18)</td>
</tr>
<tr>
<td>Neglect and acts of omission</td>
<td>4% (15)</td>
<td>8% (39)</td>
</tr>
<tr>
<td>Other abuse</td>
<td>1% (5)</td>
<td>1% (3)</td>
</tr>
<tr>
<td>Sexual abuse</td>
<td>1% (2)</td>
<td>0% (1)</td>
</tr>
<tr>
<td>Impairment related abuse</td>
<td>0% (1)</td>
<td>5% (22)</td>
</tr>
</tbody>
</table>

The elder abuse experiences of the OPA’s guardianship clients with high rates of financial abuse is broadly aligned with much of the elder abuse literature, which recognises financial abuse as one of the most common forms of elder abuse in the general community.\(^53\) The 2016-17 data shows that ten per cent of all older guardianship clients experienced, or were suspected to have experienced, financial abuse.\(^54\)

Psychological and emotional abuse and physical abuse were reported at relatively high rates in both periods. Interestingly, the rates reported in this cohort were not quite as high as the Australian Longitudinal Study of Women’s Health, which found that just under eight per cent of Australian women over 70 years old had experienced some form of abuse, with name calling and put downs the most common forms recorded.\(^55\) This highlights the need to define when mistreatment passes into elder abuse. The longitudinal study asked three questions:

\(^{53}\) Financial abuse and psychological abuse are the two abuse types most frequently reported to elder abuse helplines in Australia. No Australian prevalence rates exist, however the World Health Organisation’s 2015 report on elder abuse showed financial abuse estimates of between one and nine per cent in high- and middle-income countries (the highest range of all common abuse types) (Kaspiew, Carson and Rhoades, above n 4, 5–7).

\(^{54}\) The 2013-14 rate of financial abuse among guardianship clients was 7.5 per cent.

• Has anyone close to you tried to hurt you or harm you recently?
• Has anyone close to you called you names or put you down or made you feel bad recently?
• Are you afraid of anyone in your family?

OPA guardians would not necessarily have categorised all instances of name calling as elder abuse, especially if they did not occur on a regular basis. Hence, OPA data may have used a higher threshold when categorising an experience as abusive, compared to the Australian Longitudinal Study of Women’s Health. It is also possible that guardianship clients were less able to report abuse than people without significant cognitive impairment.

OPA clients experienced neglect at higher rates than are reported in the general community, with respective prevalence rates of four per cent in 2013-14 and eight per cent in 2016-17 (of all older guardianship clients). Given the protective jurisdiction of guardianship, and the higher than average dependency rates of the cohort, it is not surprising that abuse and neglect rates of guardianship clients would be higher than that of the general community.

Another unique feature of this cohort is their susceptibility to ‘impairment related abuse’. This form of elder abuse is unique to people with some form of physical or cognitive impairment, for example, hearing loss, mobility challenges or memory loss. Older people under guardianship experienced ‘impairment related abuse’ at rates of almost one in 20 people (five per cent) in 2013-14 and one in five elder abuse victims in the 2016-17 cohort. This highlights the importance of further research into ‘impairment related abuse’ among older people with cognitive impairment, as well as the relationship between dependency and elder abuse.

3 Elder Abuse Victims’ Experience of Abuse

Financial abuse was the most common form of elder abuse experienced by victims in both periods (57 per cent in 2013-14 and 46 per cent in 2016-17). Examples of financial abuse experienced by guardianship clients in the first data set included forging and misusing Power of Attorney documents, forging the person’s signature to effect transfer of the person’s home to the perpetrator, and perpetrators spending the older person’s money on themselves.

Table 3. Proportion of elder abuse victims who experienced each form of elder abuse

<table>
<thead>
<tr>
<th></th>
<th>2013-14 (n=51)</th>
<th>2016-17 (n=102)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial abuse</td>
<td>57% (29)</td>
<td>46% (47)</td>
</tr>
<tr>
<td>Psychological and emotional abuse</td>
<td>47% (24)</td>
<td>23% (23)</td>
</tr>
<tr>
<td>Physical abuse</td>
<td>47% (24)</td>
<td>18% (18)</td>
</tr>
<tr>
<td>Neglect and acts of omission</td>
<td>29% (15)</td>
<td>38% (39)</td>
</tr>
<tr>
<td>Other abuse</td>
<td>10% (5)</td>
<td>3% (3)</td>
</tr>
<tr>
<td>Sexual abuse</td>
<td>4% (2)</td>
<td>1% (1)</td>
</tr>
<tr>
<td>Impairment related abuse</td>
<td>2% (1)</td>
<td>22% (22)</td>
</tr>
</tbody>
</table>

The WHO reported estimated prevalence rates for neglect constituting elder abuse of zero to six per cent across high- to middle-income countries (World Health Organisation, *World Report on Ageing and Health* (2015) <http://apps.who.int/iris/bitstream/handle/10665/186463/9789240694811_eng.pdf?sequence=1>). The longitudinal study of Australian women found that around 20 per cent had experienced neglect. However, the questions asked included ‘Are you sad and lonely often?’ and ‘Do you feel that nobody wants you around?’ which are not necessarily indicative of neglect of a person’s daily care needs (World Health Organisation, *World Report on Ageing and Health* (2015) <http://apps.who.int/iris/bitstream/handle/10665/186463/9789240694811_eng.pdf?sequence=1>).
In 2013-14, psychological and emotional abuse and physical abuse were tied as the second most common form of abuse (47 per cent each). Interestingly, in 2016-17 their incidence rates were much lower (23 per cent and 18 per cent respectively). This can partially, but not fully, be explained by the fact that guardians were less likely to identify multiple forms of abuse against one client than the researcher who created the first data set. Some evidence of this can be seen in the fact that in 2013-14, almost half of the cases that reported one of these forms of abuse also reported the other, while in 2016-17 this correlation was lower at around one quarter.

In 2013-14, neglect and acts of omission were the fourth most common category of elder abuse, at 29 per cent. However, in 2016-17, this was the second most common category of elder abuse, with 38 per cent of elder abuse victims suffering neglect. The second data set showed that 32 per cent of people who had experienced financial abuse had also experienced neglect. The first data set showed a less strong correlation, with only 17 per cent of people identified as victims of financial abuse also identified as suffering neglect. This higher rate of correlation between the categories is notable in that most correlations between categories were lower in the second period, but could be partially explained by the higher rate of neglect reporting in the second period.

Reports of impairment related abuse were more common in the second data set than in the first: one person out of 51 in the first period compared with 22 people out of 102 in the second period. This discrepancy is most likely attributable to the different data collection strategies, and suggests the need for further exploration of what sorts of abuse events guardians are categorising as ‘impairment related’. This category, along with ‘neglect and acts of omission’, are both valuable areas for further inquiry in this cohort and in future elder abuse studies that include people with cognitive impairment. The categories ‘other abuse’ and ‘sexual abuse’ were reported at low rates in both periods. However, the ‘other abuse’ category was notably lower in the second period than the first. This discrepancy could also be explored further.

4 **Likelihood of Substantiation**

To identify the full extent of the violence, abuse and neglect perpetrated against people with cognitive impairment, the OPA captured information about a guardian’s suspicions of abuse as well as when they were absolutely confident that abuse had occurred – herein called ‘substantiated’ and ‘not substantiated’ elder abuse. This distinction is discussed above in the research methods used for the second data set. Table 4 displays the substantiation rates for different types of elder abuse. This demonstrates how difficult it can be to be sure that elder abuse has occurred or is occurring. Where the guardianship client is living at home, sometimes with a suspected abuse perpetrator, and either does not wish to or is unable to disclose the abuse, it can be very difficult for their guardian or community support services to know whether or not abuse has definitively occurred.

<table>
<thead>
<tr>
<th>Category</th>
<th>Substantiation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impairment related abuse (n=22)</td>
<td>86%</td>
</tr>
<tr>
<td>Physical abuse (n=18)</td>
<td>78%</td>
</tr>
<tr>
<td>Neglect and acts of omission (n=39)</td>
<td>62%</td>
</tr>
<tr>
<td>Psychological or emotional abuse (n=23)</td>
<td>61%</td>
</tr>
<tr>
<td>Financial abuse or exploitation (n=47)</td>
<td>49%</td>
</tr>
<tr>
<td>TOTAL ABUSE AND NEGLECT (n=102)</td>
<td>60%</td>
</tr>
</tbody>
</table>

Forms of abuse that were experienced by small number of our sample were excluded from this table so as not to cause confusion. For example, one woman was identified as having suffered sexual abuse and that abuse was substantiated; this would give sexual abuse a substantiation rate of 100 per cent.
Overall the substantiation rate was 60 per cent. Impairment related abuse and physical abuse, which are probably the most visible forms of abuse (lack of hearing aids or wheelchair; bruising and more serious injuries), had the highest rates of substantiation (86 per cent and 78 per cent respectively). On the other hand, less than half of the people who were suspected of experiencing financial abuse had that abuse substantiated (49 per cent). This lower rate may stem from the difficulties inherent in proving financial abuse (particularly the less significant forms), or it could be a reflection of the fact that guardians do not make financial decisions and therefore have limited access to information about the person’s financial situation, or both. Perhaps administrators, when they are appointed, would report higher rates of substantiation of financial elder abuse. This is a potential area for future collaborative research.

5 Disability and Elder Abuse

Both data sets showed that people with intellectual disability and people with dementia were more likely than people without these disabilities to be victims of elder abuse (see Table 5 below). The second data set (which reported a higher proportion of elder abuse victims overall) showed that 24 per cent of people with an intellectual disability and 23 per cent of people with dementia were victims of elder abuse.

Table 5. Elder abuse prevalence rates by disability type

<table>
<thead>
<tr>
<th>Disability Type</th>
<th>2013-14</th>
<th>2016-17</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intellectual disability</td>
<td>17%</td>
<td>24%</td>
</tr>
<tr>
<td>Dementia</td>
<td>16%</td>
<td>23%</td>
</tr>
<tr>
<td>Mental illness</td>
<td>12%</td>
<td>12%</td>
</tr>
<tr>
<td>Acquired Brain Injury</td>
<td>11%</td>
<td>18%</td>
</tr>
<tr>
<td>Physical disability</td>
<td>6%</td>
<td>16%</td>
</tr>
<tr>
<td>All</td>
<td>13%</td>
<td>21%</td>
</tr>
</tbody>
</table>

Both data sets also presented the same broad picture of the prevalence of elder abuse across the five main disability types recorded in OPA’s case management system, with intellectual disability and dementia showing the highest risk and acquired brain injury, physical disability and mental illness showing lower risk profiles.

Mental illness, however, stands out as the only group for whom prevalence rates did not rise, despite the higher overall rate of identified victims in the second data set. The groups of guardianship clients with mental illness or intellectual disability also grew faster than those with other disability types. It is not clear why this growth occurred, but the data suggests that elder abuse was not the driver for the growth in the numbers of older guardianship clients with a mental illness.

6 Age and Elder Abuse

The relationship between the age of guardianship clients and elder abuse is not straightforward, and requires further exploration. While the overall abuse rates were lower in 2013-14 than 2016-17 in every age group (and for each gender), there were some patterns worth mentioning.

In both 2013-14 and 2016-17, the prevalence of elder abuse was higher for women than men, both overall and in each age group. In 2013-14, the prevalence rate for both men and women was lowest in the 85 years and over age group. However, in 2016-17, while men over 85 years old experienced less elder abuse than men in the younger age groups (65-74 years and 75-84
years), women in the oldest age group experienced a higher prevalence of elder abuse than any other cohort (27 per cent).

The apparent rise in abuse rates for women over 85 years old cancelled out the apparent fall in abuse rates for men in that cohort, returning a relatively flat overall profile of elder abuse prevalence by age (20 per cent for 65-74 year olds, 21 per cent for 75-84 year olds, 22 per cent for people over 85 years).

Table 6. Proportion of elder abuse victims by age group and gender

<table>
<thead>
<tr>
<th></th>
<th>2013-14</th>
<th></th>
<th></th>
<th>2016-17</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Women</td>
<td>Men</td>
<td>All</td>
<td>Women</td>
<td>Men</td>
<td>All</td>
</tr>
<tr>
<td>65-74</td>
<td>16%</td>
<td>4%</td>
<td>9%</td>
<td>23%</td>
<td>18%</td>
<td>20%</td>
</tr>
<tr>
<td>75-84</td>
<td>16%</td>
<td>11%</td>
<td>14%</td>
<td>21%</td>
<td>20%</td>
<td>21%</td>
</tr>
<tr>
<td>85</td>
<td>13%</td>
<td>6%</td>
<td>11%</td>
<td>27%</td>
<td>13%</td>
<td>22%</td>
</tr>
<tr>
<td>Total</td>
<td>17%</td>
<td>8%</td>
<td>13%</td>
<td>24%</td>
<td>17%</td>
<td>21%</td>
</tr>
</tbody>
</table>

The interplay between age and gender is worth exploring further, to test the hypothesis that elder abuse prevalence rates in the older age groups (for example 85 years and over) vary with gender. The second data set suggests that older women may be more vulnerable to elder abuse than the other cohorts explored here. The first data set suggests the opposite, that older female guardianship clients may be less vulnerable to elder abuse than the younger cohorts. As discussed earlier, the second data set is believed to have more reliably identified elder abuse than the first data set, due to the closer relationship between the guardian that identified the abuse and the guardianship client. Further exploration of this issue would help decide whether older female guardianship clients are in fact more vulnerable to elder abuse.

It is very likely that a positive correlation exists between cognitive impairment and elder abuse and between age and cognitive impairment. However, further research is required to further elucidate these relationships.

7 Perpetrators of Elder Abuse

As elder abuse occurs in the context of relationships characterised by trust, it is unsurprising that there is significant overlap between family violence and elder abuse. The data from 2013-14 shows that in practice most, but not all, elder abuse of guardianship clients fits under the banner of family violence. This is because family violence against older people requires the perpetrator to be either a family member or in a family-like relationship with the victim, whereas elder abuse just requires that they be in a relationship normally characterised by trust, which includes family and family-like relationships as well as friends and others with whom the person has formed an intimate connection.

Of the victims of elder abuse identified in 2013-14, nine out of ten experienced family violence. Women were more likely to have experienced their abuse in a family violence context than men (95 per cent compared with 69 per cent). This large discrepancy suggests that gender may play an important role in determining people’s experiences of elder abuse, and that this is an area for further research.

Table 7 below provides information on perpetrators of elder abuse. The three largest categories of perpetrator were all family members: children and their spouses, the spouse of the victim,

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and other relatives. The data analysis found 67 perpetrators of abuse across the 51 cases identified in 2013-14. Just under 30 per cent of elder abuse victims were being abused by multiple perpetrators.

Table 7. Perpetrators of elder abuse (2013-14)

<table>
<thead>
<tr>
<th>Perpetrators identified (n=67)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Children and their partners</td>
<td>40</td>
</tr>
<tr>
<td>Spouse</td>
<td>12</td>
</tr>
<tr>
<td>Other relative</td>
<td>6</td>
</tr>
<tr>
<td>Friend/Neighbour</td>
<td>5</td>
</tr>
<tr>
<td>Housemate</td>
<td>3</td>
</tr>
<tr>
<td>Paid carer</td>
<td>1</td>
</tr>
</tbody>
</table>

The method of data collection used in 2016-17 did not allow analysis of perpetrator-victim relationships.

C  Limitations

These two methods of estimating elder abuse prevalence among guardianship clients have some limitations. The first method used to estimate prevalence was likely to have returned an underestimate of elder abuse rates, as the free-text case summaries used to identify potential elder abuse would not always have mentioned all the abuse the person had experienced.\(^6\) Abuse suffered may be hidden from interested parties and service providers, it may have occurred in the past, or it may not be central to the issues that brought the matter to the guardianship jurisdiction. These would all be reasons that the person’s case summary and files may not contain reference to their experience of elder abuse. Note that the first case file review study employed the World Health Organisation’s widely accepted definition of 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.’\(^6\) The case review method allowed the identification of the relationship between victim and perpetrator.

The prevalence rates of abuse and neglect gathered from the mandatory data fields would return a more accurate estimate than the file review method. This is because the appointed guardian would have gathered a good understanding of the person’s situation by the time they closed the file.\(^6\) The main limitation of this data set is that the case management system does not allow easy reference to the perpetrator or perpetrators of any abuse or neglect. Hence, it is possible that a few of the instances of abuse and neglect returned by this method may include abuse that occurred outside of a ‘relationship of trust’. This abuse is not normally recognised as ‘elder abuse’. For these reasons, the two sets of results generated by these different research methods are not precisely comparable. However, as discussed above in the research methods section, the analysis undertaken on the first data set strongly suggests that the number of cases among the second data set that did not involve ‘elder abuse’ and ‘relationships of trust’ would be very few.\(^6\)

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\(^6\) Both overall rates of elder abuse and rates for individual types of abuse would be underestimated.
\(^6\) Except for the rare matters where the person moved out of Victoria or died before the guardian became familiar with their matter.
\(^6\) Out of 52 identified cases of abuse of older people (65 years and over), in only one did the abuse not occur in a ‘relationship of trust.’
An overarching limitation, when considering the prevalence rates of elder abuse among people with cognitive impairment, is that people under guardianship represent a very small subset of this cohort, and, as such, prevalence rates of elder abuse among guardianship clients are not representative of this broader group.

VI Conclusion

The Australian Government responded to the ALRC’s recommendations coming out of the elder abuse inquiry by committing to lead the development of a National Plan to Combat Elder Abuse and funding a research program that includes a national elder abuse prevalence study. Given the dearth of population-level evidence about elder abuse, this research will set the stage for the development of much needed evidence-based policy and services in this area.

Only one national prevalence study, to date, has been inclusive of the experiences of people with cognitive impairment. This is because conducting studies that include people with cognitive impairment are more expensive and more difficult. However, with just under one in ten Australians over 65 years old suffering from dementia, and strong evidence to suggest a positive correlation between cognitive impairment and elder abuse, it is imperative that future research includes this cohort. The research presented here contributes to the task of measuring the prevalence of elder abuse. In particular, it contributes to the difficult task of measuring elder abuse among people with cognitive impairment. It found elder abuse prevalence rates among guardianship clients of 13 per cent in 2013-14 and 21 per cent in 2016-17. It also found that women experienced elder abuse at higher rates than men, and that the vast majority of the elder abuse identified was committed by relatives and also constituted family violence. Guardianship clients with dementia or intellectual disability were more likely to have experienced elder abuse than those with other disability types. Financial abuse was the most commonly identified form of elder abuse in both periods, with neglect, psychological abuse and physical abuse also identified at significant rates (from four to eight per cent) in both periods.

The comparatively high rate of ‘impairment related abuse’ identified by guardians in the 2016-17 period (five per cent) is of interest, as this is not a category seen in elder abuse research conducted with people living independently in the community. It suggests that older people with cognitive impairment and higher levels of dependency may be vulnerable to a wider range of forms of elder abuse than others. Further research into this cohort would be valuable, as would any research that further unpacks the relationships between elder abuse, cognitive impairment and age.

Given the questions raised about the overuse of guardianship as a health and community service sector response to elder abuse among people with cognitive impairment, it is unclear whether the differing rates of abuse by disability type point to particular recommendations for action (aside from the development of alternative service responses to guardianship for this cohort, for example, through funding for adult safeguarding agencies). However, it would be worthwhile for public guardians to be made aware of the potential for increased susceptibility to elder abuse among guardianship clients who have dementia or an intellectual disability. Public guardians may also like to implement violence and abuse screening tools that identify dementia and intellectual disability as risk factors.

64 Marmolejo, above n 8.
65 Bedson, above n 10, 23–4.
Where possible, it would be interesting to replicate this research in different jurisdictions, ideally before and after the law reform and service initiatives discussed herein. Doing so would shed light on the success or otherwise of these reforms from a human rights perspective.

Finally, we see these findings as a driver for change towards research into elder abuse being consistently inclusive of the experiences of people with cognitive impairment and as contributing to building the knowledge base about this cohort.