



OPALS

Older Persons
Advocacy & Legal Service

FIRST-YEAR REPORT

August 2020



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FUNDING SOURCES

Caxton Legal Centre has been funded by the Commonwealth Attorney-General's Department to establish and trial a health justice partnership with Metro South Health to address elder abuse in Queensland.

DISCLAIMER

Where this report expresses commentary or opinion on an issue, these are to be understood as being the views of Caxton Legal Centre and do not reflect the views of any other organisation or government department.

INTRODUCTION

Elder abuse seriously erodes an older person's right to autonomy, independence and safety. An older person's experience of elder abuse might involve interconnected legal, social and health issues. Early identification and resolution of underlying legal problems can improve the older person's health and wellbeing.

There are many barriers to addressing elder abuse, and health professionals are well situated to identify abuse and respond appropriately.

Caxton Legal Centre (Caxton) has been funded by the Commonwealth Attorney-General's Department to establish and trial a health justice partnership (HJP) with Metro South Health (MSH) to address elder abuse in Queensland. In August 2019, Caxton and MSH launched the Older Persons Advocacy and Legal Service (OPALS), a specialist advocacy and legal service for older people who have been identified in the Metro South Health care system as being at risk of or experiencing elder abuse. The HJP trial is funded for three years (until 30 June 2022) to establish a thorough understanding of the potential strengths of this model and to evaluate the conditions in which it proves useful.

The HJP was designed with the presumptions that:

- elder abuse is a legal, social and health issue
- unmet legal needs are a social determinant of health
- health professionals are in a unique position to identify elder abuse and respond appropriately
- the partners will draw on their networks and promote their services to reach older people
- connecting older people who experience elder abuse with the appropriate legal service and social supports will improve their legal, social and physical wellbeing.

JOINING FORCES TO COMBAT ELDER ABUSE

The Partnership

The partners for this HJP are:

- Caxton Legal Centre, an independent non-profit community legal centre, which serves the community

of the greater Brisbane region. Caxton provides four specialist legal and social support services for older people including OPALS

- Metro South Health, a hospital and health service, and major provider of public health services in Brisbane's south side, Logan, Redlands and Scenic Rim regions.

Our overarching objective was to trial, develop and promote a health justice partnership to address elder abuse by:

- delivering a health justice partnership at Metro South Health locations
- training health care and social work professionals to identify and refer older people to appropriate services including OPALS
- providing case management and social support services in partnership within the health system
- providing advocacy and supported decision making to older people
- family conferencing with older people and their networks.

This report will outline our model, data and insights from our first year of delivering these services to older people within the Metro South Health region.

Older Persons Advocacy and Legal Service

OPALS is the first health justice partnership of its kind in Queensland to identify and address elder abuse through the delivery of integrated legal, social work and health services within a hospital setting and also in the community.

OPALS commenced service on site at the Princess Alexandra Hospital and extended its reach, within the first year, to QEII (from 10 September 2019) and MSH@Home (MSH community health services from 29 January 2020).

In October 2020, OPALS also commenced outreach at Logan Hospital and discussions are being had around expanding to other hospital and health services in the MSH region. The Princess Alexandra Hospital will be the central hub out of which OPALS will operate as a 'Hub and Spoke' model.

OPALS is an integrated partnership service that:

- articulates and demonstrates a HJP model of practice
- increases the capacity of health professionals within Metro South Health to identify older persons at risk of or experiencing elder abuse and how to refer them to OPALS
- embeds a legal practitioner at the Princess Alexandra Hospital (and now Logan Hospital) to work with hospital social workers in a social worker-lawyer intervention model to assist older persons who are at risk of or experiencing elder abuse
- incorporates a community social worker who provides ongoing social supports alongside continued legal services to older persons after they have been discharged from hospital to address the ongoing risk of elder abuse
- promotes the human rights of older persons via good practice and systemic change.

OPALS GOVERNANCE

The initial stages of the HJP involved establishing governance arrangements to support this partnership. In April 2019, project officers Melody Valentine (lawyer, Caxton Legal Centre) and Emma Baker (social worker, Princess Alexandra Hospital) were employed to scope, research and develop the governance framework for OPALS. The partners designed the

decision-making framework and the formalisation of the HJP by Memorandum of Understanding.

OPALS is governed by its partnership coordinators, a reference group and an integration team. The OPALS team comprises a senior lawyer, a lawyer and a community social worker.

The team's individual membership, purpose and responsibilities

	OPALS Integration Team	OPALS Partnership Coordinators	OPALS Reference Group
Membership	OPALS workers and other staff from Caxton and MSH	Caxton and MSH each appoint an OPALS partnership coordinator	OPALS partnership coordinators, senior staff at MSH and Caxton, and members from key agencies
Purpose	Debriefing, reflective practice, information sharing, resourcing and practice issues	Development and implementation of OPALS, operational management, consistency of practice and training needs	Provide direction on OPALS implementation and operation
Responsibilities	<p>Reviewing process gaps or issues</p> <p>Preparing policies for review</p> <p>Collaborating on operational and practical issues</p> <p>Coordinating promotion and awareness raising</p> <p>Identifying, exploring and addressing emerging trends and concerns</p> <p>Developing and promoting shared understanding of practice</p> <p>Implementing shared data collection and analysis</p>	<p>Holding the key partner relationship</p> <p>Communicating about and guiding OPALS operations including:</p> <ul style="list-style-type: none"> • practice framework including integrated social worker-lawyer model • services and education • resource development • information sharing • staffing • data collection, research and evaluation <p>Expanding the service to additional sites</p> <p>Troubleshooting high-level issues</p>	<p>Strategic direction for planning, implementation and evaluation of OPALS</p> <p>Information about areas of identified need for education or further development of OPALS</p> <p>Leading the development of interdisciplinary and cross-sectoral understanding and knowledge</p> <p>Reviewing and approving OPALS protocols, procedures and guidelines</p>

Meet the Team



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CEO Caxton Legal Centre
OPALS Partnership Coordinator



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OPALS DELIVERY MODEL

Training

OPALS provides face-to-face and virtual training to health professionals and hospital social workers. The purpose of this training is to raise awareness of OPALS, and to assist health professionals and social workers in identifying elder abuse (red flags) and potential clients and referring them to OPALS.

Secondary Consultations

Secondary consultations are a form of indirect legal and social work assistance offered to health professionals and hospital social workers by the OPALS team. Secondary consultations may occur where:

- a patient is not yet ready to speak to a lawyer or social worker about their situation
- a health professional or hospital social worker is concerned elder abuse may be occurring, and wants more information before speaking to the patient
- the health professional or hospital social worker is concerned about the patient's capacity to consent to the referral.

In these circumstances, the health professional or hospital social worker can speak to the OPALS team for information on legal pathways and social work supports that may be available for the patient in a de-identified or hypothetical fashion.

Co-delivered Care Plan in the Hospital and Community

OPALS applies a social worker-lawyer intervention model, with social workers and lawyers working collaboratively with older persons to provide a highly effective first response to elder abuse.

The social worker-lawyer intervention model is delivered with the older person's consent through:

- hospital-based OPALS services. The OPALS lawyers and hospital social workers work together to deliver integrated legal assistance services in a patient care settings
- community-based OPALS services. Where the client needs ongoing legal assistance following discharge, or a patient has been identified in the community, the OPALS community social worker and OPALS lawyer will provide the integrated service.

The following deidentified case studies may further elucidate how this integrated framework works in practice.

Jim was finally heard and felt protected

Jim, 67 years of age, had been the primary carer for his now 18-year-old grandson Dean since he was five years old. When angry, Dean was aggressive and physically violent towards Jim. Jim adored and loved his grandson but did not know how to manage his behavior. Jim also has a hearing impairment and struggled to communicate with Dean.

Jim lived in a housing commission home and was worried he might get evicted because of Dean.

He had reached out to several services, such as police and youth services, but was not able to secure any support. After one violent and angry outburst, Jim's GP referred him to an MSH Emergency Department due to concerns about his heart.

The emergency department's (ED) social worker immediately discussed safety planning with Jim and, as part of his discharge plan, referred him to OPALS for advice.

Initially, Jim was very hesitant to accept advice from the OPALS lawyer about steps he could take to secure his safety, including applying for a protection order. He was worried about Dean becoming homeless or their relationship ending. One month later, Jim again presented to ED for similar reasons and contacted OPALS for assistance with a protection order.

Initially, Jim wanted an order ousting Dean, but then decided he did not want Dean to leave and submissions were made to the magistrate to that effect. The OPALS social worker was providing short-term counselling to Jim and had undertaken safety planning with him. The magistrate spoke with Dean and was satisfied Dean was able to obtain some support through the Domestic Violence Court support worker and that he was remorseful for his actions.

The protection order was finalised by Dean consenting without admission to the order that he be of good behaviour and not commit domestic violence against Jim. Jim told OPALS that this was the first time in many years he had felt heard and supported.

Intergenerational abuse is the most common way of elder abuse. Older persons do not report the abuse due to shame, fear of repercussions and reluctance to incriminate their

adult child. Older persons have the right to be safe from harm within their own homes and to receive supports that enable them to choose how that safety is achieved.

Patricia never thought her relationship would end this way

Eighty-four-year-old Patricia felt very blessed that in her 60s she found love again with Glen. They were both widowers when they met and both had an adult child from their respective first marriages. Glen was diagnosed with dementia and over time Patricia struggled to provide care for him with limited support from Glen's family.

When Patricia suffered a fall, injured her leg and required surgery, she contacted Glen's son to look after Glen. The surgery and recovery unexpectedly took four months. During this time, she was unable to contact Glen's son and he also failed to contact her.

Patricia asked her son to make contact, and she eventually discovered that Glen had been placed into a dementia ward by his son. It appeared that large amounts of money were missing from their joint bank account.

As part of Patricia's discharge plan, it was determined that she could not return home and she agreed that she would need to move into an aged-care facility. Patricia relied on her own son to assist her with this process. She mentioned her issues with Glen to a Transition Care Program (TCP) social worker who recognised that Patricia may be at risk of financial elder abuse and, with Patricia's consent, referred her to OPALS.

The OPALS community social worker undertook a 'warm' handover of the issues from the TCP social worker and completed an initial intake and assessment with Patricia.

The OPALS lawyer also met with Patricia. Immediate steps were taken to ensure both signatories needed to be present to withdraw money in order to secure her joint bank account. Patricia was also provided with legal options of a soft approach to Glen's son to

find out where Glen was and what decisions had been made regarding their joint finances.

The response to the letter was initially scathing, but after some negotiating with Glen's son, the OPALS lawyer was able to assist the parties to achieve an amicable discourse.

Glen's son had unilaterally ended the relationship with Patricia and withdrawn money from the joint account to help facilitate Glen's placement. He also proposed to separate Glen and Patricia's finances on a permanent basis, so as to terminate their financial obligations to each other.

Whilst there is a real distinction between separation due to illness and separation due to the decision of parties to end their own relationship, the *Family Law Act 1975* (Cth) is still applicable and so the OPALS lawyer provided advice about a family law property settlement.

Patricia was very upset about this but she wished to proceed with this option so that her own child, who was her attorney, could deal with her finances, if required, without ongoing entanglement with Glen's son.

It is not uncommon for older persons who remarry to appoint their biological children as their attorneys under an enduring document. Those adult children may engage in 'inheritance protection' behaviours, discount the significance of the relationship and deny the rights, views, wishes and feelings of the new partner, even when that person has provided significant care and companionship to their parent.

All Queenslanders enjoy the human right to protection of their family, which includes the right to have an ongoing relationship with their partner. Due to ageist attitudes, older person's later-life intimate partner relationships can be discounted. When one person falls ill, the relationship can be ended by that person's attorneys.

Mavis is devastated by the loss of her husband

Mavis, 86 years of age, was admitted to hospital after presenting with severe emotional stress following the sudden passing of her husband. Her eldest son David then visited and requested a significant amount of money from Mavis. David also lives in a house in Sydney owned by Mavis and has not paid rent for 10 years. Mavis would like David to either pay rent or leave to allow her to sell the property. David is verbally abusive towards Mavis when he calls her.

The hospital was concerned about financial abuse and Mavis's capacity to stop the abuse. They subsequently applied for an urgent interim order seeking guardianship and administration to protect Mavis from financial abuse. The hospital then referred Mavis to OPALS for advice about how to protect herself from her son, and for help navigating the QCAT process as she wanted to be able to make her own decisions. Mavis stayed in the hospital against her wishes as she was deemed unable to live independently.

The OPALS community social worker and lawyer visited Mavis in the hospital. Mavis was an accountant and valued making her own decisions and expressed her dismay in having them made for her. The OPALS lawyer provided legal advice regarding the QCAT hearing, and guardianship and administration. Advice was also provided about her options to ask David to leave Mavis's home or pay rent as well as domestic violence advice. OPALS liaised with family members to assist to resolve the conflict. Safety planning and boundary setting was undertaken.

Mavis accepted the OPALS social worker to provide support and advocacy at QCAT. Mavis also had support from her daughter Nicole, who she trusted to assist her in decision making. The interim decision appointing a guardian and administrator ceased and the application for guardianship and administration was dismissed. Mavis is now making her own decisions. Mavis was very grateful for OPALS assistance as autonomy in making decisions was very important to her.

Limitations of Data

We acknowledge that the data being presented in this report has its limitations.

The data is based on clients who accepted referrals to OPALS. Hospital and community health social workers, our main referrers, reported to OPALS that some of their patients refused to be referred to OPALS for various reasons. OPALS staff also acknowledge that even where patients had given informed consent to be referred to OPALS, some patients still refused to engage with OPALS or have been unreachable when OPALS tried to engage with those patients.

We have to also assume that health practitioners are able to notice and have discussions about elder abuse and refer accordingly.

The limited data available about elder abuse in Queensland and Australia suggests that there are substantial barriers to referrals, and that the number of elder abuse cases recorded is only the tip of the iceberg and were mostly self-referrals.

The COVID-19 pandemic proved to cause major disruption to service delivery from 23 March 2020 until August 2020. We assume that fewer older people attended hospital during this period due to their vulnerability to COVID-19, and this may have meant there were less opportunities to notice elder abuse.

The OPALS lawyer worked remotely from 23 March 2019, but was still available to speak with staff for secondary consultations and patients/clients by phone or email. The OPALS lawyer resumed work from the hospital two days per week on 13 July 2020. The following data is from 5 August 2019 until 5 August 2020. The OPALS social worker continued to work in the community and remotely in response to the pandemic.

OPALS Client Service

OPALS has assisted:

→ 37 older people experiencing elder abuse and provided

→ 161 services to these clients.

A service can include intake and assessment, specialist legal advice, support or information, dispute resolution or court representation.

OPALS accepted:

→ 37 referrals
43% were from a hospital
57% were community or self-referrals.

Client Demographic

Of the clients identified as experiencing abuse:

→ 41% were male
59% were female

→ 73 was the median age with
19% aged 60 to 65
41% aged 66 to 75
38% aged 76 to 85
2% aged 86 and over

→ 75% had no or low income, living mainly on Centrelink payments

→ 16% identified as culturally and linguistically diverse
5% identified as Aboriginal and Torres Strait Islander peoples.

The Perpetrator

Of the identified perpetrators:

→ 52% were male
48% were female
→ 57% were the sons and daughters of the older people.

While abuse is typically perpetrated by an adult child, it is also perpetrated by other family members and attorneys, guardians or administrators when appointed by QCAT, or carers.

Type of Abuse

Breakdown of the type of abuse:

→ 51% financial abuse
27% psychological abuse
22% physical.

Type of Legal Issue

Breakdown of legal issues OPALS clients needed assistance with:

- 44% of advices were in relation to domestic and family violence
 - 21% were about enduring documents and guardianship/administration
 - 15% were in relation to criminal law issues
 - 10% was with respect to family law issues
 - 5% were about tenancy
 - 5% were about equity/property issue.

Comments on This Data

Finer distinctions can be made within psychological and physical elder abuse, such as social abuse or neglect, however, due to the small sample size, we have combined data under these two broader categories.

The most common type of abuse we noticed was financial abuse. However, the most common type of legal advice we provided was in relation to domestic and family violence, followed by enduring document and guardianship. This seemingly unusual response to financial abuse occurred because our clients experienced several types of abuse simultaneously. Financial abuse often co-occurs with physical or psychological abuse, and as such, a domestic violence order intervention or advice was necessary.

Secondary Consultations

Secondary consultations are de-identified and/or hypothetical discussions between hospital health staff and OPALS.

We conducted 96 secondary consultations in our first year of operation. In the first four months, we only recorded the type of legal issue and refined our data collection from January 2020 onwards to include ethnicity, age, sex and source of referral where available. Despite the recording of more client details, confidentiality was strictly upheld.

Many of the consultations involved more than one legal issue and these related to:

- 39 guardianship, administration or EPA
 - 17 domestic violence
 - 3 family law separation
 - 28 capacity issues of the patient

37 conflict with children

28 real or alleged financial abuse.

Fifteen of these matters were outside the scope of OPALS services (i.e. wills, criminal law matters, immigration, Centrelink and personal injuries), and we provided the health professional with referrals or other information.

Client demographics were recorded for 53 consultations from January 2020.

- 3 patients identified as culturally and linguistically diverse
- 35 were male
 - 21 were female but 6 queries of these were in relation to couples

Where age was disclosed:

- 3 patients were between 60 and 65
- 21 patients were between 66 and 74
- 13 patients were between 75 and 84
- 2 patients were 94+

We provided consultations to:

- 46 hospital social workers
 - 5 community social worker
 - 2 nurses
- 43 were regarding patients from the Princess Alexandra Hospital
 - 10 from Community Health and the QEII hospital.

Secondary consultations ranged from five minutes to one hour.

Further comments on this data

Secondary consultations are a major component of the work conducted by health justice partnerships, and it is no surprise that OPALS received more requests for secondary consultations than client referrals.

The questions about guardianship/administration or enduring power of attorneys were very specific (e.g. who can be an attorney or when a power commences). This was different to questions about capacity, which were more about when to consider assisted decision making or clarifying the different capacity domains and how to assist a client to retain their autonomy in decision making.

Survey and Client Feedback

OPALS conducts client surveys and collates case studies for the Attorney-General's Department.

OPALS is obliged to survey 10% of clients, or a maximum of 20 clients per year. We engaged law and social work students from Caxton Legal Centre to call the clients to provide objectivity and some 'distance' from the OPALS team.

The four clients surveyed so far strongly agreed that the service met their needs and they felt they were better able to deal with their issues.

A client comment from the survey:

They were very honest and helped in their means and very knowledgeable and most cooperative. Good to do business with and if I have any more issues, I will be most inclined to gravitate towards them.

OPALS Education

We delivered:

→ 40 presentations to Metro South Health. This includes presentations to stakeholders, consumers and university students

and trained

→ 1085 health professionals to identify elder abuse.

The presentations are tailored to suit a busy health service and ranged from 10 minutes to one hour.

Training evaluation

We conducted a pre and post-training survey at a small number of sessions and received 77 completed forms.

→ 82% found the presentations overall very good or excellent and

18% said it was good.

Pre training



Post training

72% of participants said they strongly agreed or agreed that they were aware of health impacts of elder abuse.

92% said that they strongly agreed or agreed that they had improved awareness of risk factors, red flags and behaviours that may indicate elder abuse.

65% said that they were unable or unsure as to whether they could confidently identify whether an older person is at risk of or experiencing elder abuse.

89% said that they strongly agreed or agreed that they were more confident to identify if an older person is at risk of or experiencing elder abuse.

58% said they were not aware or unsure of the legal issues that co-exist with elder abuse.

96% said they strongly agreed or agreed that they had greater knowledge of legal issues that co-exist with elder abuse.

75% said that they were unsure or unable to confidently refer an older person who is at risk of or experiencing elder abuse to appropriate support service.

92% said they strongly agreed or agreed that they were more confident about referring an older person who is at risk of or experiencing elder abuse.

Some comments and feedback from the training

Case studies were useful.

Most useful aspects were the video and questions to the audience. More examples could improve the training.

Thorough explanation of risk factors and what to observe.

Good overview of risks and indicators. Suggestion that it would be good to have the process for referral available on the handout. Also found risk factors/red flags/behaviours a bit confusing and hard to differentiate as terms.

The most useful aspect is knowing 'Where' to go or 'Whom' to report to when elder abuse is happening. This training should be made mandatory for all the staff so everyone will be aware of the issues and how to address them when they arise. Thank you for the training.

To be improved: possibly include comprehensive handout or links in training module (like LEAP online) so we can download the ppt file.

Got awareness of how to deal with elder abuse red flags. Training should be done more often.

Was good, not enough time.

GENERAL TRENDS AND OPALS EXPANSION

Understanding and Exploring Capacity

There is pressure on older people to have a high level of capacity to understand and communicate all of their personal, health and financial decisions. When this is coupled with potential elder abuse, the response from services should always be the least restrictive.

We have noticed within secondary consultations and/or referred cases that (arguably) the least restrictive approach has not always been taken (see the case of Mavis).

It is very challenging to assist clients with fluctuating capacity. There could be many reasons why a person's rights can be overborne such as:

- health staff placing more weight on protection rather than the autonomy of the older person
- ageist views
- systems pressure on the health practitioner to manage patient numbers and beds
- a deficit-focused approach rather than a strengths-based approach

- a limited understanding of capacity and taking a global approach in understanding capacity
- limited access to supports or community services due to limited resources.

OPALS commenced just before the *Queensland Human Rights Act 2019* (Qld) came into force on 1 January 2020. This timing has been quite crucial and impacted on many discussions between OPALS and health workers in advocating for the needs of older people.

Relationships and Visibility

The continuity and presence of OPALS at the hospital, providing visibility and a face for people to talk to, strengthened the quality of the partnership.

We also noted that visibility in the health justice partnership (e.g. the provision of co-located services) directly correlated with the number of referrals OPALS received. The restrictions due to COVID-19 confirmed this notion. During the four months of working remotely, we only received five referrals, while, once back at the Princess Alexandra Hospital, we accepted 10 referrals in less than one month. Similarly, secondary consultations during the March to July period totalled 15 while the same number was received in just one month after face-to-face service resumed.

Relationships and Education

A large component of the work we conducted has been education to consumers, health staff and allied health students on elder abuse, human rights and understanding how to engage with OPALS. The more confidence our health staff have in OPALS, the more referrals we receive.

Health justice partnerships are limited in number but are gradually expanding in Queensland. It has been important to make a good impression and build the trust and faith of potential referrers. Trust is an important building block in a multidisciplinary relationship.

Capacity, enduring power of attorney documents and mandatory reporting of elder abuse seems to be a common topic that many health practitioners are interested in and concerned about.

CONCLUSION AND NEXT STEPS

If we measure ourselves by what we set out to do, then we may conclude that OPALS has succeeded in establishing Queensland's first elder abuse health justice partnership. However, we also recognise that there is much work to be done and, further to our above comments on our ongoing work, we also see the following as part of our next steps.

1. Our team did its best to respond to the challenges caused by the COVID-19 global health crisis, but we have to be alert to the longer-term impacts of this pandemic on older people in health and legal systems, in order to provide advocacy on systemic or human rights issues that may flow from it.

2. An early intervention response can be an important way to minimise an older person's likelihood to experience elder abuse. During OPALS's planning phase, some consideration was given to trialling a partnership with a smaller clinic or GP service. However, after mapping and cold-contacting a number of services, there was little to no response.

Conversely, OPALS received interest from other Metro South Health hospitals (i.e. Logan Hospital, Redlands Hospital and QEII Hospital) to provide its service at those sites. As such, efforts to expand across these other Metro South hospitals has commenced in a 'hub and spoke' model, with Princess Alexandra Hospital being the central hub. However, OPALS continues to have an interest in an early intervention framework of responding to elder abuse and will attempt to review this subsequent to the current expansion plans.

3. OPALS must also continue to foster its partnership with Metro South Health. This means continuing to

collaborate with Metro South Health, being actively engaged with each hospital as the service expands and continuing to provide education across significant areas of interest. All activities should focus on human rights, be mindful of staff or resource changes to timely respond to potential minor interruptions to OPALS's service delivery, and review ways the partnership can become more integrated (whilst also managing information sharing or other issues).

In response to these issues, OPALS, through its coordinators and networks, are facilitating discussions and actions that seek to:

- build a statewide community of practice with other health justice partnerships for issues related to older people and elder abuse, where cases and issues can be discussed in a de-identified and collaborative way
- create and collaborate on educational resources about elder abuse and referral pathways for older people, that are shared and used by multiple agencies and organisations
- work alongside Health Justice Australia to advocate for health and justice needs of older people identified through the community of practice
- create, collaborate and participate in education around the recent reforms to power of attorney, human rights and guardianship law
- advocate for the human rights of older people in health settings to be able to maximise their participation in hearings related to guardianship and/or administration.

NOTES



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