



**'The Emergence of Elder Law: Growing Trends and Areas for Reform'**

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NACLC Conference  
September 2009**

[www.seniorsrights.org.au](http://www.seniorsrights.org.au)



## **Australia's Ageing Population**



- By 2051, 6.4 million people will be over 65 years old
- Seniors from different cultures are expected to increase rapidly during this time
- Australians over 65yo will be healthier, more active and continue to contribute significantly to the community
- Although Older people are ageing positively and healthily, it is estimated that between 3 – 5% of the Victorian community over the age of 75 experience some form of Elder Abuse

(P.12 Report on the Elder Abuse Prevention Project (2005) Strengthening Victoria's Response to Elder Abuse)



## Seniors Rights Victoria: An Overview

- SRV was established in April 2008 by the Victorian Government as part of their Elder Abuse Prevention Strategy
- It is funded jointly by the Victorian Department of Planning and Community Development and Victoria Legal Aid
- SRV provides services solely to Older People, or those self identified as Older
- The Service is multi disciplinary, modelled with three integrated components:
  - Legal
  - Short term individual support and advocacy
  - Community Education
- SRV operates from the CBD of Melbourne, from the Eastern suburbs, and Bendigo in regional Victoria, however the Service reaches across the whole State
- Four Seniors Rights Legal Clinics are also operated across Metropolitan Melbourne in conjunction with PILCH and serviced by pro bono solicitors

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## Seniors Rights Victoria: An Overview

Since its inception SRV – Melbourne has handled:

- 240 cases
- 774 phone advise
- And 145 community legal education sessions.
- 1496 participants

- The legal service provides Advice and undertakes Casework
- **Advices** are given on a range of matters arising from **age related vulnerabilities**
- **Casework** is undertaken only for matters defined as **Elder Abuse**



## Elder Abuse

Elder Abuse is defined by the World Health Organisation 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”*

(P.1, World Health Organisation, A Global Response to Elder Abuse and Neglect)



## Client Profile: Legal Casework



### Gender:

- Females account for 70% of legal service clients
- Males account for 30% legal service clients

### Age:

- Clients of the service tend to be between the ages of 65 years old to 90 years old.

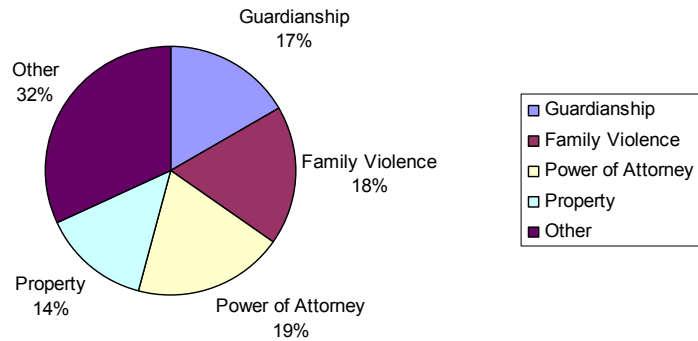
### Socio – Economic Status:

- Almost all clients are in receipt of the Old Age Pension and/or Disability Pension



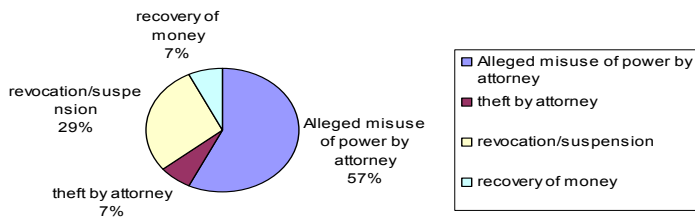
## Legal Casework: Emerging Trends

Breakdown of Legal Casework



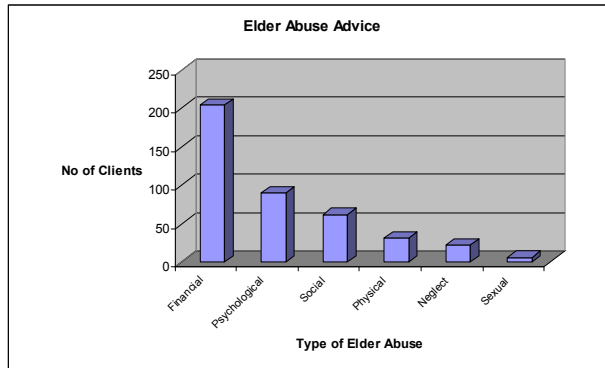
## Emerging Trends: Powers of Attorney

Powers of Attorney: Breakdown of Matters





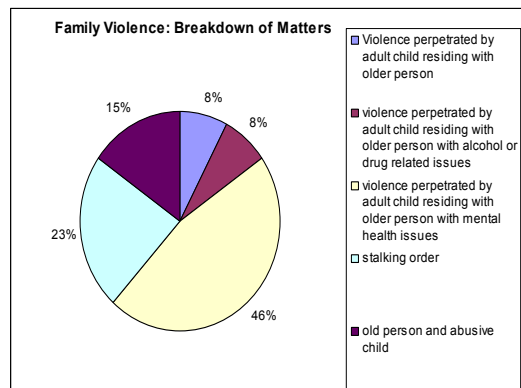
# Advise



# Emerging Trends: Family Violence

46% of Family violence matters dealt with by SRV are perpetrated by:

- An adult child
- With a mental health issue or
- With alcohol or drug related issues
- Who resides with the older person
- Often the Child is in receipt of a Carers Pension





## Law Reform and Access to Justice: Powers of Attorney

- **SRV recommends that the Victorian Parliament should amend the current legislation so as to create a consolidated framework which governs powers of attorney and powers of guardianship, and to address the issue of elder abuse in the community, safeguards should be introduced through both legislative and non-legislative measures to ensure the rights of older Victorians are adequately protected.”**

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## Older People and Human Rights

- **Elder Abuse is a phenomena that significantly breaches the Human Rights of Older people**
- **SRV operates on the basis that Human Rights are intrinsic to all human beings and provides a service within the framework of:**
  - **Human Rights as protective**
  - **Human Rights as Empowering**
- **SRV believes that Elder Abuse cannot be effectively addressed unless Human Rights are enshrined in Commonwealth Law**

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## Older People and Human Rights

- The following Human Rights are particularly important to Older Australians and to preventing and addressing Elder Abuse:
  - The right not be subject to degrading treatment (ICCPR Article 7)
  - The right to respect of private life (ICCPR Article 17) and right to the protection of families (ICCPR Articles 23 and 24 and ICESCR Article 10)
  - The right to freedom from arbitrary detention and humane treatment in detention (ICCPR Articles, 9, 10 and 12)
  - The right to health (ICESCR Article 12)
  - The right to access (liberty of movement and freedom of association) (ICCPR Articles 12 and 22)
  - The right to be free from financial abuse
  - The right to be free from discrimination (ICCPR Article 26)
  - The right to an adequate standard of living, including adequate food, clothing and housing (ICESCR Article 11)
  - The right to an education, and more specifically education about human rights (ICESCR Article 13)



## Law Reform and Access to Justice: Human Rights

### HUMAN RIGHTS

- SRV endorses the enacting of a Commonwealth Human Rights Act
- SRV recommends that the Commonwealth respond directly to the 2007 Older People and the Law Report which made key recommendations to safeguard the human rights of Older Australians
- SRV recommends amendments to the *Age Discrimination Act (ADA) 2004* including the removal of any scope for arbitrary decision making, the creation of a legal right to enforce the provision of the Act where a breach has occurred and enhanced powers for the Australian Human Rights Commission in relation to its ability to enforce provisions of the ADA
- SRV recommends that a national education campaign, targeted at employers, recruitment agencies, the financial sector and the public generally that explains elder abuse and identifies it as a human rights issue
- SRV believes that consideration needs to be given to how effective Human Rights Legislation is if it only applies to 'public authorities' as Elder Abuse is often perpetrated by individuals in the private sphere



**Over To You**

**Questions  
Discussion  
Comments**

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